

Erzsébet Csatlós

INTERNATIONALISATION AND
GLOBALISATION OF PUBLIC
ADMINISTRATION



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Erzsébet Csatlós
Internationalisation and Globalisation of Public Administration

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Dear Students,

The purpose of this textbook is to show that public administration – traditionally understood as a purely internal, national affair – is increasingly shaped by forces that reach beyond the borders of the individual state. Administration is no longer something that each State organises in isolation: it is progressively internationalised (states cooperate and build common institutions) and globalised (authority and norms emerge above and across states). The book traces this development step by step, from the public administration of a single state (Chapter I), through internationalisation (Chapter II), globalisation (Chapter III) and supranationalism (Chapter IV), to the European Union as the most developed case (Chapter V). It culminates in a chapter on the cross-border use of data (Chapter VI), where the internationalisation and globalisation of administration become most tangible in everyday decisions affecting individuals.

Because this is a manual, each key term is defined when it first appears and is then illustrated with concrete examples. Students are encouraged to keep these definitions in mind, as later chapters build directly on the concepts introduced earlier. To support visual learning, the manual also contains numerous colourful charts and figures that illustrate relationships, correlations, and processes in a clear and integrated way.

At the end of each chapter, you will find a set of multiple-choice test questions. These questions are designed to help you assess how carefully you have engaged with the material, whether you have understood the key concepts and their practical implications, and whether it may be useful to revisit certain sections before moving on. They are intended as a tool for self-evaluation and for reinforcing the knowledge acquired throughout the chapter.

Hopefully, you will all find it an interesting journey into this international dimension of public administration.

Szeged, 1 August 2026

I. PUBLIC ADMINISTRATION OF A STATE

Contents

1. What does 'public administration' mean?
2. Why administration exists: the necessity of coordination
3. The role of public administration
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5. Public administrative law: the legal backbone of administration
6. What does public administration do?
7. The key factors influencing public administration

1. What does 'public administration' mean?

Public administration is as old as human civilisation itself. The word 'administer' comes from the Latin *ad* (to) and *ministrare* (to serve, to manage), so that, at its root, to administer means simply 'to serve' or 'to manage affairs'. Administration, in the broad sense, is the organisation and coordination of activities aimed at achieving a specific goal. Public administration narrows this general idea to a particular kind of goal: it refers to the management of collective societal aims, which are determined and pursued by the community under the leadership of an elected or otherwise designated authority.

2. Why administration exists: the necessity of coordination

Public administration can be defined as the organised effort of a society to manage its collective affairs, particularly those that require order, regulation, and the distribution of resources.

Seen through a historical lens, it is as old as human civilisation itself, because wherever people have lived together in communities, some form of administration has naturally emerged. The reason is simple: whenever humans live together, collective needs arise that no individual can manage alone – security, infrastructure, dispute resolution, and the distribution of scarce resources are the clearest examples.

This need for coordination scales with the size of the community.

- In small groups, such tasks were handled informally, typically by elders or chiefs.
- As societies grew, informal arrangements were no longer sufficient; written rules, dedicated offices, and specialised officials became necessary.

Administration, in other words, is not optional. It arises from the necessity of coordination and order in human communities, and it grows in complexity as those communities grow.

In early societies, administration was closely tied to the households of rulers. Kings and chiefs managed community resources as though these were their own private possessions – the palace economy of Mesopotamia is a classic example. Over time, a distinction gradually emerged between what belonged to the ruler personally and what belonged to the state or the community as such. Public offices became institutionalised and began to survive beyond the life of any individual ruler. Today, by contrast, administration is viewed as a neutral, professional system that serves the public interest: it is grounded in law, transparency, and accountability rather than in personal authority, and bureaucracies are understood as serving the people, not merely the rulers who happen to head them. In short, public administration is the organised management of collective life in communities, arising out of necessity wherever people live together; historically, it has evolved from the private, household-based administration of rulers into the professional, institutionalised public systems that manage state functions and serve society at large today.

To make the definition above operational, two further distinctions are useful.

The first is the distinction between the **private sector** and the **public sector**. The private sector pursues private interests – typically profit – on the basis of voluntary, contractual relationships. The public sector pursues the public interest: the shared needs of the community, such as security, justice, health, and a functioning infrastructure, and it may use binding, unilateral powers – for example, issuing licences, levying taxes, or imposing sanctions – to do so.

Public administration is the working machinery of the public sector: it is how the public sector actually gets things done.

The second distinction concerns the notion of the **public interest** itself. The public interest is not simply the sum of individual preferences; rather, it is what the legal order, through democratic procedures, defines as the common good that administration must serve. Because the public interest is defined by law, public administration is always bound by law: it may act only on a legal basis, and only within the limits that the law sets. This principle – that public power must be exercised under and according to law – is the **rule of law**, the foundational value to which this book repeatedly returns.

Finally, it is worth distinguishing **administration** from **management**. The two terms are often used interchangeably, but they have distinct meanings. Administration involves high-level decision-making – policy formulation, planning, and the setting of objectives – and is a decisive function performed primarily at the top level of governance. Management, by contrast, focuses on the implementation of those decisions, ensuring that plans and policies are executed effectively at the operational level. In this sense, administration encompasses management: management is how administration's decisions get carried out on the ground.

3. The role of public administration

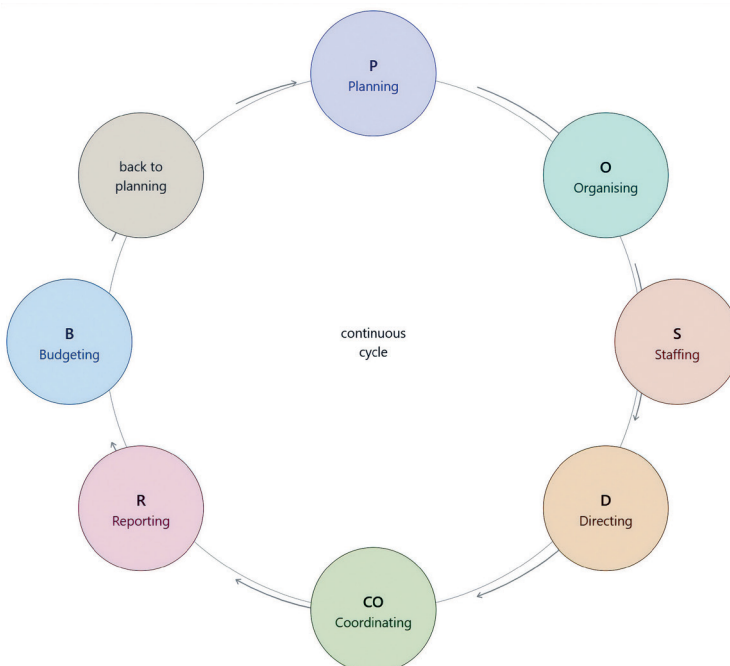
Building on the definitions above, public administration can be described, in operational terms, as the *art and science of managing public affairs and implementing government policies for the welfare of society*. It is concerned with the planning, organisation, direction, coordination, reporting, and budgeting of government operations – in other words, it is the machinery and process through which public policies are translated into action and public services are delivered.

To explain how public administration works in practice, Luther Gulick (1937) introduced the concept of the *administrative cycle*, summarised in the acronym **POSDCORB**. Each letter stands for one recurring function of any administration, national or international:

- P – Planning: deciding what needs to be done, when, how, and by whom; setting goals, forecasting future conditions, and designing strategies.

- O – Organising: establishing a formal structure of authority and roles; grouping activities, defining responsibilities, and delegating authority.
- S – Staffing: recruiting, training, and developing personnel, so that the right people with the right skills are in the right positions.
- D – Directing: leading and motivating subordinates to achieve organisational goals; decision-making, issuing orders, and maintaining discipline.
- CO – Coordinating: harmonising and integrating the activities of different units or individuals, to avoid duplication of work and ensure unity of action.
- R – Reporting: keeping stakeholders informed through records, research, and inspections, thereby ensuring accountability and transparency.
- B – Budgeting: fiscal planning, accounting, and control, ensuring that resources are allocated efficiently and financial discipline is maintained.

The acronym was coined by Luther Gulick and Lyndall Urwick in 1937 to summarise the work of a chief executive. Later scholarship criticised POSDCORB as too mechanical, as it says little about politics, values, or the citizen, yet it remains a useful first map of what any administration actually does on a day-to-day basis.

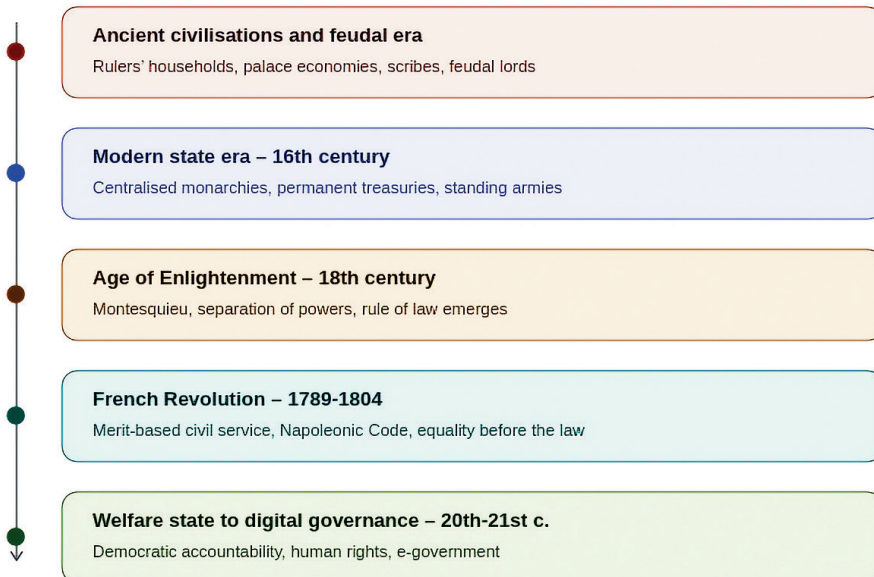


1. The POSDCORB administrative cycle

As the diagram illustrates, the administrative cycle is not a one-off sequence but a continuous, dynamic process: plans are made, structures are organised, staff are deployed, direction is given, activities are coordinated, results are reported, and finances are budgeted – which in turn feeds back into new planning. Public administration, in other words, is not a one-time activity but an ongoing cycle of decision-making, implementation, and evaluation aimed at serving the public interest.

4. A brief introduction to the historical evolution of public administration

The structure and function of public administration have evolved alongside society's changing notions of common goals, leadership, and governance. Throughout history, public administration has moved from the personal rule of monarchs, through rational-legal bureaucracies organised around the modern nation-state, to today's democratic, law-based, and service-oriented systems, which seek to balance efficiency with accountability and citizen engagement. The diagram below maps the main stages of this development; the paragraphs that follow examine each stage in turn.



2. The historical evolution of public administration

4.1. From rulers' households to the early bureaucratic empires

In early societies and ancient civilisations, rulers or chiefs managed administration as an extension of their household authority. The great ancient empires – like Egypt, Mesopotamia, China, India and Rome – developed scribes, **tax systems, armies, and codes of law**: early bureaucratic models. In medieval times, administration remained tied to feudal lords, monarchs, or religious leaders, and the line between **the ruler's private household** and any wider public sphere remained largely undrawn.

4.2. The modern state and the absolutist administration

The modern state era began in the 16th century with the rise of **strong monarchies** and **centralised nation-states** in Europe, when permanent institutions first began to appear. Kings in France, Spain, and Prussia established centralised treasuries, standing armies, and permanent officials. During this period, public administration slowly started to differentiate itself from the ruler's private household: the state came to be seen as an entity in its own right, one that outlived the monarch, while thinkers such as *Machiavelli, Hobbes, and Locke* began to emphasise the state's role as guarantor of order and collective life, rather than as the property of a ruler.

Even so, administration under absolute rulers retained several characteristic features that later reforms would directly target:

- Government positions were granted on the basis of **favouritism, loyalty, or noble birth**, rather than merit or expertise.
- The **monarch's will** was the **law**, and there were few institutional checks capable of limiting it.
- Monarchs imposed taxes arbitrarily to fund wars, luxurious courts, and personal interests, with little regard for public welfare.
- Administrative decisions rested on **personal relationships** rather than systematic governance, which bred inefficiency and corruption.

4.3. The enlightenment and the separation of powers

The **Industrial Revolution** of the 19th century created **new economic and social problems** – urbanisation, labour relations, public health, and education – that required larger and more professional bureaucracies. At the same time, the rise of liberal democracy and constitutionalism meant that governments

had to become accountable to elected bodies and to the law itself. A decisive turning point in this development was the growing connection between public administration and the **rule of law**, which ensures that government actions rest on legal frameworks rather than on arbitrary decisions. This principle guarantees **fairness, transparency, and accountability**; it prevents abuses of power and ensures that laws apply equally to all citizens, including government officials. The philosopher **Montesquieu** played a crucial role in shaping this idea: in *The Spirit of the Laws* (1748), he advocated dividing government into legislative, executive, and judicial branches – the separation of powers – precisely to prevent tyranny and ensure checks and balances. His ideas laid the foundation for modern legal systems and decisively influenced the broader shift towards law-based governance that characterises the Age of Enlightenment.

4.4. The French Revolution and the birth of the modern civil service

The French Revolution (1789–1799) marked a decisive turning point for public administration, advocating **equality, meritocracy, and legal certainty**. It dismantled the feudal system and introduced reforms that emphasised governance based on laws rather than on the whims of rulers. Among its most significant and lasting legacies was the *Napoleonic Code* (1804), which provided a structured, standardised legal system that went on to influence administrative systems across Europe and beyond. The Revolution introduced several changes that remain foundational to public administration today:

- Distinct executive, legislative, and judicial branches were established to prevent the concentration of power (**separation of powers**).
- The old system of noble privilege was replaced with a **professional civil service** – a merit-based bureaucracy in which officials were selected on the basis of competence rather than birthright.
- **Uniform laws**, the Napoleonic codes among them, were introduced, emphasising the rule of law, equality before the law, and state responsibility in governance.
- **Public institutions** were restructured **to serve citizens** more effectively, with greater oversight and transparency in administration.

The principles established during and after the French Revolution continue to influence modern governance and public administration worldwide – not least through the Spring of Nations that it inspired across nineteenth-century Europe.

4.5. From the welfare state to digital governance

By the 20th century, welfare states had expanded administration considerably further, with governments providing **social services, regulating economies, and protecting rights**. In the twenty-first century, public administration is grounded in the rule of law, democratic accountability, and human rights, and is understood as a professional system serving the public interest rather than rulers. Globalisation, technology, and increasingly complex forms of governance supranational bodies, NGOs, public-private partnerships have transformed its scope still further. The current emphasis lies on transparency, efficiency, citizen participation, and digital governance, including e-government and AI-driven services. Public administration today, in short, is less about command and control and more about managing networks, engaging citizens, and ensuring equity in increasingly diverse societies.

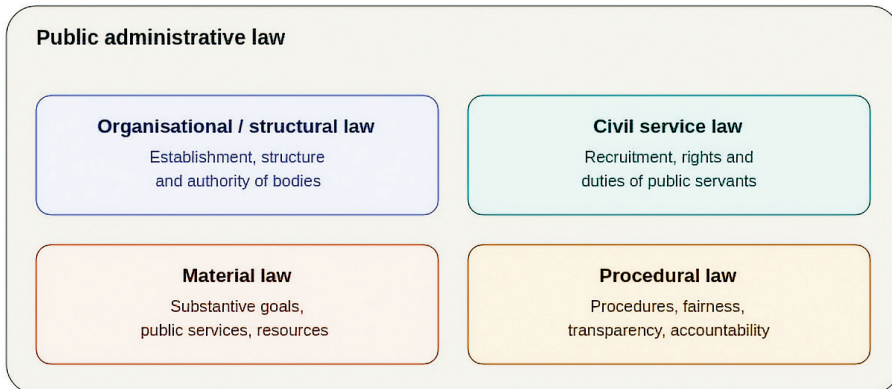
5. Public administrative law: the legal backbone of administration

As states evolved along the lines traced above, the need for a legal framework to regulate the actions of public administration led to the development of public administrative law: the body of law governing the relationship between the state, its institutions, and individuals. This legal field ensures that public officials operate within established rules, protecting citizens from abuses of power while maintaining the efficiency of state functions. It is worth defining the field precisely, since it is the legal backbone of everything that follows in this book.

Administrative law is the branch of public law that governs the organisation, powers, procedures, and accountability of administrative authorities, and that protects individuals against the unlawful exercise of administrative power. Its classic functions are twofold: to *empower* administration to act for the public interest, and to *control* that action so that it remains lawful, reasoned, and reviewable.

The relationship between administrative law and the rule of law is therefore an intimate one: administrative law is one of the principal instruments through which the rule of law is made effective in the everyday life of the state.

Public administrative law, in the broad sense, *encompasses all legal norms governing the organisation, functioning, and regulation of public administration*. As a fundamental branch of public law, it consists of four key components, set out schematically in the figure below and described in turn afterwards.



3. The four components of public administrative law

- **Organisational or structural law:** the legal norms that govern the *establishment, organisation, and authority* of public administration bodies and institutions, defining their structure, roles, and responsibilities.
- **Civil service law:** the norms relating to the recruitment, rights, duties, and obligations of *public servants* and civil employees working within the public administration system.
- **Material law:** the *substantive norms* that define the objectives and goals of public administration, including the legal provisions regulating the provision of public services, resource management, and the general welfare of society.
- **Procedural law:** the rules governing the procedures through which public administration bodies carry out their duties, including the rights and obligations of parties to the administrative process; this branch is what chiefly secures transparency, accountability, and fairness in administrative action.

Together, these four components make public administrative law the **largest and most comprehensive segment of public law**, shaping the framework within which public administration operates to achieve its legal, social, and political objectives.

In practical terms, administrative law continues to shape governance today in at least four ways: public officials must justify their decisions within a legal framework, which secures accountability; individuals can challenge government

actions before administrative courts, which protects citizens' rights; legal procedures help prevent corruption and ensure fair service delivery, which secures efficiency and transparency; and the law establishes a clear separation between the executive, legislative, and judicial branches, which prevents abuses of authority. Public administrative law thus remains a cornerstone of democratic governance, ensuring that public administration functions legally, efficiently, and in the best interest of society – while continuing to adapt to new challenges, including globalisation and digitalisation, without losing sight of its core purpose: serving the common good under a framework of law and accountability.

6. What does public administration do?

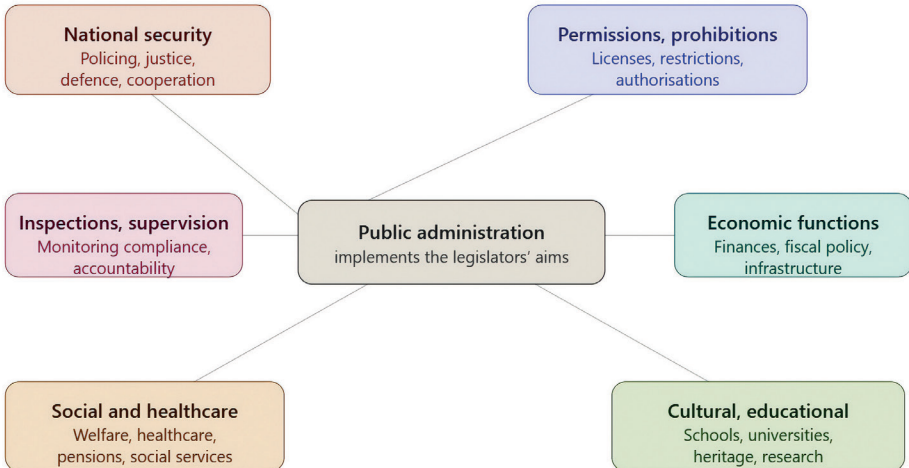
Public administration today carries out **a wide range of tasks**, all directed toward the realisation of **common aims** defined by the legislators. Its primary mission is to transform the goals set by elected representatives into practical actions that affect citizens' everyday lives. In doing so, public administration operates in several key areas.

One of its most fundamental responsibilities is the safeguarding of **national security** inside and outside. This involves maintaining internal order through policing and justice systems, as well as protecting the state from external threats by means of defence and international cooperation. Alongside security, public administration also **manages** permissions and prohibitions, regulating what **individuals, businesses, and institutions** may or may not do. By issuing licenses, establishing restrictions, or granting authorisations, it ensures that social and economic life follows predictable and fair rules.

Equally important is the role of **inspections and supervision**, through which authorities monitor compliance with laws and standards. This function guarantees accountability, transparency, and the protection of the public interest. Furthermore, public administration plays crucial **economic functions** by managing public finances, designing fiscal policy, building and maintaining infrastructure, and shaping conditions for sustainable economic growth.

Public administration is also deeply involved in the **well-being of society** through its social and healthcare tasks. It organises welfare programs, healthcare systems, pensions, and social services that protect vulnerable groups and promote social cohesion. At the same time, it nurtures the development of

society by supporting cultural and educational tasks, such as running schools and universities, safeguarding cultural heritage, and encouraging research, innovation, and creativity.



4. Catalogue of tasks of public administration

The **broad catalogue of tasks** described above is **not a constant of history**. The scope of public administration's functions has always been shaped by the prevailing conception of the proper role of the state – that is, by competing theories of statehood that have succeeded one another over the past three centuries.

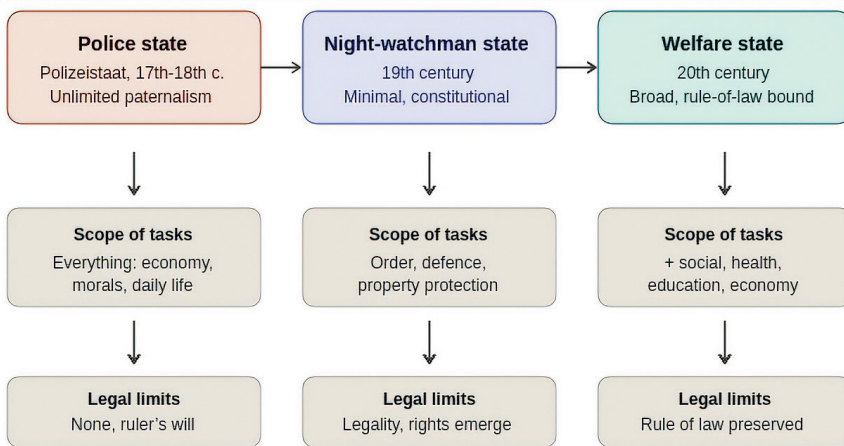
The starting point of this development is the **police state**, characteristic of the enlightened absolutism of the seventeenth and eighteenth centuries. In this model, the ruler exercised practically unlimited authority and regarded the entire welfare of the population as a matter for state regulation: not only public order and external defence, but also the economy, trade, morals, religious practice, construction, and the everyday conduct of the population fell within the sovereign's reach. This all-encompassing, paternalistic form of intervention – the so-called *Policey* function, from which the modern term “policy/police” itself derives – operated without the constitutional or legal limits that later came to define the rule of law. The ruler's will was not bound by enforceable rights of the individual, and administration served the sovereign's conception of the common good rather than a body of pre-established legal norms.

The Enlightenment, the French Revolution, and the rise of nineteenth-century liberalism produced a sharp reaction against this model. The resulting **night-watchman state** reduced the legitimate functions of the state to a necessary

minimum: maintaining public order, enforcing contracts, protecting property, and providing external defence. Beyond these classical, security-related tasks, the state was expected to abstain from intervening in economic and social life, leaving the market and private initiative to regulate themselves according to liberal economic theory. Crucially, this minimal state was, for the first time, also a *constitutional* one: its powers were defined and limited by law, administration was bound by the principle of legality, and the individual was recognised as the bearer of enforceable rights against the state. The night-watchman state was thus narrower in scope than the police state, but considerably more advanced in terms of legal guarantees.

This minimalist model, however, proved insufficient to address the social consequences of industrialisation, recurring economic crises, and growing inequality. Over the course of the twentieth century, it gradually gave way to the **welfare state** model. Under this approach, the state assumes active responsibility for the social and economic well-being of its citizens: organising social insurance and pension systems, providing public healthcare and education, redistributing income, regulating the labour market, and intervening in the economy to correct market failures and reduce social inequalities. Unlike the pre-modern police state, the welfare state operates within – not outside – the constitutional and legal framework inherited from the liberal era: its expanded tasks rest on democratic legitimation, judicial review, and the protection of fundamental rights. The welfare state thus considerably broadened the catalogue of public administration's tasks, adding extensive social, healthcare, educational, and economic functions to the classical order-keeping ones, without abandoning the rule-of-law guarantees achieved in the nineteenth century.

Between and even after these three reference points, various intermediate and **hybrid models** have also emerged. The *regulatory state* intervenes primarily through rule-making, licensing, and market supervision rather than through direct service provision; the *competition state* seeks to reconcile welfare commitments with the pressures of global economic competitiveness; and more recent debates increasingly address the *regulatory and digital state*, confronted with platform economies, algorithmic decision-making, and cross-border data flows. The specific mix of tasks that a given public administration performs today is, to a large extent, the product of where that state's own tradition is positioned along this historical spectrum – running from the unconstrained paternalism of the police state, through the constitutional minimalism of the night-watchman state, to the socially active, yet still legally bound, welfare state.



5. The evolution of state intervention

All these responsibilities exist within a broader reality. Public administration is never static: it is constantly influenced by global and domestic developments, including economic cycles, demographic shifts, technological innovations, security threats, and international cooperation. This means that its structure and functions evolve continuously, adapting to new challenges while holding on to its central mission of serving the public good.

At the same time, **each state's public administration is different**. These differences arise from historical traditions, constitutional frameworks, political systems, economic development, cultural values, and even geographic circumstances. For example, a federal state like the United States organises its public administration differently from a unitary state like France, and a welfare-oriented Nordic model looks very different from a more market-driven Anglo-Saxon system.

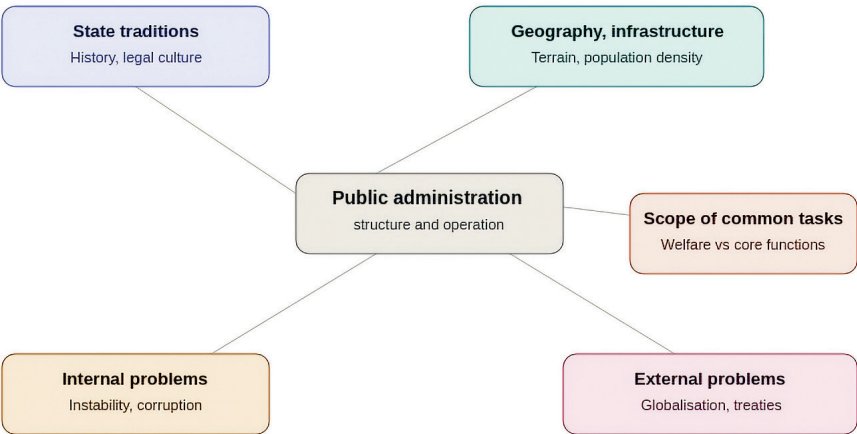
Yet, what is similar across all states is the essence of public administration: to implement the will of the legislators. Despite structural and cultural differences, public administrations worldwide share the common goal of serving their citizens and ensuring that collective aims are translated into effective public action.

If we look more closely, we can distinguish between the classical tasks of public administration and the continuously changing ones. Classical tasks include maintaining law and order, collecting taxes, enforcing regulations, providing basic education, and guaranteeing national defence. These have remained central functions for centuries. However, **continuously changing tasks** arise from modern challenges: ensuring cybersecurity, managing climate change, regulating digital platforms, dealing with pandemics, responding to global

migration, and promoting sustainability. These dynamic responsibilities highlight the adaptability of public administration, which must balance its timeless duties with new demands that emerge in an interconnected and rapidly evolving world.

7. The key factors influencing public administration

Public administration is not defined solely by its functions and responsibilities; it is equally shaped by a wide range of factors that determine its structure, efficiency, and role in society. Five such factors recur across comparative experience, and the figure below sets them out schematically before each is examined in turn.



6. The key factors influencing the structure and operation of public administration

The first factor is **state traditions**. Every country has developed its own administrative culture over centuries, shaped by history, legal systems, and political practice. The highly centralised French administrative model, for instance, differs greatly from the decentralised federal systems of Germany or the United States. These traditions influence how authority is exercised, how decisions are made, and how the relationship between citizens and the state is perceived – and they form the backdrop against which every later chapter of comparative administrative law in this book should be read.

The second factor is **geography and infrastructure**. A small, densely populated state with modern infrastructure can deliver public services in ways that look

very different from those available to a vast, sparsely populated country with weaker transport and communication networks. Mountainous terrain, island geography, or underdeveloped infrastructure often call for special administrative solutions simply to ensure equal access to services across the territory.

The third factor is the **scope of common tasks** that a given administration is expected to perform. States with extensive welfare responsibilities must maintain large bureaucratic systems to manage healthcare, pensions, and social support; others, with a more limited role, may concentrate primarily on core functions such as defence, policing, and taxation. The nature of these common tasks reflects societal expectations as much as political priorities – it is, in effect, a domestic echo of the night-watchman/welfare-state spectrum already discussed above.

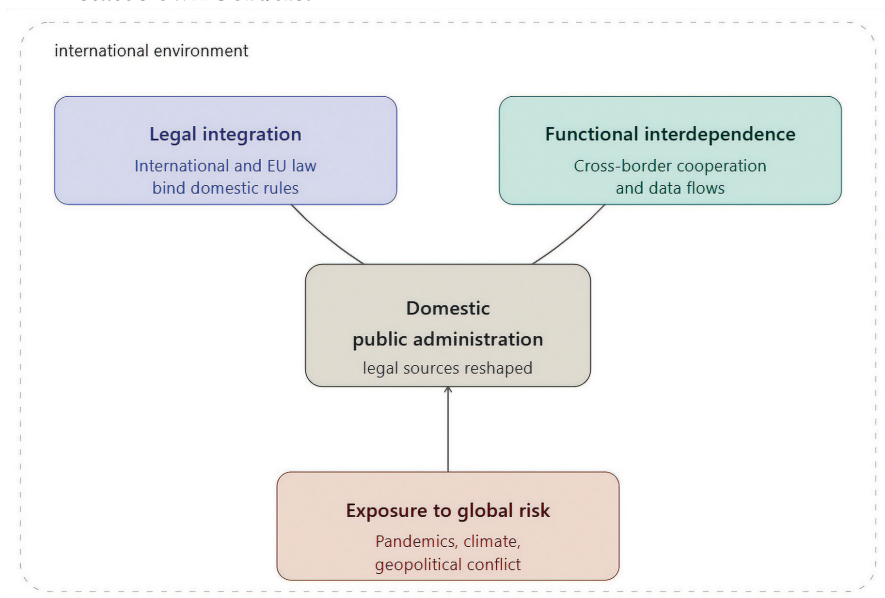
The fourth factor concerns **internal problems and tensions**. Political instability, corruption, inequality, or social conflict can weaken institutions, slow down reforms, or divert administrative resources toward crisis management instead of ordinary service delivery. Effective governance often depends precisely on the ability of public administration to absorb such tensions while maintaining stability and fairness.

The fifth factor, and the one that leads directly into the next part of this book, consists of **external problems** affecting the state's domestic affairs from outside its borders. Globalisation, international treaties, migration flows, climate change, pandemics, and geopolitical conflict all generate pressures that domestic administrations must absorb and adapt to. EU membership, for example, influences member states' public administrations by requiring compliance with supranational regulations, while global economic crises or armed conflicts reshape domestic priorities and reallocate scarce administrative resources almost overnight. No public administration today operates in a purely domestic space. Even the most centralised, historically self-contained administrative tradition is now embedded in a dense web of international and supranational commitments – treaties, organisations, courts, and regulatory regimes – that shape what domestic authorities may, must, and must not do. Three developments, in particular, explain why the **international environment** has become inseparable from domestic public administration.

- First, **legal integration** has progressively bound domestic administration to rules it does not itself create. Membership of international organisations, accession to human rights conventions, and – most intensively – participation in supranational projects such as the European Union mean that a growing share of the legal

framework within which national administrations operate originates outside the national legislature. Administrative authorities must apply, and administrative courts must enforce, norms whose ultimate source lies in international or supranational law.

- Second, **functional interdependence** has multiplied the practical occasions on which domestic administration must act based on, or in cooperation with, foreign or international actors. Cross-border data flows, transnational policing and migration databases, joint environmental and health responses, and coordinated economic or security measures all require domestic administrations to exchange information, recognise foreign decisions, and apply common standards – often within timeframes and through channels that domestic administrative law was not originally designed to accommodate.
- Third, **exposure to global risk** has made the boundary between domestic and international affairs increasingly porous. Pandemics, climate change, financial crises, and geopolitical conflict do not respect jurisdictional lines, yet their consequences land squarely on domestic administration – in public health systems, social services, border management, and economic regulation alike. Administrations that once dealt almost exclusively with domestic affairs now routinely manage risks whose causes, and often whose solutions, lie beyond the state's own borders.



7. Factors shaping public administration

These three developments do not simply add an extra layer on top of otherwise unchanged domestic administration; they reshape its legal sources, its working methods, and the very standards against which its performance is judged. The chapters that follow accordingly turn to this international and supranational dimension in detail – examining the international legal order within which domestic public administration now operates, the European Union’s administrative law as the most far-reaching example of supranational influence on domestic bureaucracies, and the specific transnational regimes – from cross-border databases to global administrative networks – that increasingly co-determine how individual states administer their own affairs.

TEST QUESTIONS – CHAPTER I

1. **What is the etymological root of the word “administer”?**
 - a) Latin ad (to) and ministrare (to serve, to manage)
 - b) Greek arkhein (to rule) and demos (people)
 - c) French administrer, derived from Old Norse
 - d) Latin manus (hand) and dare (to give)
2. **What is the key distinction between the private and the public sector?**
 - a) The private sector is always larger in budget than the public sector
 - b) The public sector pursues the public interest and may use binding, unilateral powers, while the private sector pursues private interests through voluntary, contractual relationships
 - c) The private sector is bound by law while the public sector is not
 - d) The public sector is defined by the absence of any hierarchy
3. **What does the acronym POSDCORB stand for, and who introduced it?**
 - a) Luther Gulick, 1937
 - b) Max Weber, 1922
 - c) Woodrow Wilson, 1887
 - d) Lyndall Urwick alone, 1947
4. **Which of the following is NOT one of the seven functions in the POSDCORB cycle?**
 - a) Coordinating
 - b) Budgeting
 - c) Litigating
 - d) Reporting
5. **Which thinker’s work most directly inspired the separation of powers during the Enlightenment?**
 - a) John Locke, in Two Treatises of Government
 - b) Montesquieu, in The Spirit of the Laws (1748)
 - c) Jean-Jacques Rousseau, in The Social Contract
 - d) Thomas Hobbes, in Leviathan
6. **What legal-administrative legacy did the French Revolution introduce in 1804?**
 - a) The Treaty of Westphalia

- b) The Napoleonic Code
 - c) The Magna Carta
 - d) The Congress of Vienna
- 7. Which of the following correctly orders the historical stages of state intervention, from least to most extensive in scope?**
- a) Welfare state → night-watchman state → police state
 - b) Police state → night-watchman state → welfare state
 - c) Night-watchman state → police state → welfare state
 - d) Welfare state → police state → night-watchman state
- 8. Under the police state of enlightened absolutism, what was the scope of the ruler's regulatory reach over the population's welfare?**
- a) It was limited strictly to public order and external defence, leaving all other matters to private initiative
 - b) It extended to nearly every aspect of life – including the economy, trade, morals, religious practice, construction, and everyday conduct
 - c) It applied only to taxation and military conscription
 - d) It was confined to regulating the nobility, with no authority over ordinary subjects
- 9. What distinguished the night-watchman state from the police state, even though it was narrower in scope?**
- a) It was not bound by any constitutional limits
 - b) It was, for the first time, a constitutional state in which administration was bound by the principle of legality and individuals held enforceable rights
 - c) It abolished the rule of law entirely
 - d) It expanded administrative tasks rather than minimised them
- 10. Which of the four components of public administrative law specifically governs the rights and obligations of public servants?**
- a) Material law
 - b) Procedural law
 - c) Civil service law
 - d) Organisational or structural law
- 11. The textbook identifies five key factors influencing the structure and operation of public administration. Which of these is described as “the one that leads directly into the next part of this book”?**
- a) State traditions
 - b) Geography and infrastructure

- c) The scope of common tasks
 - d) External problems affecting the state from outside its borders
- 12. Which of the following is explicitly given by the textbook as an example of a “continuously changing” task of public administration, as opposed to a “classical” one?**
- a) Collecting taxes
 - b) Providing basic education
 - c) Regulating digital platforms
 - d) Guaranteeing national defence
- 13. What is the essential difference between “administration” and “management”?**
- a) They are entirely synonymous and interchangeable in all contexts
 - b) Administration concerns high-level decision-making (policy, planning, objectives), while management concerns the implementation of those decisions at the operational level
 - c) Management is performed only by elected officials, while administration is performed only by civil servants
 - d) Administration applies only to the private sector
- 14. The “functional interdependence” is one of three developments explaining why the international environment has become inseparable from domestic administration. Which of the following best illustrates this development as described in the text?**
- a) Domestic administrations exchanging information and recognising foreign decisions through cross-border data flows and transnational migration databases
 - b) A pandemic spreading regardless of jurisdictional borders
 - c) A state ratifying a human rights convention voluntarily
 - d) A monarch imposing arbitrary taxes
- 15. What does the “fourth factor” influencing the structure and operation of public administration concern?**
- a) Internal problems and tensions, such as political instability, corruption, or social conflict, which can weaken institutions and divert administrative resources
 - b) State traditions shaped by history, legal systems, and political practice
 - c) Geography and infrastructure, such as terrain, population density, or transport networks
 - d) External problems affecting the state’s domestic affairs from outside its borders, such as globalisation or geopolitical conflict

II. INTERNATIONALISATION AND PUBLIC ADMINISTRATION

Contents

1. The classical scheme of international cooperation
 2. The nature of cooperation in time
 - 2.1. Antiquity: imperial, city-state, and alliance-based cooperation
 - 2.2. The middle ages: fragmented authority and informal diplomacy
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 - 4.1. Inter-governmental organisations (IGOs)
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 5. Public administration and international organisations
 - 5.1. Administration of the international organisation
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 - 5.3. The special case of supranational organisations
- Looking ahead: from internationalisation to globalisation

Public administration has never operated in a vacuum. Even the most self-contained, historically centralised state apparatus must, sooner or later, reckon with the fact that many of the problems it is asked to solve do not begin and end at its own borders. This chapter traces how that recognition became institutionalised – from ad hoc diplomacy between ancient kingdoms to the permanent administrative unions of the nineteenth century, and from the strictly sovereignty-bound cooperation of the Westphalian order to the qualitatively different model of supranational organisations such as the European Union. Understanding this progression matters because it sets up the central theme of the chapter that follows: the gradual globalisation of administrative law itself.

1. The classical scheme of international cooperation

The state has long been central to organising society: providing security, regulating economic and social life, and ensuring citizens' welfare. Through public administration, the state translates legislative intent into concrete policies and services, from national security and economic regulation to healthcare and education. Yet a great many of the factors that influence a state's ability to do this originate beyond its own borders – compelling states to pursue national aims while simultaneously cooperating with others to achieve goals that none of them could reach alone.

Many of today's most pressing challenges are inherently transboundary and cannot be solved by domestic action alone. Armed conflict, environmental disaster, climate change, pandemics, and migration flows all cross borders and demand coordinated action, shared resources, and joint problem-solving: climate change requires multilateral emission agreements, pandemics call for global health coordination, and migration necessitates cross-border humanitarian and policy responses. Domestic public administration, as a result, must increasingly integrate international obligations and translate collaborative international solutions into practical, everyday implementation at home.

Internationalisation refers to the process by which states, organisations, or institutions extend their activities across borders while remaining rooted in the nation-state framework. The state stays the central actor and the master of the process throughout.

Three adjacent terms should be kept distinct from the outset, since the book repeatedly turns on the differences between them.

- Internationalisation describes cooperation and interaction between states in which the state remains the central actor and the master of the process.
- Transboundary (or cross-border) refers to any phenomenon – pollution, disease, crime, data – whose effects do not stop at the state frontier, regardless of who is acting.
- Transnational refers to relations and norms that operate across states but not primarily through inter-state channels, frequently involving private or expert actors instead of governments themselves.

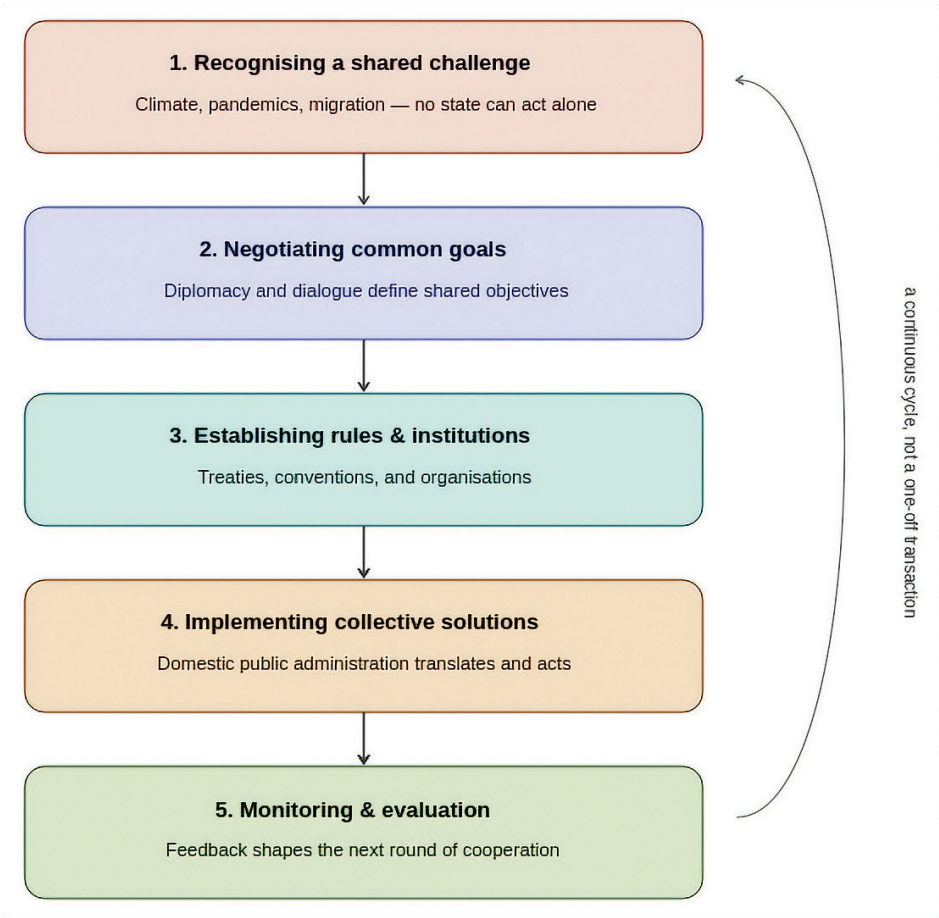
Globalisation, examined in the next chapter, goes one step further than internationalisation: it produces integration and interdependence that can

transcend, and at times weaken, the nation-state itself, rather than simply connecting states that remain firmly in the driver's seat.

International cooperation can be understood as a structured process through which states and other global actors work together to address problems that transcend national borders.

At its core, the scheme involves identifying shared challenges, negotiating common goals, establishing rules and institutions, and implementing collective solutions – and, crucially, it is not a one-off transaction but a recurring cycle.

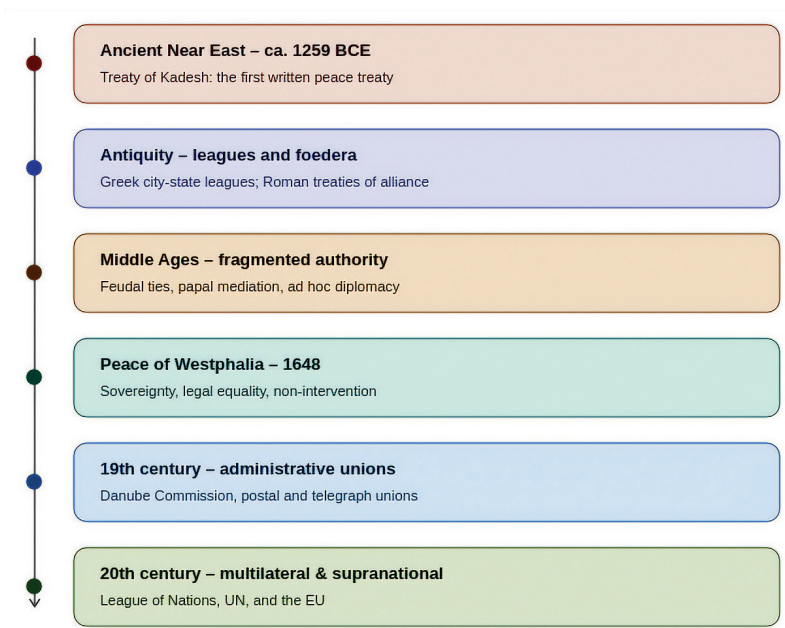
Cooperation begins when states acknowledge that certain issues – climate change, pandemics, war, migration, or transnational trade – cannot be managed effectively by a single country acting alone. This recognition creates the foundation for collaboration: no state can fully achieve a solution by itself. Once a **shared challenge** is identified, states engage in diplomacy and dialogue to define common objectives; negotiations may result in treaties, conventions, or other formal agreements that set out responsibilities, rights, and commitments, forming the legal and political framework for collective action. Effective cooperation typically also requires institutions or mechanisms to oversee, coordinate, and enforce these agreements, which facilitate information exchange, conflict resolution, and policy coordination over time. After agreements are reached, states and institutions carry out coordinated action: domestic public administrations translate international commitments into policies, regulations, and programmes, while international bodies monitor compliance, provide technical assistance, and mediate disputes. Because shared challenges evolve and new actors emerge, the cycle relies on continuous feedback, evaluation, and adaptation of agreements and institutional practice, so that solutions remain effective and relevant over time.



8. The process of international cooperation

2. The nature of cooperation in time

Cooperation between states is historically rooted, running from ancient consuls safeguarding foreign trade, through the rise of permanent diplomacy and ambassadorial exchange, to the nineteenth-century international administrative unions that tackled practical issues such as postal services, transport, communications, public health, and copyright protection – early examples of structured, transboundary problem-solving. The diagram below maps the principal stages of this development before each is discussed in turn.



9. Six stages in the historical evolution of international cooperation

2.1. Antiquity: imperial, city-state, and alliance-based cooperation

In the ancient Near East, kingdoms such as Egypt, Hatti, Assyria, and Babylonia developed some of the earliest forms of international agreement. The **Treaty of Kadesh** (ca. 1259 BCE) between Egypt and the Hittite Empire is often considered the first written peace treaty. These agreements focused on peace, trade, mutual defence, or the return of fugitives, and were sealed by oaths to the gods, giving them a sacred character; diplomacy was managed through royal envoys and the exchange of gifts, and **cooperation was pragmatic and rooted in survival** rather than in any shared legal order.

The **Greek city-states** later developed cooperation through alliances and federations created mainly **to coordinate defence**. Although often dominated by a powerful member, these leagues established rules for collective decision-making, financial contribution, and joint military action – early models of structured inter-polity collaboration. The **Roman Empire** introduced a different model again: **cooperation through integration and administration**. Rome absorbed vast territories into a single political system, but it also concluded treaties (foedera) with allied peoples, granting them rights and obligations in exchange for loyalty or military support. Rome thus

blended conquest with negotiated cooperation, creating an extensive network of legal and administrative ties that prefigured later, more peaceful forms of international order.

2.2. The middle ages: fragmented authority and informal diplomacy

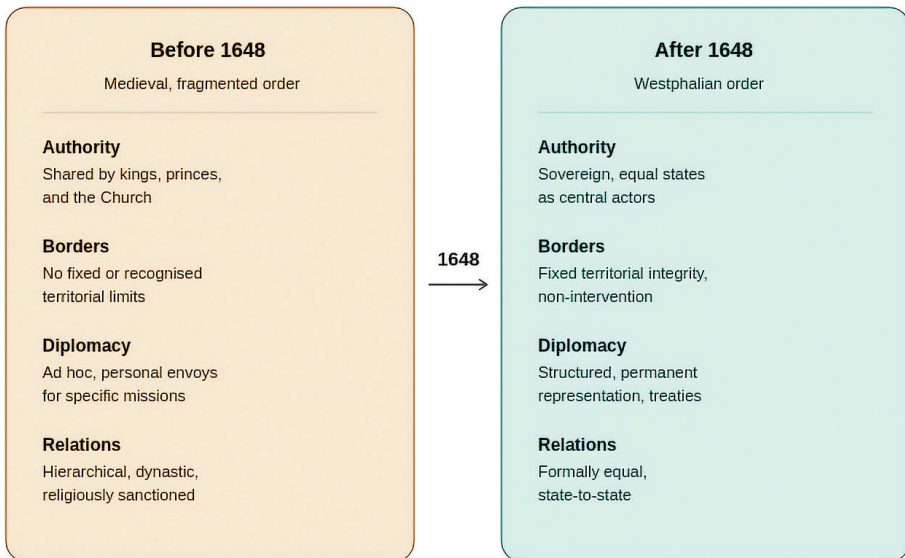
In medieval Europe, power was distributed among kings, princes, city-states, and the Church. The **Catholic Church** played a particularly important role, serving not only as a spiritual authority but also as a mediator in conflicts, a source of international law in the form of canon law, and a unifying cultural framework; cooperation was accordingly often organised through religious councils, papal mediation, or crusades, reflecting the dominance of Christendom as a transnational structure. International relations were largely shaped by feudal ties, dynastic interests, and religious authority, and diplomacy – where it existed at all – was informal, ad hoc, and personal: **envoys or special legates** were dispatched for specific missions such as marriages, truces, or trade deals, but there was no system of permanent representation or regularised international law, and conflicts were frequent given the absence of any settled notion of permanent borders or formal equality among political entities. The first permanent representations appeared in the 15th century, for example at the Milanese court of Sigismund of Luxembourg.

Elsewhere, **comparable systems existed**: the Islamic caliphates, the Chinese tributary system, and the Mongol Empire's diplomatic and trade networks all provided frameworks for cross-border cooperation but always within hierarchical structures, never among formally equal, sovereign states. Even within this fragmented order, **early forms of cooperation emerged**: the **Hanseatic League** (13th–17th century), a commercial network of Northern European cities, coordinated trade, security, and privileges abroad; peace treaties and alliances between monarchs, often sealed by dynastic marriage, offered temporary solutions to conflict; and cross-border trade agreements established rules for merchants, markets, and safe passage.

2.3. 1648 and after: the Westphalian model and its limits

The **Peace of Westphalia** (1648), which ended the Thirty Years' War, marked a genuine turning point and laid the foundations of the modern state system. It introduced the principles of sovereignty, the legal equality of states, non-intervention, and territorial integrity, creating a **framework** in which **states**

became the central actors of international relations and could interact peacefully while retaining **full control over their own domestic affairs**. Cooperation was now understood as state-to-state negotiation: treaties, alliances, and diplomacy provided the mechanisms for managing conflict and coordinating action, while always respecting each state's autonomy. Examples of Westphalian-style cooperation include the European alliances and treaties concluded after 1648, bilateral agreements on trade, border management, or security, and regional frameworks that respect national sovereignty – the emphasis throughout is on pragmatic, negotiated collaboration rather than binding supranational authority.



10. The international order before and after the Peace of Westphalia (1648)

While this system provided centuries of relative stability in Europe, it increasingly proved insufficient to address problems that transcended borders, for at least four connected reasons.

- Rising **global interdependence** exposed the limits of isolated state action: trade, communication, and transport networks expanded rapidly in the 19th and 20th centuries, linking economies and societies in ways that required coordinated, rather than unilateral, solutions.
- The emergence of **transboundary challenges** – war, pandemics, environmental crises, migration – demanded cooperation that went beyond simple bilateral agreements, since no single state could prevent global conflict, contain disease, or respond to disaster alone.
- The growing scale and complexity of modern governance prompted the creation of **permanent international institutions**: early administrative

unions (postal, telegraph, railroad) and multilateral conferences showed that structured cooperation could solve practical problems far more efficiently than ad hoc diplomacy.

- The devastating effects of the 20th century's world wars made clear that a purely Westphalian, **sovereignty-focused approach was inadequate** for global security and stability, leading to the League of Nations and, later, the United Nations, and to the formalisation of institutionalised multilateral cooperation in which states pool sovereignty in specific areas to address shared challenges.

Modern international cooperation, accordingly, increasingly relies on supranational institutions and multilateral frameworks, reflecting the reality that challenges such as climate change, pandemics, migration, and global security cannot be effectively addressed through a purely Westphalian, sovereignty-centred approach alone.

3. The institutionalisation of collaboration

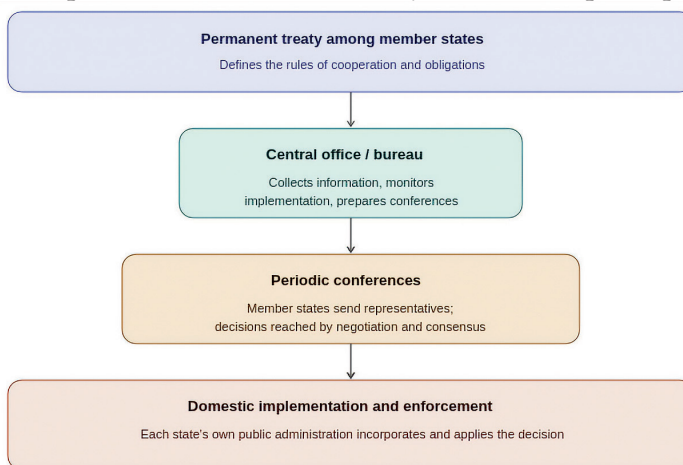
The origins of international collaboration can be traced to the **earliest forms of diplomacy and practical cooperation** between states. In ancient Greece, the proxenos and in Rome, the *patrone* were officials appointed to protect commercial and political interests in foreign territories, one of the first organised efforts to manage cross-border concerns. Over time, **diplomacy** emerged as a systematic way for states to represent their interests, negotiate disputes, and maintain peaceful relations; by the 15th century, the regular exchange of ambassadors had become central to negotiating alliances, treaties, and agreements. These practices reflected a growing understanding that certain challenges – political, commercial, or security-related – could not be effectively addressed by a single state acting alone, so that cooperation, even in its earliest forms, was recognised as essential to achieving shared objectives.

3.1. The nineteenth-century administrative unions

In the nineteenth century, the need to manage practical cross-border issues led to the creation of early international administrative unions – among the first attempts at structured cooperation between states. They were created to **handle practical, technical matters** that crossed borders, such as postal services, telegraph communication, rail transport, public health, and copyright

protection: areas where isolated national policies were insufficient, since cross-border exchange demanded uniform rules and coordinated systems. Postal unions standardised mail delivery across borders; railroad and telegraph unions coordinated transport and communication networks; public health unions addressed diseases capable of spreading internationally; and copyright agreements protected intellectual property across nations. Based on **permanent treaties and joint institutions**, these unions were among the first structured attempts to solve transboundary problems through **organised cooperation rather than ad hoc diplomacy**.

They were called ‘administrative’ unions because their **purpose was primarily technical and organisational, not political**. Unlike military alliances or diplomatic treaties focused on power relations, administrative unions were concerned with the management and regulation of common services, aiming at efficiency, standardisation, and predictability in areas where the everyday lives of people and the functioning of economies increasingly depended on international connectivity. Structurally, these unions rested on permanent treaties defining the rules of cooperation; member states established a central office or bureau to serve as the administrative hub, collecting information, monitoring implementation, facilitating communication among members, and preparing periodic conferences at which states could review, adapt, or extend their agreements. Each member state sent representatives – often officials drawn from its own public administration – to participate in these conferences and in decision-making; decisions were typically reached by negotiation and consensus, and then incorporated into the domestic systems of the participating states.

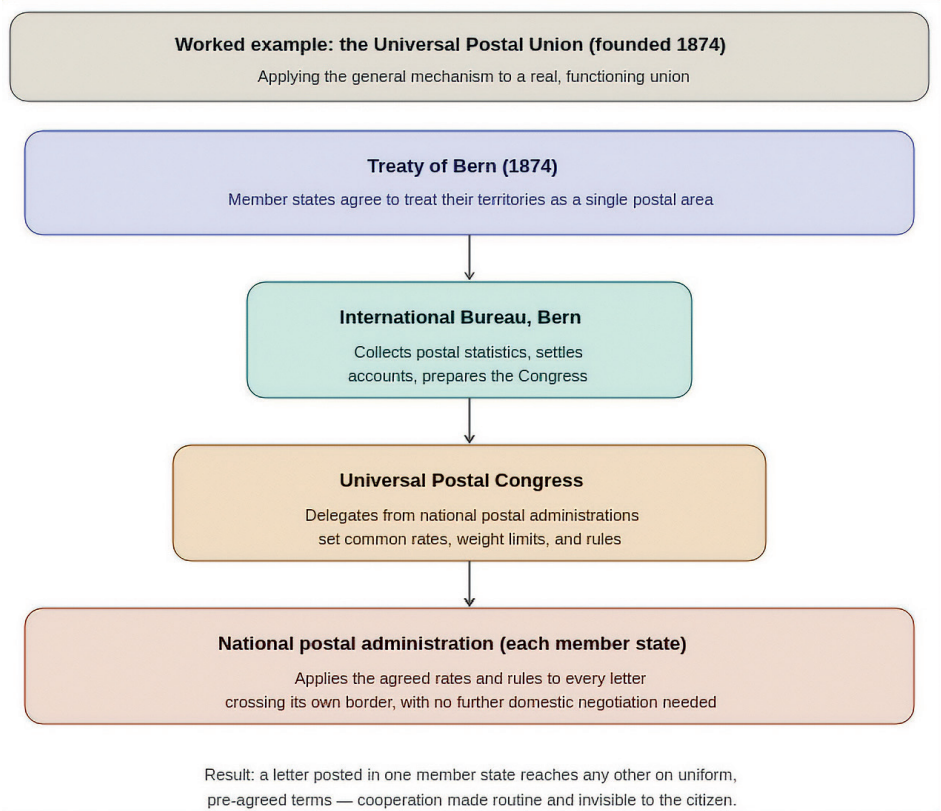


Legal framework (treaty) + technical support (bureau) + domestic enforcement (states)
= a permanent, self-sustaining cycle of cooperation

11. How a nineteenth-century administrative union worked

Membership in such unions was **generally open** to any state willing to accept the obligations of the treaty. The *Universal Postal Union* (founded 1874) brought together countries to standardise international postal services, while the *International Telegraph Union* (founded 1865, later the ITU) coordinated telegraph communication; both organisations became genuinely global over time as more states joined. The unions worked by combining national implementation with international coordination: treaties supplied the legal framework, central offices offered technical and administrative support, and member states ensured enforcement through their own domestic public administrations. In this way, international administrative unions became the direct precursors of modern international organisations, pioneering the idea that states could create permanent, institutionalised forms of cooperation to address shared problems.

It is worth pausing on the Universal Postal Union for a moment, since it shows concretely how the abstract mechanism above actually played out for one of the most successful unions of the period.



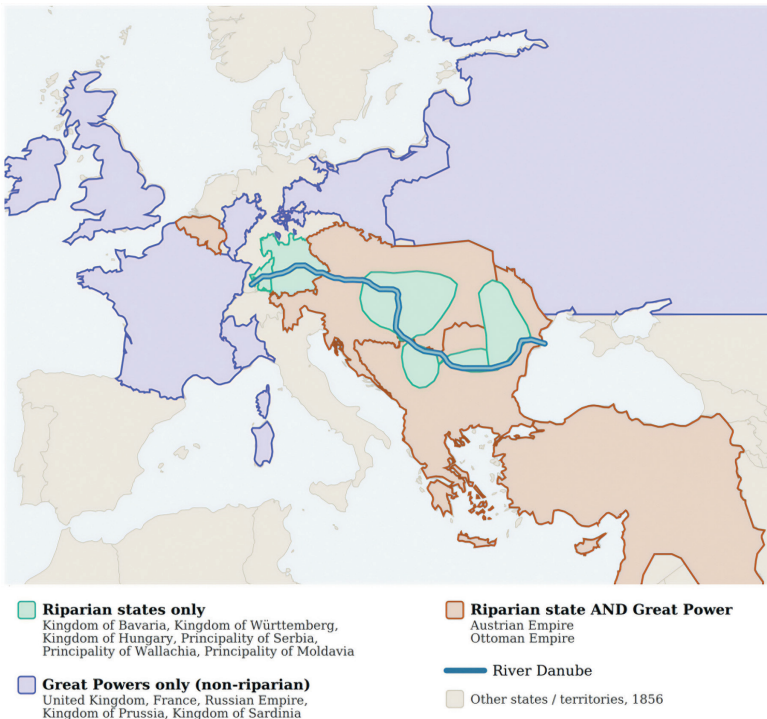
12. The Universal Postal Union as an example of the administrative-union mechanism in practice

3.2. The Danube Commission: the cradle of international administration

The Danube Commission and its earlier conventions illustrate particularly well how international administrative cooperation began to evolve in the 19th century. The Danube has long been a **vital waterway** for trade, transport, and regional security, **crossing multiple states** and linking Central Europe to the Black Sea; because no single state could control it entirely, its regulation became an early test case for cooperation beyond the strict Westphalian model of sovereignty.

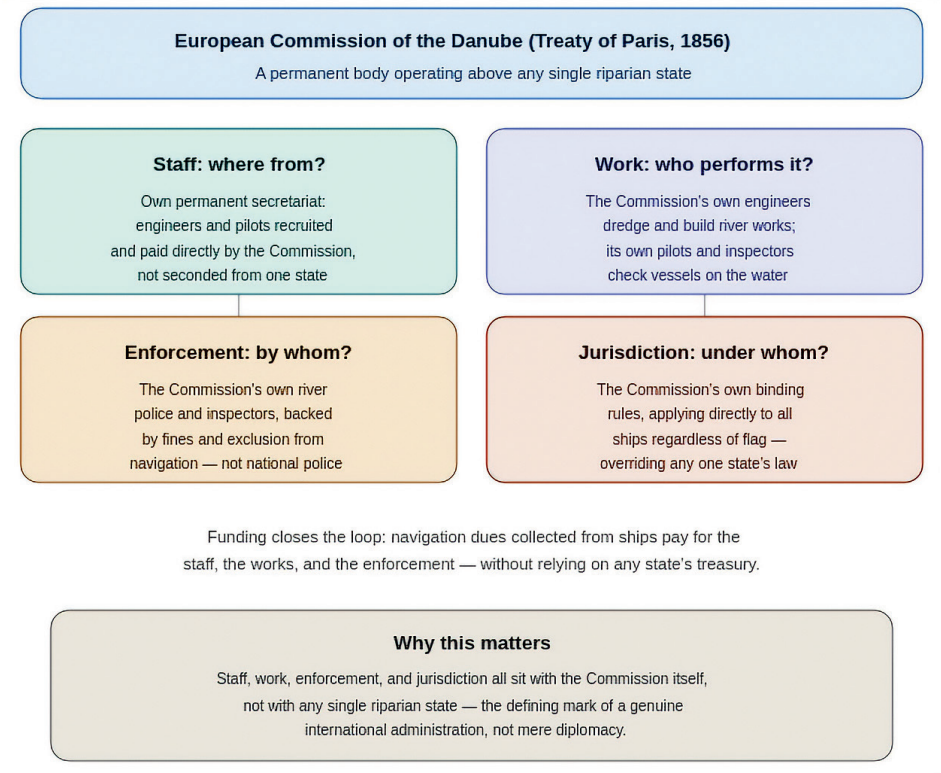
The turning point came with the **Paris Peace Treaty of 1856**, which ended the Crimean War. One of its provisions established an **international regime for navigation** of the Danube, ensuring that the river would remain open and free for commerce to all nations. Two commissions were created to this end:

- a **European Commission of the Danube**, composed of representatives from *major powers* such as Britain, France, Austria, Prussia, Sardinia, Russia, and the Ottoman Empire, and
- a **River Commission**, which included the *riparian (river-bordering) states* themselves.



13. The Danube & the European Commission of the Danube (1856)

The European Commission, in particular, is often cited as one of the **first functional international administrative bodies**. It was tasked with overseeing engineering works on the river – dredging and construction among them – setting navigation rules, collecting fees, and maintaining security along the waterway. In other words, it went beyond diplomacy and engaged directly in administrative and technical work, something genuinely new for international organisations of the time. What made the arrangement **remarkable** was its **institutional character**: the Commission had a permanent office, its own budget funded through navigation tolls, and settled decision-making procedures. Member states sent representatives, but once decisions were made, they were **binding on all ships and traders** using the river, creating, for the first time, a system in which **international rules over a shared natural resource were enforced collectively**, limiting the ability of any individual state to act unilaterally.



14. The European Commission of the Danube (1856)

 *Later conventions, especially the Belgrade Convention of 1948, continued this tradition and led to the modern Danube Commission, which still operates today, regulating navigation, ensuring safety, protecting the river environment, and coordinating among member states.*

The European Commission of the Danube deserves particular emphasis because it is frequently described as the **cradle of international administration**. It possessed its own permanent organs, its own budget financed from navigation dues, its own technical staff, and the power to issue and enforce binding navigation rules – in short, a genuine administrative apparatus operating above the riparian states themselves. It demonstrates that international cooperation, once it becomes permanent and institutional, generates administration of its own; this is the precise point at which the story of internationalised public administration properly begins.

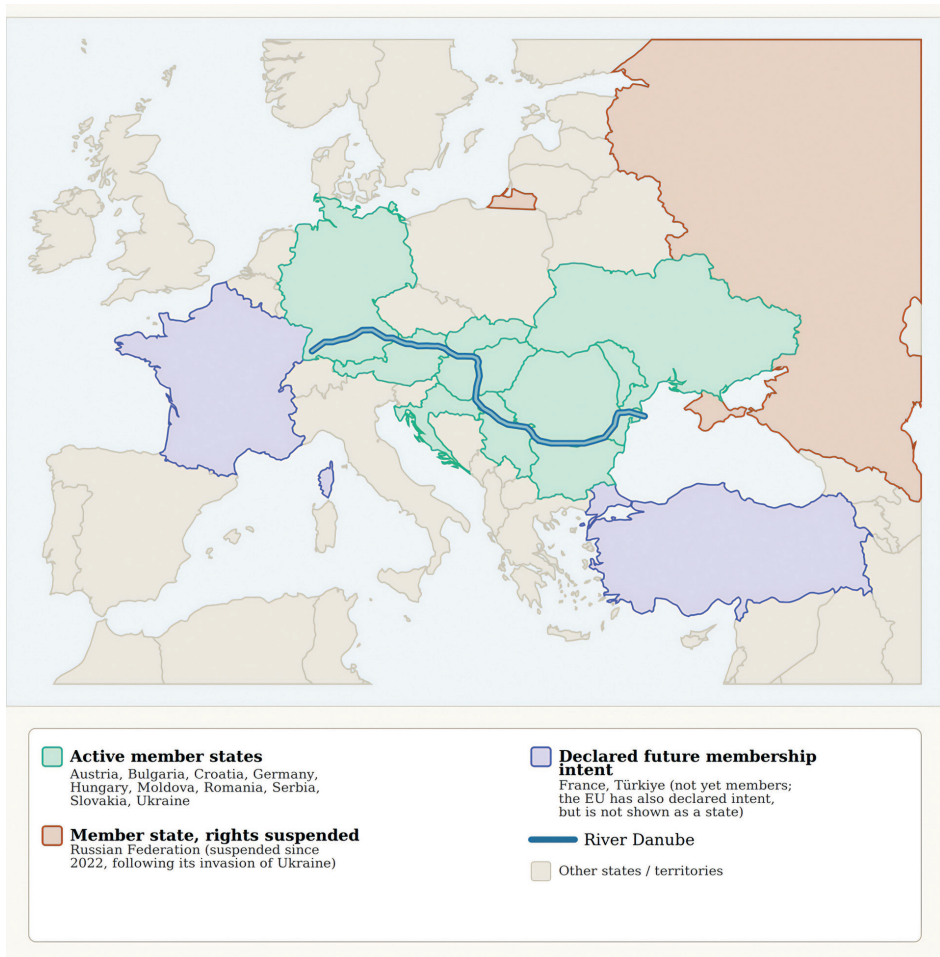
Multilateral conferences, such as the **Congress of Vienna in 1815**, further institutionalised collaboration by providing forums in which states could negotiate collective solutions to political and diplomatic challenges, laying groundwork that the twentieth century would build on directly: the League of Nations and, later, the United Nations formalised this process, creating structured platforms on which states could exchange information, negotiate shared goals, and implement collective solutions on a genuinely global scale. In essence, the ancestors of modern international organisations were functional unions and cooperative arrangements designed to manage practical, transboundary challenges; a continuous thread running from ancient diplomacy through nineteenth-century administrative unions to the present day, each stage demonstrating that certain problems transcend national borders and can only be addressed collectively. Public administration thus functions not only as the machinery of the state, but also as the domestic executor of international commitments, translating collaborative solutions into concrete action at home.

The European Commission of the Danube was extended and modified repeatedly: first, by the 1865 Public Act, then by the 1878 Treaty of Berlin (which admitted Romania and removed Turkey's territorial sovereignty over the delta), and by further arrangements after the First World War, when an Inter-Allied Danube Commission was formed and membership was eventually limited to Britain, France, Italy, and Romania, excluding Russia and Turkey. So even within this single lineage, the Great Power membership was already being reshuffled well before 1948. That original commission was definitively **superseded in 1948**. The **current Danube Commission** was established in **1948** by **seven riparian countries**, replacing the previous commissions that

had also included non-riparian powers. It explicitly ended the practice of including outside Great Powers. This 1948 commission traces its institutional lineage back to the 1856 Paris Conference, which first created an international regime for free Danube navigation, but it is a legally distinct body created by the **Belgrade Convention**. The Member States of the Danube Commission today are: Austria, Bulgaria, Hungary, Germany, Moldova, Romania, Serbia, Slovakia, Ukraine, and Croatia. Its seat has been in Budapest since 1954, and its official languages are German, Russian, and French. It is **seated in Budapest, Hungary**.

Russia has been suspended, not merely absent. Following the start of the full-scale Russian invasion of Ukraine, the Representatives of the member states adopted a decision in March 2022 declining the full powers of all Russian Federation representatives, excluding them from participation in all Commission meetings and working bodies until the restoration of Ukraine's peace, sovereignty, and territorial integrity. Russia remains formally a member state but is currently excluded from participation.

Also, there is a separate, more recent body that is sometimes confused with the Danube Commission – the International Commission for the Protection of the Danube River (ICPDR), established in 1998 to implement the Danube River Protection Convention, with the Contracting Parties including 14 basin states plus the European Union itself as a party. This is an environmental river-basin management body, institutionally and legally distinct from the navigation-focused Danube Commission – they share a river, not a charter.



15. Current membership of the Danube Commission (Belgrade Convention, 1948). Status as of 2026

4. Types of (modern) international organisations

International organisations are entities established by agreement between sovereign states or other international actors to pursue common goals and cooperate on specific issues of mutual interest.

They operate across national borders and may possess legal personality, enabling them to enter into agreements, conduct activities, and fulfil obligations under international law; in most cases, however, the participating states do not delegate

to them any power to act on their behalf or to impose obligations without their direct consent. International organisations vary considerably in scope, structure, and mandate, ranging from intergovernmental organisations to non-governmental organisations, hybrid bodies, and supranational organisations. The founders and parties to an organisation determine its legal status and competencies. In the simplest and most common case, an international organisation arises from agreement among states: the United Nations is the paradigm example, expressing this nature in its very name. In other cases, sub-state organs may also participate in establishing an international body, resulting in more complex membership structures.



16. Four types of modern international organisations

4.1. Inter-governmental organisations (IGOs)

Speaking of international organisations in general, the term most commonly covers inter-governmental organisations (IGOs). These are public bodies that may be structured according to differing principles, since there is no universal rule governing their creation; nonetheless, they typically share the following characteristics:

- establishment by some form of international agreement among states, under the classical rules of international law governing relations between them;
- establishment under, and regulation by, international law;
- possession of what may be called a constitution (it is international law in nature);

- organs that function relatively independently of individual members, according to the international legal instrument that created them;
- generally, though not always, an exclusive or at least predominant membership of states or governments, since only officials acting on behalf of a state can represent it and assume obligations in its name;
- possible possession of international legal personality, distinct from that of the member states, to the extent the creating states have chosen to vest it with such competencies.

A concept that must be defined here is **international legal personality**: the capacity of an entity to bear rights and obligations directly under international law, to conclude treaties, to bring and answer international claims, and to enjoy certain privileges and immunities. **States** possess this personality inherently; international organisations possess it only to the extent that their founding treaty confers it and their functions require it – the principle of *functional* or *derived* personality, recognised by the International Court of Justice in its 1949 *Reparation for Injuries* opinion. Whether an organisation has its own legal personality is decisive for whether it can act – and be held responsible – in its own name, separately from its members.

 *The United Nations, established in 1945 to promote international peace, security, and cooperation among nations, is the most widely known example of an IGO.*

4.2. Non-governmental organisations (NGOs)

Non-governmental organisations (NGOs) are typically **private, non-profit bodies** are typically private, non-profit entities established independently of governments. International NGOs often operate across national borders and are commonly engaged on a global or regional scale, often focused on humanitarian, environmental, or development issues. Although NGOs are **not created by states**, they play a significant role in global governance and frequently collaborate with public administrations on public policy challenges: *implementing development projects, providing humanitarian assistance, or helping to enforce environmental standards*. Because states are not members of NGOs, the achievements and positions of an NGO are not binding on any state.

 *Amnesty International, for example, focuses on human rights advocacy and compliance with international human rights standards, while Greenpeace campaigns for environmental protection and sustainable practices.*

4.3. Hybrid organisations

Hybrid organisations combine elements of governmental and non-governmental structures, typically involving collaboration between states, private entities, and other actors to address complex issues that require multi-stakeholder engagement across sectors.

 *The Global Fund, for instance, is a partnership between governments, the private sector, and civil society focused on combating diseases such as HIV/AIDS, tuberculosis, and malaria; such hybrid bodies engage public administrations from multiple countries simultaneously, requiring national systems to align with one another on health, environmental, or development policy.*

A specific hybrid type is the group of international financial institutions, which provide financial assistance and advisory services to governments and the private sector for development projects, economic stabilisation, and poverty reduction. These institutions play a substantial role in managing international financial systems and fostering economic development, and they directly influence public administration by shaping national economic policy, public expenditure management, and reforms to public financial management – often imposing conditionalities that require governments to make administrative and policy changes in areas such as fiscal responsibility, anti-corruption measures, or governance reform.

 *The World Bank provides loans and technical expertise to developing countries for infrastructure and economic projects, while the International Monetary Fund (IMF) provides financial assistance to countries facing economic crises and helps maintain global economic stability.*

4.4. Supranational organisations

Supranational organisations go one step further than ordinary IGOs by itself, often allowing it to adopt binding decisions that override the national laws of its member states. They are designed to foster deeper integration and cooperation among states, typically in areas such as economic governance, trade, or law.

 *The European Union, the clearest example, requires member states to adjust their public administration systems to align with EU policies and directives in areas such as taxation, trade regulation, immigration, and environmental law; public administrative bodies within member*

states must ensure compliance with supranational regulation, and policy coordination between national administrations and supranational bodies helps secure uniformity and consistency in law and governance across the Union.

5. Public administration and international organisations

The law of international organisations is properly described as special: it is always *lex specialis*, a law proper to each organisation, since there is no general or universal law of international organisations as such. The relationship between public administration and international organisations should be understood in two major directions: the administration of the international organisation itself, and the influence of the international organisation on the public administration of its member states.

5.1. Administration of the international organisation

Public administration within international organisations differs fundamentally from public administration within sovereign states. While state administrations are grounded in domestic law, settled hierarchies, and executive authority, the administration of an international organisation functions primarily as the organisational and procedural apparatus required to keep the organisation working and to manage its staff. In almost all cases, **ultimate executive authority remains in the hands of the participating states**, and the administrative powers of the organisation itself are limited and defined by the mandate its member states have granted it. Unlike domestic public law, international administrative law does not exist in a fully developed or universally applicable form; the public administration of international organisations can therefore only be interpreted in a narrow, functional sense.

States remain the recognised and primary actors in international relations. Each state, under its own constitutional norms, maintains a domestic order establishing the balance of power and authority needed to serve the interests of its citizens; consequently, only those state organs or officials empowered under domestic law may act on the state's behalf internationally, assume obligations, and enter into agreements, and they remain accountable for such acts both internationally and domestically. When states create an international

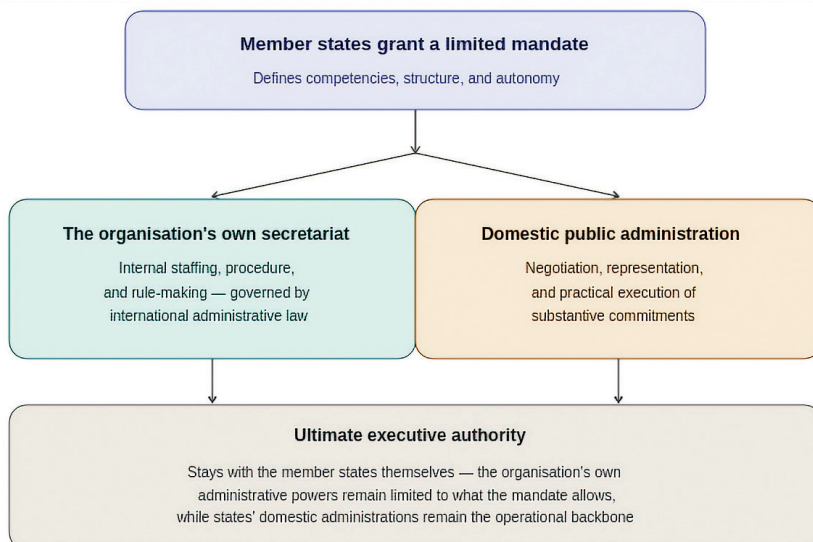
organisation as a forum for the exchange of common interests, the scope of its competencies, the structure of its administration, and the degree of its autonomy are entirely determined by the will of the member states – allowing them to tailor the organisation’s administrative framework to coordination, regulation, technical management, or any combination of these.

In classical international organisations, **preparatory work and executive functions largely remained under the control of the member states**, with domestic public administrations performing the tasks of negotiation, representation, and implementation – in effect serving as the operational backbone of the international body.

 *In the UPU, for example, national postal administrations coordinated the execution of international postal agreements and ensured compliance with the union’s rules; in the European Commission of the Danube, member states’ own administrations were responsible for engineering works, navigation management, and the enforcement of river rules.*

The internal management of international organisations – how they recruit and discipline staff, organise their bureaucracy, take decisions, and resolve disputes with their own employees – is the subject of a distinct field known as **international administrative law**.

It is ‘administrative’ because it concerns the day-to-day functioning of a bureaucracy, and ‘international’ because that bureaucracy belongs to an international organisation rather than to a state.



17. How the administration of an international organisation actually works

The administration of international organisations also extends to the integration of common achievements into domestic law. Once an **international obligation** becomes part of domestic legislation, **national public administrations** assume responsibility for **executing it**.

 *For example, when states ratify UN conventions on human rights or environmental protection, domestic bureaucracies are tasked with implementing the relevant regulations, monitoring compliance, and managing programmes in line with the international commitment. Here, the international organisation functions chiefly as a coordinating and supervisory body, while state administrations carry out the practical execution of policy. Modern bodies such as the United Nations and the World Health Organisation illustrate this evolution well: while they maintain professional secretariats, permanent staff, and institutional procedures for decision-making and programme management, their effectiveness still depends heavily on the cooperation and administration of member states – the WHO, for instance, provides technical guidance and global coordination during a pandemic, but national health ministries implement policy, collect data, and enforce regulation within their own territories.*

In sum, the administration of international organisations is a distinct form of governance, shaped by the delegated authority of member states. It operates within a framework where executive powers are limited, procedural and organisational structures predominate, and practical execution frequently depends on domestic administrations. While the international organisation itself does not possess the comprehensive legal authority of a state, it serves as a crucial coordinating and institutional mechanism that enables states to pursue collective objectives, manage transboundary challenges, and integrate international agreements into national practice – bridging the global and domestic spheres and translating multilateral commitments into concrete action.

5.2. Influence of the international organisation on the public administration of the state

International organisations exist primarily in the interests of states, serving as forums for **coordinating and managing common problems**. The results of their work can take multiple forms with **varying legal effect**: political declarations, decisions of organs – often labelled opinions, recommendations,

or resolutions – and normative texts such as treaties and conventions open for signature by states. By signing such instruments, **states voluntarily** accept commonly agreed solutions and may **assume obligations** to implement them. Although exceptions exist, most notably the UN Security Council and the European Union, the general rule and the overwhelming majority of cases continue to reflect the classical Westphalian model of international relations, in which state sovereignty and voluntary participation remain the fundamental organizing principles.

In today's international legal order, Westphalian principles of sovereignty continue to predominate. When a state voluntarily assumes an obligation, it effectively delimits itself, imposing the commitment on its own territory and population in accordance with its domestic legal framework, including its constitutional and administrative law; international obligations are thus executed domestically through national public administration structures. Even where a convention establishes supervisory organs to monitor implementation, such bodies often lack judicial or sanctioning powers comparable to those within a state, and enforcement depends substantially on the willingness of the state concerned.

 *The Council of Europe, which hosts numerous conventions, illustrates this well: while many of its conventions have limited practical impact, the European Convention on Human Rights (1950) stands out as by far the most influential, with its supervisory body, the European Court of Human Rights (ECtHR) in Strasbourg, able to review state practice and issue binding judgments in individual cases. Yet even the ECtHR has no independent enforcement mechanism: beyond political pressure and reputational consequence, it cannot compel a state to change its legislation, leaving domestic public administration to implement any necessary adjustment voluntarily.*

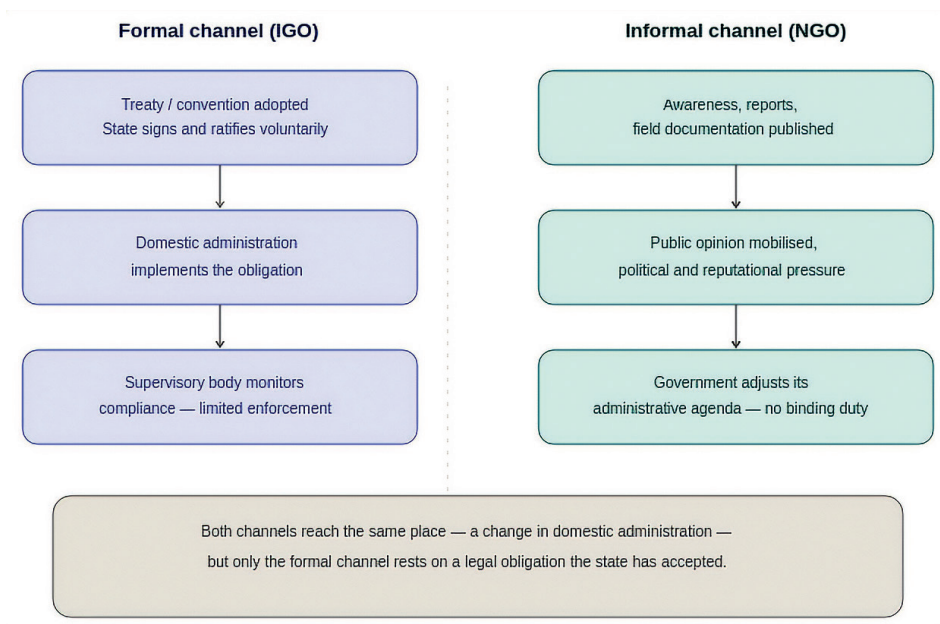
Non-governmental organisations, by contrast, cannot create binding obligations at all; their influence lies in **raising awareness and shaping political agendas**. NGOs bring issues onto the international and domestic political agenda that might otherwise be ignored, lobby decision-makers directly, provide expertise, draft proposals, and press governments to adopt stronger commitments. They also expose state behaviour through reports, media attention, and appeals to public opinion, relying on the reputational cost of exposure to pressure governments into changing policy.

 *Amnesty International, for example, lobbies governments to abolish the death penalty, and its reports on torture and human rights violations are frequently cited in UN debates or parliamentary hearings; sustained pressure of this kind has contributed to movement toward abolition in countries such as Kazakhstan and Mongolia, and its documentation of abuses in Myanmar and Russia has helped keep international pressure on those states. The World Wide Fund for Nature (WWF) lobbied the EU to adopt the Habitats Directive (1992), creating the Natura 2000 network of protected sites across Europe, and has cooperated with African governments to establish transboundary conservation areas such as the Kavango-Zambezi Transfrontier Conservation Area (KAZA), spanning Angola, Botswana, Namibia, Zambia, and Zimbabwe.*

NGOs often possess **specialised knowledge** and field presence that governments and IGOs themselves rely on, which lends them credibility as policy actors; they also connect directly with citizens through petitions, demonstrations, and fundraising, mobilising public opinion to create domestic political pressure.

 *Greenpeace scientists contribute to environmental monitoring, for instance, while Amnesty's fact-finding missions provide documentation used by the UN Human Rights Council; Greenpeace's campaigns against single-use plastics built wide public support across Europe and helped push the EU toward its 2019 ban on many single-use plastic items, while WWF's Earth Hour initiative – in which millions of people turn off their lights for one hour – has become a global symbol of climate action, encouraging governments to commit to stronger environmental policy. Together, these examples illustrate the complex interplay between global governance and domestic public administration: states remain central, yet they constantly respond to pressures generated by actors that operate alongside, rather than through, the inter-state system.*

Stepping back, the two preceding paragraphs trace two structurally different channels by which an international actor can change what a domestic administration does – one running through a binding legal obligation, the other through political and reputational pressure with no binding force at all.



18. Two channels of influence on domestic administration

5.3. The special case of supranational organisations

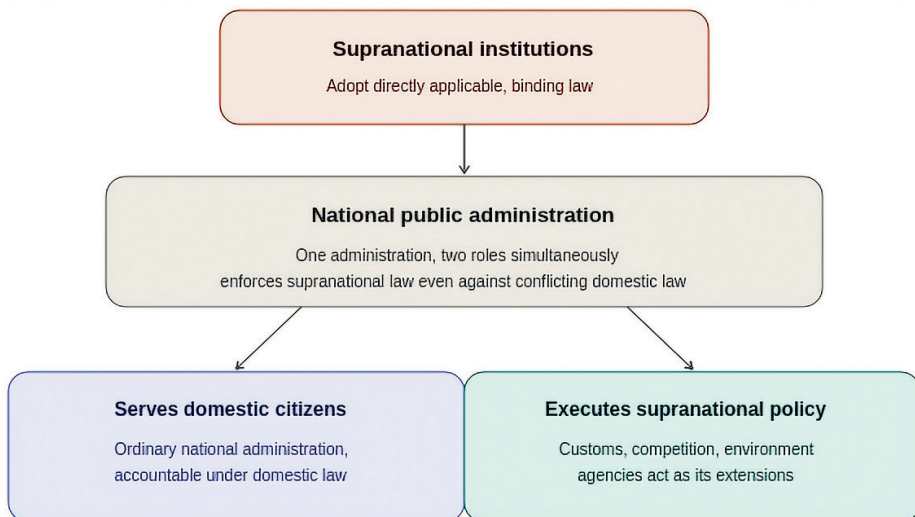
Most international organisations are forums for cooperation created by states to manage common challenges while respecting national sovereignty; in these classical cases, public administration at the international level remains limited, and execution is carried out largely by the domestic administrations of the member states. The comparatively rare case of supranational organisations (SNOs), however, represents a qualitatively different model with profound consequences for public administration.

The defining feature of a **supranational organisation** is the transfer of sovereign powers from states to the organisation itself.

Unlike an ordinary intergovernmental organisation, where states remain free to choose whether to implement an obligation, an SNO has the **autonomous authority to adopt binding rules**, adjudicate disputes, and even enforce its own decisions. SNOs are accordingly not merely facilitators of cooperation but independent actors, capable of imposing obligations directly on states and their administrations.

 *The European Union stands as the clearest and most developed example of a supranational organisation. Through its founding treaties, member*

states have empowered EU institutions – the European Commission, the European Parliament, and the Court of Justice of the European Union (CJEU) – to make law, monitor compliance, and impose sanctions; many acts of EU law are directly applicable or produce direct legal effects within the Member States, requiring national public administrations and courts to enforce EU law even where it conflicts with domestic legislation. This arrangement produces a unique dual system of public administration: national administrations continue to serve their own citizens, but must simultaneously act as executors of supranational policy. Customs authorities, competition regulators, and environmental agencies in EU Member States, for example, frequently operate as extensions of the EU’s own regulatory framework; EU public administration penetrates domestic systems more deeply than that of any other international organisation. Although the EU resembles a federal system in its division of powers, it remains distinct: it is not a state, and its authority rests on international treaties rather than on a constitution in the strict sense. Even so, the supranational model shows how public administration can move beyond the classical state framework altogether, reshaping sovereignty and governance in ways the Westphalian model could never have anticipated.



The same officials, the same agencies — but two distinct sources of authority
at once, unlike any ordinary intergovernmental organisation.

19. The dual system of public administration under a supranational organisation

The table below summarises, criterion by criterion, how this supranational model differs from the ordinary intergovernmental organisations discussed earlier in the chapter.

Criterion	IGO	SNO
Sovereignty	States retain it in full	States cede part of it
Legal effect	Voluntary, needs ratification	Direct, overrides national law
Decision-making	Recommendations, treaties	Directly binding decisions
Public administration	Executes voluntarily	Acts as executor of SNO law
Enforcement	Political pressure	Courts, sanctions

20. Comparison enforcement

In conclusion, supranational organisations represent an exceptional case in international relations and public administration. By exercising autonomous authority and requiring direct implementation within member states, they challenge traditional notions of sovereignty and create a multilayered system of governance, in which national administrations operate simultaneously in the domestic and supranational spheres.

Looking ahead: from internationalisation to globalisation

This chapter has traced a single, continuous development: states first cooperating informally, then institutionalising that cooperation through permanent unions, and finally – in the rare but increasingly consequential case of supranational organisations – ceding part of their own sovereignty to a body capable of binding them directly. At every stage examined so far, however, the state has remained the master of the process: even within the European Union, member states created the supranational order through their own constitutional acts, and could in principle unmake it the same way.

The next chapter turns to a phenomenon that pushes this logic one step further still: globalisation. Where internationalisation connects states that remain firmly in control, globalisation produces forms of integration and interdependence

– in finance, in digital infrastructure, in environmental systems, in standard-setting by private and expert bodies – that can develop their own momentum, only loosely anchored in any single state's consent. Administrative law, built originally to discipline the exercise of power within a single state, is increasingly called upon to discipline power that is exercised across, above, and sometimes entirely outside the state altogether. It is to this globalisation of administrative law that the book now turns.

TEST QUESTIONS – CHAPTER II

1. **Which term describes “relations and norms that operate across states but not primarily through inter-state channels, frequently involving private or expert actors instead of governments”?**
 - a) Internationalisation
 - b) Transnational
 - c) Transboundary
 - d) Supranational
2. **What is generally considered the first written peace treaty in history?**
 - a) The Peace of Westphalia (1648)
 - b) The Treaty of Kadesh (ca. 1259 BCE)
 - c) The Treaty of Rome (1957)
 - d) The Belgrade Convention (1948)
3. **The Peace of Westphalia (1648) introduced which set of foundational principles?**
 - a) Direct effect and supremacy of EU law
 - b) Sovereignty, the legal equality of states, non-intervention, and territorial integrity
 - c) Qualified majority voting and subsidiarity
 - d) Input, process, and output sovereignty
4. **Which international administrative union, founded in 1874, is given as a worked example of how nineteenth-century administrative unions functioned?**
 - a) The International Telegraph Union
 - b) The Universal Postal Union
 - c) The League of Nations
 - d) The Danube Commission
5. **What event led to the creation of the original European Commission of the Danube in 1856?**
 - a) The Belgrade Convention
 - b) The Paris Peace Treaty ending the Crimean War
 - c) The Congress of Vienna
 - d) The Treaty of Berlin

- 6. Which two bodies did the 1856 Paris Peace Treaty create to govern Danube navigation, and how did their membership differ?**
 - a) A “European Commission” composed of major powers and a “River Commission” composed of the riparian states themselves
 - b) A “Trade Commission” and a “Security Commission,” both composed of riparian states only
 - c) A single, unified commission with no internal distinction in membership
 - d) A “Northern Commission” and a “Southern Commission,” divided by geography alone
- 7. What made the original European Commission of the Danube “remarkable” as an institution, beyond simply being created by treaty?**
 - a) It had no budget of its own and relied entirely on annual contributions from member states
 - b) It had a permanent office, its own budget funded through navigation tolls, and could issue rules binding on all ships and traders using the river
 - c) It only ever met once, to issue a single declaration
 - d) It was composed exclusively of private shipping companies, with no state involvement
- 8. Which country’s representatives have been excluded from participation in the Danube Commission’s meetings and working bodies since March 2022, while formally remaining a member state?**
 - a) Ukraine
 - b) Moldova
 - c) Russia
 - d) Croatia
- 9. What is the key institutional difference between the Danube Commission and the International Commission for the Protection of the Danube River (ICPDR), bodies that are sometimes confused with one another?**
 - a) They are simply two different names for the same organisation
 - b) The Danube Commission focuses on navigation, while the ICPDR is a separate, environmentally focused body to which the EU itself is a contracting party
 - c) The ICPDR predates the Danube Commission by over a century
 - d) The Danube Commission has no permanent seat, while the ICPDR is seated in Budapest

- 10. According to the principle of “functional” or “derived” personality, when do international organisations possess international legal personality?**
- a) Automatically, to the same extent as states
 - b) Never, under any circumstances
 - c) Only to the extent that their founding treaty confers it and their functions require it
 - d) Only if they are headquartered in a state that recognises them
- 11. According to the classification of international organisations, what distinguishes a “hybrid organisation” from an ordinary IGO or NGO?**
- a) It is composed exclusively of private companies
 - b) It combines elements of governmental and non-governmental structures, involving collaboration between states, the private sector, and other actors
 - c) It can never possess legal personality
 - d) It is always a financial institution
- 12. What is the defining feature of a supranational organisation, as distinguished from an ordinary intergovernmental organisation?**
- a) A larger number of member states
 - b) A permanent secretariat
 - c) The transfer of sovereign powers from states to the organisation itself, allowing autonomous, binding rule-making
 - d) Voluntary, non-binding cooperation only
- 13. Which two structurally different channels of influence on domestic administration are identified when comparing IGOs and NGOs?**
- a) Military pressure versus economic sanctions
 - b) A binding, treaty-based legal channel (IGOs) and an informal, pressure-based political/reputational channel (NGOs)
 - c) Judicial review versus legislative initiative
 - d) Direct taxation versus indirect taxation
- 14. What example does the textbook give of an NGO’s advocacy contributing to a binding EU legal instrument on nature protection?**
- a) The WWF’s lobbying that contributed to an EU directive creating the Natura 2000 network of protected sites
 - b) Amnesty International drafting a founding EU treaty
 - c) Greenpeace negotiating a UN climate treaty directly on the EU’s behalf
 - d) The Red Cross drafting EU data-protection rules

15. Why does international administrative law remain, in its own words, “narrow” rather than fully developed, even within classical international organisations?

- a) Because preparatory work and executive functions largely remain under the control of member states, with domestic administrations performing negotiation, representation, and implementation
- b) Because no international organisation has ever employed any staff
- c) Because international organisations are legally identical to private companies
- d) Because every international organisation automatically has full legislative power over its members

III. GLOBALISATION AND PUBLIC ADMINISTRATION

Contents

1. The meaning of globalisation in the legal world
2. Globalisation and its implications for international cooperation
3. Globalisation of law and its impact on public administration
 - 3.1. Erosion of purely domestic law-making
 - 3.2. Rise of supranational enforcement mechanisms
 - 3.3. Expanding influence of non-state actors
 - 3.4. A genuinely multi-level system of governance
4. Global governance, multilevel governance, and global administration
5. Comparing state, international, and global administration
6. The law of global administrative cooperation
 - 6.1. The term and phenomenon of global administrative law
 - 6.2. Legitimacy, the rule of law, and the traceability of power
7. Informal international law-making
 - 7.1. International agencies as informal international lawmakers
 - 7.2. Transregulatory networks (TRNs)
 - 7.3. Public administration and informal international law-making

Looking Ahead

Chapter II showed how states extend their activities across borders while remaining the central actors of international life *internationalisation*. This chapter turns to a deeper and more disruptive process: *globalisation*, in which authority and norms increasingly emerge above and across states, rather than merely between them.

1. The meaning of globalisation in the legal world

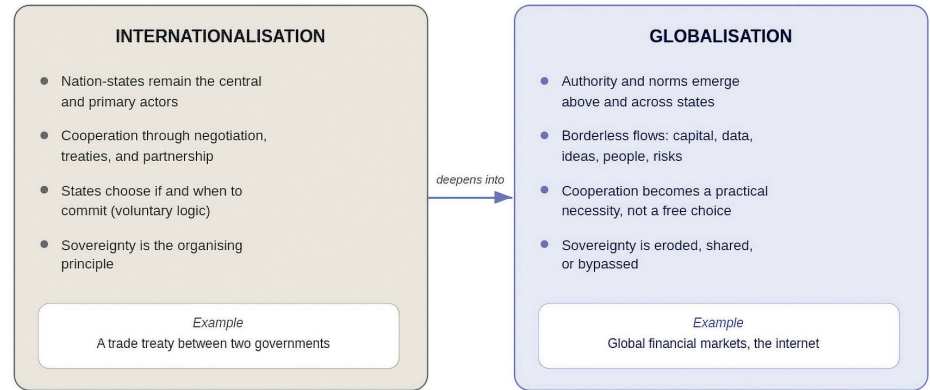
Globalisation is a broad term. In its widest sense, it denotes the process of increasing interconnectedness and interdependence among countries, societies, economies, and cultures, driven by advances in communication, transportation, and technology. The result is a continuous flow of goods, services, capital, people, information, and ideas across borders.

In legal terms, **globalisation** refers to the increasing influence of international, transnational, and supranational legal norms on domestic legal systems, and the growing interconnection of legal orders beyond state borders.

It is essential to delimit globalisation from internationalisation, the subject of the previous chapter, because the two concepts describe different depths of cross-border interaction.

Internationalisation refers to the process by which states, organisations, or institutions extend their activities across borders while remaining rooted in the nation-state framework. It implies cooperation between countries through trade agreements, student exchanges, treaties, or joint ventures. The underlying logic is that the world is composed of distinct sovereign units that interact through negotiation, partnership, or competition. A university offering exchange programmes with foreign partners, or two governments signing a trade treaty, are practising internationalisation.

Globalisation, by contrast, describes a **deeper and more far-reaching process**: the increasing interconnectedness and interdependence of the world across economic, political, technological, cultural, and social dimensions. Unlike internationalisation, which assumes nation-states as the main actors, globalisation often erodes or bypasses borders altogether. Multinational corporations, digital networks, global supply chains, pandemics, and climate change all operate on a global scale, affecting states without being confined by them. The internet, global financial markets, and worldwide social movements are products of globalisation in this sense.



Internationalisation = cooperation between sovereign units; Globalisation = integration that transcends them

21. Internationalisation versus globalisation

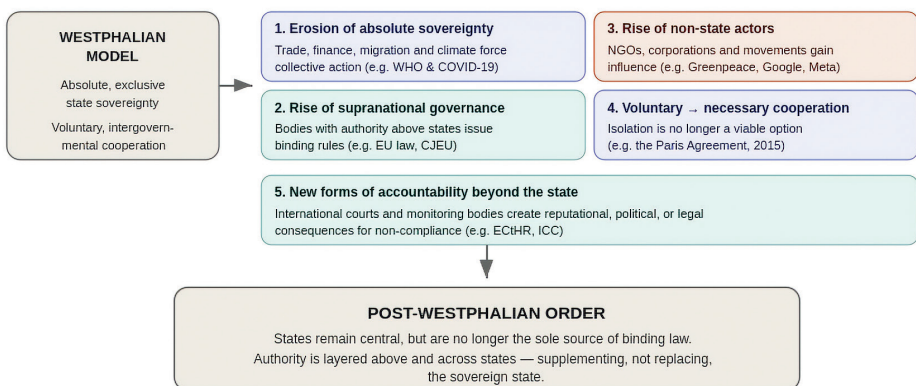
Legal scholars sometimes summarise the shift with two formulas: “the denationalisation of law”, meaning that **law is no longer confined to the nation-state**, and “the rise of a multi-level legal order”, meaning the **interaction of domestic, international, and transnational law** within a single, layered system.

The denationalisation of law means that an increasing share of the rules binding individuals and administrations no longer originates in the national legislature, but in international, transnational, or supranational sources that are subsequently absorbed into domestic law. The post-Westphalian order describes the resulting situation: the classical Westphalian model, in which sovereign states are the sole source of binding law and recognise no authority above themselves, is increasingly supplemented, though not replaced, by layers of authority above and across states. Public administration operates simultaneously within all of these layers.

2. Globalisation and its implications for international cooperation

Classical international cooperation rested on the Westphalian model of state sovereignty: each state is the supreme authority within its own territory, free from external interference. Cooperation under this model was voluntary and intergovernmental – states decided if and when to commit, and obligations were enforced only through domestic public law.

Globalisation has transformed this system along five interlocking lines, summarised in Figure 2 and developed below.



Public administration operates simultaneously within all of these layers

22. Five ways globalisation reshapes the Westphalian model of state sovereignty

(a) *Erosion of absolute sovereignty*

The interdependence created by global trade, financial markets, migration flows, digital networks, and shared environmental challenges has made it impossible for states to manage many issues alone. Sovereignty is no longer absolute in practice, because states must act collectively to confront global threats.

 *The COVID-19 pandemic illustrated this vividly: viruses respect no borders, compelling states to coordinate policies and rely on guidance from the World Health Organization (WHO) despite differing national interests.*

(b) *Rise of supranational and multilateral governance*

Whereas the Westphalian model assumed cooperation occurred exclusively between sovereign states, many of today's challenges require rule-making bodies whose authority transcends national borders.

 *The European Union exemplifies this shift: it creates binding laws applicable within member states: a level of legal authority unimaginable under classical notions of sovereignty. Institutions such as the European Commission and the Court of Justice of the European Union (CJEU) enable governance that partially bypasses national discretion, embedding cooperation into the daily functioning of member states' administrations.*

(c) *Rise of non-state actors*

Under the Westphalian system, only states were considered legitimate participants in international relations. Today, NGOs, multinational corporations, and transnational movements wield significant influence.

 *Greenpeace shapes climate policy through advocacy, technology companies such as Google and Meta influence the governance of digital networks, and Amnesty International pressures governments to uphold human rights. These actors affect state decision-making, often guiding administrative priorities without holding any formal legal authority.*

(d) *From voluntary to necessary cooperation*

In the classical order, states could choose whether to cooperate. In a globalised world, cooperation is often unavoidable: a state that refuses to engage risks isolation or the inability to address critical global challenges.

 *The Paris Agreement on climate change (2015) demonstrates this: no single state, however powerful, can achieve meaningful emission*

reductions alone, making coordinated action a practical necessity rather than an optional choice.

(e) *New forms of accountability beyond the state*

International courts, tribunals, monitoring bodies, and review mechanisms increasingly hold states to account for their actions. Although weaker than domestic legal authority, these mechanisms expose states to reputational, political, or legal consequences for non-compliance.



The European Court of Human Rights (ECtHR) and the International Criminal Court (ICC) exemplify this shift, constraining state action in ways that challenge the absolute sovereignty envisioned under the Westphalian model.

3. Globalisation of law and its impact on public administration

Globalisation of law refers to the increasing interconnectedness of legal systems and the growing influence of international, supranational, and transnational norms on domestic legal orders. While the Westphalian model conceived states as the sole creators and enforcers of law within their territories, globalisation has blurred these boundaries: law is now produced and applied at multiple levels – international, regional, transnational, and domestic – with profound consequences for public administration.

3.1. Erosion of purely domestic law-making

Two distinct mechanisms illustrate this erosion, each operating differently but converging on the same result – a national administration bound by rules it did not, in the traditional sense, *make*.



*International treaties and conventions bind states under public international law once ratified, obliging them to bring domestic law into conformity with treaty commitments – yet the content of the obligation is fixed at the international level, leaving the national legislature with comparatively little genuine choice over substance. The **Paris Agreement** (2015) is a paradigmatic example: it obliges states parties to adopt nationally determined contributions (NDCs) toward limiting global*

warming, and to progressively strengthen environmental, energy, and industrial legislation in pursuit of that goal. A state's environmental ministry and permitting authorities do not decide whether to pursue decarbonisation as a matter of independent domestic preference – they implement a trajectory whose ultimate parameters were negotiated and fixed in an international forum. Domestic law-making is not eliminated, but its function shifts from origination to transposition: the legislature's task becomes translating an externally agreed obligation into domestically workable rules, rather than deciding the underlying policy question from first principles.

Supranational regulations go a step further still. Under the principle of the primacy of EU law, it prevails over conflicting national. An is, by definition, directly applicable in every Member State – it becomes part of the national legal order automatically, without any need for a transposing national act, and it takes precedence over conflicting domestic law. This is qualitatively different from a treaty obligation requiring implementation: a regulation does not ask the national legislature to legislate, because the supranational body has already legislated for it. A public administration applying, for instance, the General Data Protection Regulation (GDPR) or an EU product-safety regulation is not executing a domestic statute that happens to derive from a European source – it is directly executing EU law, full stop. The national parliament's role is reduced to whatever residual matters the regulation leaves open (e.g., designating a competent supervisory authority), and even that discretion is itself constrained by the regulation's own terms.

The consequence for public administration is a fundamental broadening of what counts as “the law” that administrations are bound to apply. Public administrations are no longer only executors of domestic law in the classical sense – they are simultaneously executors of:

- treaty obligations transposed into domestic law, whose substantive content originated outside the national legislative process;
- directly applicable supranational regulations, which require no transposition at all and bind the administration as soon as they enter into force at the supranational level;
- and, increasingly, the interpretive guidance of international and supranational courts and bodies that determine how these obligations are to be understood and applied domestically.

3.2. Rise of supranational enforcement mechanisms

If the erosion of purely domestic law-making changes where binding norms originate, the rise of supranational enforcement mechanisms changes something equally fundamental: who gets to determine, authoritatively and with binding effect, whether a state has complied with those norms – and what happens when it has not. Under the classical Westphalian model, a state's compliance with its own law was ultimately a matter for its own courts and its own political process to judge. Globalisation introduces external bodies, possessing genuine adjudicative or quasi-adjudicative authority, that can directly constrain state action regardless of what domestic courts or domestic political majorities might otherwise conclude. Under globalisation, supranational bodies such as the CJEU or the World Trade Organisation (WTO) dispute settlement body may **directly influence or constrain state action**. Domestic administrations must therefore not only implement international obligations but also adapt to external monitoring and judicial review.



*Two institutions illustrate this shift particularly well, precisely because they sit at different points on the spectrum of supranational authority. **The Court of Justice of the European Union (CJEU)** represents the most institutionally mature form of supranational judicial enforcement. Through the preliminary ruling procedure (Article 267 TFEU), national courts are obliged to refer questions of EU law interpretation to the CJEU, whose rulings bind not only the referring court but, in practice, shape the application of EU law across all Member States. Through infringement proceedings (Articles 258–260 TFEU), the European Commission – and ultimately the CJEU itself – can find a Member State in breach of its EU obligations and, in cases of continued non-compliance, impose financial penalties. Crucially, CJEU judgments are not advisory: a national administration found to be applying EU law incorrectly is legally obliged to change its practice, and a national law found incompatible with EU law must yield, under the doctrine of supremacy, regardless of its status in the domestic constitutional order. The administration, in other words, answers not only to its own domestic courts but to a supranational court whose interpretation of the applicable law is final.*

*The **World Trade Organization (WTO) dispute settlement body** operates on a different institutional logic but produces a structurally similar effect. When one WTO member alleges that another has*

violated its trade obligations – for example, through a disguised trade barrier dressed up as a domestic health or safety regulation – the matter proceeds through a panel process and, on appeal, before the Appellate Body (when functioning), resulting in binding rulings under the WTO's Dispute Settlement Understanding. A state found in breach must bring its measure into conformity or face authorised retaliatory trade sanctions from the complaining party. Unlike the CJEU, the WTO mechanism does not penetrate directly into the domestic legal order – there is no doctrine of direct effect requiring national administrations to apply WTO law as such – but the practical pressure it generates is substantial: a losing state's administration typically must revise the very regulation, licensing practice, or administrative measure that gave rise to the dispute, under threat of continued, lawful economic retaliation.

The administrative consequence is that domestic public administrations now operate under a layer of external monitoring and judicial or quasi-judicial review that did not exist in the classical model. This has at least three practical implications worth drawing out for students:

- **Anticipatory compliance.** Administrations increasingly draft and apply domestic rules with an eye toward how a supranational body might later assess them – for instance, structuring a national regulatory measure so that it can withstand scrutiny as a proportionate, non-discriminatory measure under WTO law, or ensuring a national administrative practice is defensible under CJEU case law before a dispute ever arises.
- **Loss of finality at the domestic level.** A decision by a national administration, even one upheld by domestic courts, is no longer necessarily the end of the matter. It may be reopened, reassessed, or ultimately overridden through a supranational channel that the affected individual, company, or another state can trigger.
- **New accountability relationships.** The administration becomes accountable not only to the domestic legislature, domestic courts, and the public, but also – indirectly – to supranational adjudicative bodies and to other states or affected parties who can invoke supranational enforcement mechanisms against it.

3.3. Expanding influence of non-state actors

Multinational corporations, NGOs, and private standard-setting bodies create transnational legal frameworks that national administrations must take into account.

 *For instance, ISO standards or the advocacy positions of Greenpeace or Amnesty International, which shape public policy agendas even without formal binding force. Organisations such as **Greenpeace** (environmental protection) or **Amnesty International** (human rights) do not possess any formal decision-making role in domestic or international law-making, yet their reports, campaigns, and litigation strategies routinely set the terms of public debate, generate political pressure on governments, and – over time – feed into the drafting of binding legal instruments. A national administration responding to an NGO-documented human rights concern, or amending environmental permitting procedures after sustained advocacy pressure, illustrates how influence can translate into legal and administrative change without the NGO itself ever exercising public authority.*

***Private standard-setting bodies** present perhaps the clearest example of norm production entirely outside the state apparatus. The **International Organization for Standardization (ISO)**, a non-governmental federation of national standards bodies, produces technical standards (e.g., ISO 9001 for quality management, ISO 14001 for environmental management, ISO/IEC 27001 for information security) that have no binding force as a matter of international law, yet are routinely incorporated by reference into national legislation, public procurement criteria, and administrative licensing requirements. A public authority may require ISO certification as a precondition for awarding a contract or granting a permit – at which point a privately drafted technical standard acquires, through administrative practice, an effect functionally indistinguishable from binding law.*

This matters for public administration as these three actor types illustrate a broader phenomenon sometimes called **governance without government**, the production of norms, standards, and expectations through channels that bypass the classical state-to-state or state-to-citizen relationship altogether. Crucially, the absence of formal binding force does not mean the absence of practical effect. National administrations increasingly find that:

- compliance with private or civil-society-generated standards becomes a precondition for market access, public funding, or international cooperation;
- domestic legal frameworks are amended *reactively*, incorporating standards or norms that originated entirely outside the legislative process;
- administrative discretion is exercised *within a field already shaped* by transnational private or civil-society actors, narrowing the practical room for independent national policy choices.

3.4. A genuinely multi-level system of governance

National administrations now act simultaneously at the domestic and international level. This requires constant coordination between domestic and international structures, creating new demands on administrative capacity, expertise, and accountability. It describes a **qualitatively different mode of operation**, in which the domestic and the international/supranational levels are continuously and structurally intertwined within the ordinary, day-to-day exercise of administrative tasks.

This multi-level character is, in a sense, the structural summary of everything examined in this section: it is **because non-state actors generate influential norms**, because **binding rules increasingly originate outside the domestic legislative process**, and because supranational bodies can authoritatively review and enforce compliance, that domestic administrations have been pushed into this continuous, simultaneous mode of operating at multiple levels at once. Globalisation, in this sense, does not simply add an “international dimension” onto an otherwise unchanged domestic administration – it restructures the very terrain on which domestic public administration operates, a transformation that the following chapter, on supranationalism and the European Union as its most advanced institutional expression, will examine in far greater institutional depth.



*Customs authorities enforcing national import and export rules now do so within parameters substantially set by the **World Trade Organization (WTO)** framework – tariff schedules, rules of origin, anti-dumping procedures, and customs valuation methods are all shaped by WTO agreements that domestic customs administrations apply on a daily, transactional basis. A customs officer assessing a shipment is not merely applying a domestic tariff code; that code itself exists within, and must remain compatible with, binding international trade commitments,*

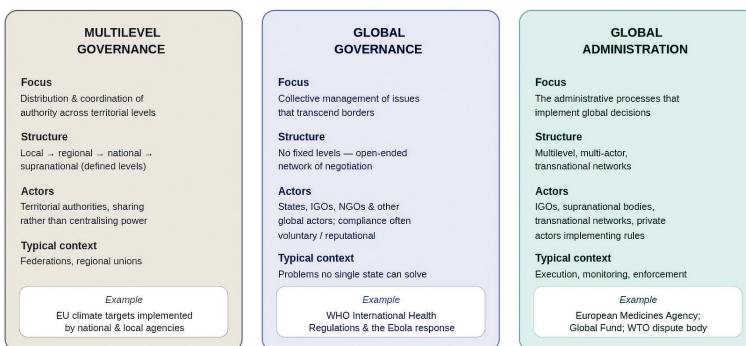
and a domestic customs decision can in principle become the subject of a WTO dispute if it is alleged to breach those commitments.

Environmental agencies translating global agreements such as the Paris Agreement into local policy illustrate a third variant: here, the international instrument sets a goal or trajectory (e.g., a national emissions-reduction target) rather than a directly applicable rule, leaving the domestic agency with the task of designing the concrete regulatory instruments (permitting regimes, emissions trading schemes, industrial standards) needed to meet it, while remaining subject to periodic international review (under the Paris Agreement's transparency and "global stocktake" mechanisms) of whether national measures are, in fact, adequate to the internationally agreed goal.

In sum, the globalisation of law fundamentally alters the role of public administration. No longer confined to implementing national legislation, public administrations now also serve as executors of global commitments – reflecting both the decline of absolute sovereignty and the rise of interdependence, where effective governance increasingly depends on cooperation beyond borders.

4. Global governance, multilevel governance, and global administration

Globalisation has given rise to several overlapping concepts that describe how authority and law now operate beyond the nation-state: multilevel governance, global governance, and global administration. They are related, but each highlights a distinct dimension of the phenomenon.



Multilevel governance = how power is shared · Global governance = how problems are managed collectively
Global administration = how decisions are executed

23. Three faces of authority beyond the state

Multilevel governance refers to the distribution and coordination of authority across different territorial or political levels, from local and regional authorities to the national and supranational levels. It is particularly relevant in federations or regional unions.

🔍 *The European Union is an example, where power is shared rather than centralised. Decisions made at a higher level, such as EU regulations, are implemented by national or local authorities, creating a complex web of responsibilities. A clear example is EU climate policy: emission targets set at EU level are executed by national environmental agencies and local authorities, illustrating how governance and administration are intertwined across multiple layers.*

Global governance refers to the collective management of issues that transcend national borders, often requiring cooperation among states, international organisations, NGOs, and other global actors.

Unlike multilevel governance, which is structured within defined territorial levels, global governance addresses problems that no single state can solve alone. Compliance is often voluntary or enforced through political and reputational pressure rather than strict legal authority.

🔍 *A strong example is the International Health Regulations (IHR), coordinated by the WHO. The IHR are legally binding for WHO member states and aim to prevent, protect against, control, and respond to the international spread of disease. States are expected to report outbreaks, share information, and implement public health measures; while the WHO cannot force compliance, the IHR coordinate global action, establishes standards, and creates a network of monitoring and peer review. The Ebola outbreak in West Africa (2014–2016) illustrates this well: the IHR framework enabled coordinated international assistance and collaboration among multiple states, NGOs, and international organisations to contain the epidemic – showing how global governance manages transnational issues collectively, even without strong coercive enforcement.*

Global administration can be understood as the set of administrative processes, institutions, and practices through which international and supranational organisations, transnational networks, and non-state actors implement, manage, and coordinate policies, rules, and programmes at the global level.

Unlike domestic public administration, which operates within the framework of a single state, global administration functions in a multilevel, multi-actor, and transnational environment.

Its scope is broad: the execution of policies, monitoring of compliance, allocation of resources, coordination of actors, and enforcement of standards in areas that transcend national borders.

 *The WHO manages international health regulations and coordinates disease reporting and emergency response; the European Medicines Agency oversees drug approvals across EU member states; and the Global Fund to Fight AIDS, Tuberculosis, and Malaria coordinates funding, policy, and programme implementation across governments and civil society, all demonstrating how global administration operates beyond any single national framework.*

Closely linked to global administration is **global administrative law** (GAL), which provides the *procedural and normative framework governing the exercise of authority at the global level*. GAL establishes principles such as accountability, transparency, participation, legality, and review, ensuring that global decision-making remains legitimate and fair even in the absence of a sovereign enforcing authority. It applies to a variety of bodies: the WTO dispute settlement system follows procedural rules to ensure trade disputes are adjudicated fairly, while IMF conditionality procedures and EU judicial review mechanisms provide oversight, reasoning, and review for global administrative action. GAL is examined in its own right in Section 6 below.

Together, multilevel governance, global governance, and global administration illustrate how globalisation has reshaped sovereignty, accountability, and the role of public administration – producing a landscape in which cooperation, coordination, and compliance extend far beyond the boundaries of any single state, within an emerging post-Westphalian legal order in which states remain central but are no longer the sole source of law and authority.

5. Comparing state, international, and global administration

Public administration has evolved from centralised, sovereign-focused state administration to a layered and complex global administration that responds to transnational challenges, incorporates multiple actors, and operates under

the procedural and normative standards of global administrative law. States remain central actors, but their authority is increasingly shared, constrained, and coordinated in ways unimaginable under the classical Westphalian model.



States remain central actors throughout — but their authority is increasingly shared, constrained, and coordinated

24. A spectrum of administrative authority, from the state to the global level

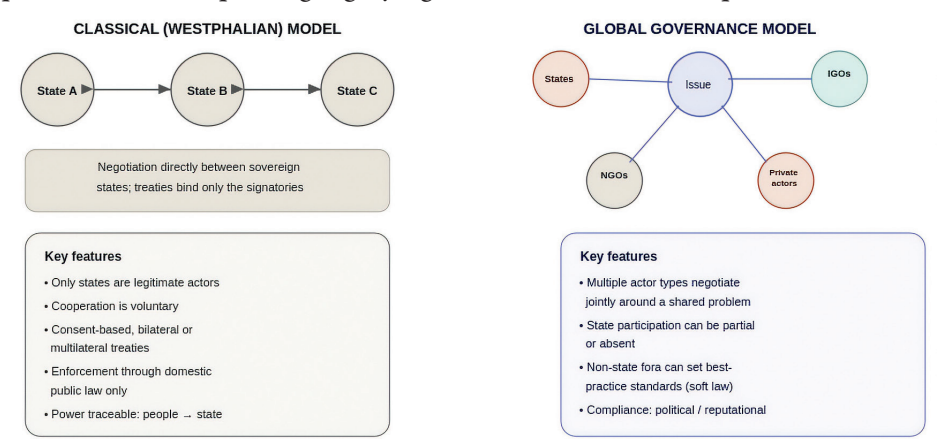
State administration is rooted in the authority and sovereignty of a single government. It is characterised by clear hierarchical structures, well-defined legal authority, and enforcement mechanisms backed by the state's monopoly on coercion. It covers everything from healthcare and education to security and economic regulation, operating under national constitutions, administrative law, and public accountability systems; its functions are centralised, clearly codified, and legally enforceable. **International administration** arises when states collectively establish organisations to pursue common objectives that exceed the capacity of any single government. It is inherently limited in autonomy: its executive functions rely on the domestic administrations of member states. The WHO, for instance, can issue guidelines for pandemic response, but enforcement and execution occur through national health authorities. International administrative law in this context is narrow, focusing mainly on organisational procedure and staff regulation rather than the full spectrum of domestic administrative authority, and compliance by states is generally voluntary.

Global administration represents a further evolution, arising from the need to manage problems that transcend borders. It involves a *networked, multilevel, multi-actor approach*, where authority may extend across states, supranational institutions, NGOs, and transnational networks, not only coordinating but also managing, monitoring, and enforcing rules in areas no single state can control alone. The European Medicines Agency, the Global Fund, and the WTO dispute settlement system are examples; to maintain legitimacy, global administration is increasingly guided by global administrative law.

	State	International	Global
Definition	Policy execution within one state	IGO functions, member consent	Multi-actor network coordination
Scope	Domestic, centralised	Limited, advisory	Transnational, multilevel
Legal basis	National constitutions, statutes	Treaties, organisational consent	Treaties, GAL principles
Actors	State organs, ministries	States, IGO secretariats	States, IGOs, NGOs, private networks
Enforcement	Direct, via courts and police	Mainly political, reputational	Supranational authority, peer review
Accountability	Domestic law, judicial review	To member states, procedure	Procedural oversight via GAL
Examples	Ministries, courts	UN, WHO, WTO	EMA, Global Fund

25. State, international, and global administration compared

Global governance exceeds this classical scenario in one further respect: it **recognises actors other than states** as participants in formulating commonly accepted solutions to a common problem. In many cases, state participation is absent, and a competent non-state forum establishes a best-practice-based standard instead. In a legal sense, this kind of solution is soft law – a category whose modest origins compared to classical international law have not prevented it from proving highly significant and effective in practice.

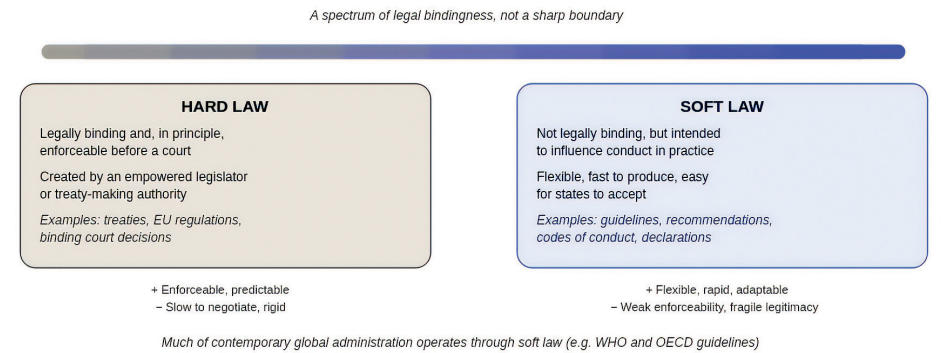


Global governance recognises actors beyond the state in shaping commonly accepted solutions

26. Classical international cooperation versus global governance

The **hard law / soft law distinction** is fundamental for understanding global governance. Hard law refers to legal obligations that are binding on the parties involved and can be enforced before a court; it is created by the legislator and by those empowered to create regulations, and disrespect of its content is subject to sanction, because its creator is empowered (usually by constitutional norms) to regulate social relationships. **Soft law**, by contrast, denotes agreements, principles, and declarations that are **not legally binding**, mostly because they were not issued by an actor empowered to create legal obligations. Soft law may be useful as guidance for interpreting hard law, but it cannot directly create rights and obligations; its enforcement is not guaranteed, and it cannot be successfully invoked before courts.

In domestic law, it is always the highest norm in force that determines what counts as hard law in a state (typically acts, regulations, and decrees) and what counts as soft law (everything else that is issued to guide legal application). In international law, treaties and customary international law are generally accepted as hard law, while decisions of international organisations are usually treated as soft law, their legal force depending on the competence of the organisation in question and the willingness of the state parties to be bound.



27. Hard law and soft law as a spectrum of bindingness

Soft law is attractive precisely because it is **flexible, fast to produce**, and easy for states to accept; its weakness is that it **lacks formal enforceability** and a clear democratic legitimacy. Much of contemporary global administration operates through soft law, as the WHO and OECD examples discussed below illustrate. Globalisation and the rise of global governance are transforming the structure of international law, because the resulting body of norms **does not fit easily into the classical, inter-state, consent-based model**: too much of it operates outside the traditional binding forms of law. Governmental functions are not wholesale transferred to the international sphere – neither legislative nor

judicial power simply shifts upward – yet the cumulative picture is sometimes controversial precisely because of the practical usefulness and interdependency pressure behind these new forms of norm-production.

6. The law of global administrative cooperation

6.1. The term and phenomenon of global administrative law

The concept of global administrative law (GAL) is complex and deliberately broad, reflecting the reality that governance at the international and transnational level does not fit neatly within traditional categories of law or administration. As *Cassese (2015)* observes, the term is challenging precisely because the phenomenon it describes is not only global, not only administrative, and not only legal.

- **Not only global**, because GAL encompasses not only truly global rules but also supranational, regional, and even local agreements and authorities. The regulatory frameworks of the European Union or the NAFTA/USMCA trade bodies, for example, operate regionally yet exhibit features of global governance, such as rule-making, enforcement, and dispute resolution affecting multiple states.
- **Not only administrative**, because GAL incorporates elements of constitutional law, private law, and other legal domains, although the administrative dimension predominates. Regulatory bodies – whether formal IGOs or hybrid networks – are responsible for policy-making, implementation, and oversight in areas of high political or societal importance that transcend domestic boundaries, while constitutional frameworks and private regulation persist alongside them.
- **Not only law**, because GAL includes soft law, standards, guidelines, and norms that, while not strictly binding, exert considerable influence on the behaviour of states, institutions, and private actors – UN guidelines, OECD recommendations, and industry standards often shape decision-making and compliance in practice.

The concept was given its influential formulation by **Benedict Kingsbury, Nico Krisch, and Richard Stewart** in their 2005 article ‘The Emergence of Global Administrative Law’. They define GAL as comprising *the mechanisms, principles, practices, and supporting social understandings that promote or otherwise affect the accountability of global administrative bodies*, in particular *by ensuring that they meet adequate standards of transparency, participation,*

reasoned decision-making, and legality, and that effective review of the rules and decisions they make is available.

The key insight is that **much global governance is administrative in nature** (rule-making and rule-application by bodies that are neither legislatures nor courts), and therefore calls for administrative-law-type safeguards even though no world government exists.

GAL applies to a wide range of actors, including:

- Formal intergovernmental regulatory bodies operating under treaties and formal rules (e.g. the WTO, WHO, IMF);
- Informal intergovernmental regulatory networks, where states coordinate policies without creating a formal organisation (e.g. global financial stability networks);
- Regulatory decisions of national governments, when constrained by an international intergovernmental regime (e.g. environmental policies implemented under the Paris Agreement);
- Hybrid public-private or private transnational bodies, including standard-setting organisations, professional networks, or global NGOs that influence rules and norms across borders.

Closely related to GAL is the **law of global administrative cooperation**, which refers to the legal and procedural mechanisms enabling these diverse actors to work together: formal treaties and agreements establishing cooperation, procedural rules for coordination and decision-making, and the soft-law norms that guide collaborative regulation and implementation. Together, GAL and the law of global administrative cooperation form a legally informed yet flexible, multi-actor system that bridges domestic, international, and transnational regulatory practice in a world where decision-making increasingly transcends borders.

6.2. Legitimacy, the rule of law, and the traceability of power

In public administration, empowerment enables both citizens and officials to participate actively in governance, fostering accountability and a sense of ownership over public policy. In a democratic state, the **people are the ultimate source of power**, and **government authority derives its legitimacy from their consent**; through representative governance, citizens elect officials to make decisions and implement policies on their behalf, combining participation with administrative efficiency. The **rule of law** ensures that all administrative action remains within legal boundaries, promoting fairness, equality, and

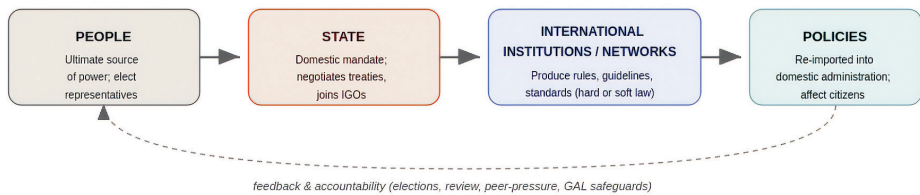
accountability, while the legitimacy of the state is sustained when its institutions operate transparently, lawfully, and in the public interest.

According to the Westphalian concept, **no authority exists above the state**, and the elements of public power – legislative, executive, and judicial – belong to it exclusively. A state built and functioning in conformity with the rule of law is capable of entering international negotiations and assuming obligations in accordance with its own internal rules.

- **Input legitimacy** concerns the fairness and inclusiveness of decision-making: those affected by decisions must have a voice, and decision-makers must be accountable. In domestic administration, this is straightforward: citizens elect representatives, and administrative authority is exercised under norms derived from constitutions and statutes, creating a traceable chain of power from the people, through elected organs, to executed law.
- **Output legitimacy** focuses on the effectiveness and results of governance: whether policies achieve their intended goals. The rule of law strengthens output legitimacy by ensuring predictability and impartial application, while traceability clarifies which institutions or actors are responsible for the outcomes produced.

In classical international cooperation, input legitimacy operates through the participation of sovereign states: state representatives act on behalf of citizens who confer authority through national political processes, so the **traceability of power is** still largely **maintained**, even though citizens' direct participation is necessarily more limited than at the domestic level.

In globalised cooperation, both dimensions face additional strain. States often delegate decision-making to supranational institutions, transnational networks, or hybrid bodies that may include non-state actors. Input legitimacy becomes more complex because citizens and domestic stakeholders have limited direct influence over global decision-makers; procedural safeguards – transparency, consultation, review – become essential substitutes, and these are precisely the hallmarks of global administrative law. Output legitimacy, in turn, becomes closely tied to performance across multiple jurisdictions: policies must produce tangible results despite diverse legal, political, and social environments, while the rule of law and traceability together ensure that success or failure can still be attributed to identifiable institutions and decisions.



28. The traceability of power: legitimacy flow from the people to global policy

In conclusion, input and output legitimacy, combined with the rule of law and the traceability of power, are essential to sustaining governance in both international and globalised contexts. Legitimacy ensures that authority is derived from accountable sources, exercised transparently, and produces effective outcomes, even in a complex world where states, supranational institutions, NGOs, and transnational networks interact across borders.

Much of modern international and global governance produces soft law alongside binding treaties and formal regulations: norms, guidelines, standards, codes of conduct, or recommendations that are not legally binding in the strict sense, but shape policy, establish best practice, and guide compliance. Soft law often arises where formal agreements are difficult to negotiate or enforce, or where flexibility is needed to address complex, cross-border issues.

 *The OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights are leading examples: neither is legally enforceable, yet both shape corporate and state behaviour through reputational and political pressure.*

Soft law contributes to both dimensions of legitimacy discussed above. Input legitimacy is strengthened because soft law often emerges through participatory processes involving states, NGOs, experts, and other stakeholders. Output legitimacy is enhanced because soft law provides practical, flexible guidance that achieves results even where formal enforcement is limited – and it is typically accompanied by the same procedural standards of transparency, participation, and review that characterise GAL more broadly, ensuring that non-binding norms are still developed and applied in a legitimate and traceable manner.

 *The World Health Organisation issues not only binding rules – such as the International Health Regulations (IHR) – but also a vast number of guidelines, recommendations, and public health campaigns. These are classic soft law: non-binding norms that nonetheless influence the behaviour of states, institutions, and individuals worldwide. The handwashing guidelines circulated during the COVID-19 pandemic*

illustrate why states so often choose soft law over hard law in this field, and what that choice costs.

Input legitimacy came from an inclusive, expert-driven process: the guidelines were based on evidence reviewed by international panels and then presented to states through WHO channels, which in turn disseminated them domestically. No citizen voted directly on the campaign, but its legitimacy rests on a transparent, participatory, expert-driven formulation.

Output legitimacy came from effectiveness: the campaign was simple, globally accessible, and immediately useful, helping to slow viral spread and educate populations. Comparable sanitation guidelines in developing contexts – advising on safe waste disposal or hygiene in crowded settings – show the same pattern: legitimacy derived from the fact that the measures worked and delivered tangible health improvements.

Although not binding, WHO guidelines still follow rule-of-law principles: they are written clearly, published openly, and based on evidence, ensuring predictability even where compliance remains voluntary. Power is nonetheless traceable through the chain set out in Figure 7 above: authority begins with the people, who empower their states through domestic law and elections; states collectively delegate health-related functions to the WHO through treaties and membership; the WHO produces guidelines and recommendations; and these are re-imported into domestic settings through national public health administrations, which implement them in schools, hospitals, and public campaigns.

The choice of soft law over hard law in this field is not accidental. Soft law is flexible and fast: within weeks of the COVID-19 outbreak, the WHO issued globally accessible hygiene guidance, whereas a binding treaty on handwashing or sanitation would have taken years to negotiate and ratify. Public health is also a fast-evolving technical domain in which guidelines can be adjusted far more readily than rigid treaties, and it touches the sensitive area of national sovereignty, where states are reluctant to accept binding constraints on welfare policy but more willing to accept non-binding recommendations.

Reliance on soft law nevertheless raises real problems. The first is enforceability: WHO guidelines create no legal obligation, and states cannot be sanctioned for ignoring them – several governments

contradicted WHO guidance on masks or testing during COVID-19 with no consequence beyond reputational cost, weakening output legitimacy because effectiveness depends entirely on voluntary compliance. The second is the traceability of power: in domestic law, citizens can hold their government accountable for disregarding binding norms, but no equivalent legal claim exists if a government simply ignores WHO advice, blurring the rule-of-law distinction between binding and non-binding norms. A third weakness is unequal implementation: wealthier states are better equipped to follow sanitation guidance than poorer ones, so without binding commitments or redistribution mechanisms, soft law can deepen inequality rather than close it.

Soft law, therefore, occupies an ambiguous space **between law and politics**: not mere advice, since it carries moral, scientific, and reputational weight that states are expected to justify diverging from, yet not binding law either, since no international court can enforce compliance. This ambiguity is simultaneously its strength (*flexibility and speed*) and its weakness (*uncertainty and fragility*). Global health governance accordingly relies on a layered mixture of the two: hard law, such as the IHR, creates binding obligations (for example, the duty to report disease outbreaks), while soft law, such as sanitation campaigns or hygiene guidelines, supplies the technical detail and rapid responses that treaties cannot deliver.

Dimension	International cooperation	Globalised cooperation
Input legitimacy	Derived from state participation and consent; limited direct citizen participation.	Authority delegated to supranational bodies or hybrid institutions; procedural safeguards become essential.
Output legitimacy	Focused on the effectiveness of agreements (e.g. UN conventions, WTO rulings).	Focused on performance across jurisdictions (e.g. Global Fund, EU regulations); soft law also contributes.
Rule of law	Domestic legal frameworks anchor state authority; predictable and impartial application.	GAL principles guide hybrid and transnational actors, paired with transparency and review.
Traceability of power	People → state organs → international representation.	People → states → institutions / networks → policies; GAL substitutes for direct traceability.
Product	Mainly binding treaties and conventions.	Hard law and soft law side by side, allowing flexible responses.

29. *Soft law without enforcement: the WHO’s COVID-19 guidance*

7. Informal international law-making

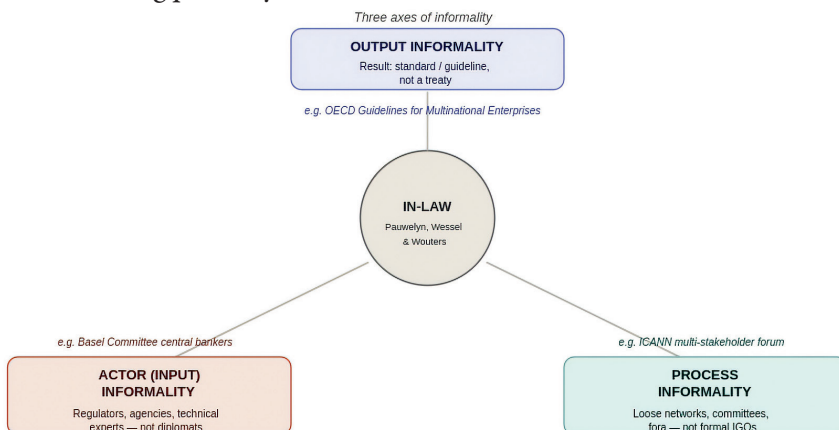
In recent decades, the world has witnessed the rise of a phenomenon often referred to as informal international law-making.

International law-making (IN-LAW): the processes through which states, international organisations, and even non-state actors develop rules, standards, and commitments to address global challenges without relying on the traditional tools of treaty law.

IN-LAW **does not replace classical international law**, but increasingly **complements** it, offering a flexible way to address problems that transcend borders and demand rapid, adaptive solutions. It is the practical tool that has emerged in the age of globalisation to manage this complexity through informal but effective rule-making.

Globalisation creates the demand: rapidly evolving challenges – cybersecurity, global finance – change faster than treaties can be negotiated, and states acting alone, or even through traditional intergovernmental negotiation, often cannot keep pace. IN-LAW provides the supply: informal processes involving not only states but also regulators, experts, NGOs, and private actors generate practical rules, standards, and guidelines that fill the resulting gap. Because they are crafted by those directly responsible for enforcement – regulators, agencies, professionals – they tend to be more adaptable and easier to implement than conventions.

Informal international law-making is a concept developed in particular by Joost Pauwelyn, Ramses Wessel, and Jan Wouters. It is ‘informal’ along three axes, each worth fixing precisely.



30. The three axes of informality in IN-LAW

(a) Actor (input) informality

The participants are often not diplomats or foreign ministries, but domestic regulators, technical agencies, or even private bodies. Traditionally, only states – acting through diplomats or executive representatives – were recognised as legitimate actors in creating international obligations. IN-LAW typically includes other actors as well: regulators, agencies, NGOs, multinational corporations, or expert bodies.

 *Global financial standards, for example, are shaped not only by states but also by the Basel Committee on Banking Supervision, which brings together central bankers and financial regulators rather than foreign ministers, expanding participation beyond the classic state-centric model.*

(b) Process informality

The rules are produced not through a formal international organisation with established procedures, but in networks, committees, or fora that meet more loosely. Unlike formal law-making through established international organisations such as the United Nations, IN-LAW typically occurs in more flexible, ad hoc, or hybrid forums that may bring together public authorities across borders – sometimes alongside private actors – without creating a permanent international organisation.

 *The Internet Corporation for Assigned Names and Numbers (ICANN), which oversees the global domain name system, illustrates this well: it is not an intergovernmental organisation, but a multi-stakeholder platform where states, private companies, and civil society cooperate informally to govern the internet.*

(c) Output informality

The result is not a treaty or other traditional source of international law, but a standard, guideline, or best practice. The results of IN-LAW rarely take the form of binding treaties or traditional sources of international law. Instead, they produce guidelines, standards, action plans, declarations, or codes of conduct that may lack binding force yet still strongly influence behaviour.

 *The OECD Guidelines for Multinational Enterprises are a leading example: not binding, but setting global standards for responsible corporate conduct that shape both national laws and corporate policy.*

IN-LAW is powerful because it is quick and expert-driven, but it raises acute questions of legitimacy and accountability, precisely because it bypasses the

traditional, state-centred channels. As the chapter's recurring formula puts it: internationalisation set the stage, but globalisation rewrote the script – IN-LAW is international cooperation adapted to the realities of globalisation.

The importance of IN-LAW lies in its ability to respond to the complexity and speed of globalisation. Issues such as climate change, financial crises, digital governance, or pandemics cannot always wait for the slow pace of treaty negotiation; informal law-making allows rapid coordination, the inclusion of technical expertise, and flexible adaptation. At the same time, IN-LAW raises significant **legitimacy concerns**. Since it often bypasses traditional state-driven processes, input legitimacy may be weaker because citizens have little direct control over regulators, corporations, or expert bodies that shape global norms. Output legitimacy depends heavily on effectiveness and acceptance by states and stakeholders, but without enforcement mechanisms, compliance can be uneven, and the lack of formal status blurs the boundary between law, politics, and soft norms – challenging the rule-of-law principle and making the traceability of power less transparent.

In sum, informal international law-making reflects both the opportunities and the tensions of global governance: flexibility, expertise, and inclusiveness beyond the state, at the cost of weaker accountability and legal certainty. As global problems become more interconnected, IN-LAW is likely to play an even greater role in shaping the rules that guide international cooperation, sitting somewhere between hard treaty law and soft law.

7.1. International agencies as informal international lawmakers

International agencies occupy a special place in the architecture of global governance. They are usually **created within or by intergovernmental organisations** such as the United Nations, and their main **purpose is to produce technical standards, recommendations, and guidelines for highly specialised policy areas**. They can be considered informal international lawmakers because, although they do not generate binding treaties in the traditional sense, the rules they develop often shape the behaviour of states, companies, and even individuals. Their participants are usually experts, regulators, and national officials cooperating within a specialised forum, and decision-making emphasises technical expertise and consensus rather than political negotiation; their outputs, guidelines, model regulations, and technical standards are formally non-binding but exert powerful normative influence.



The International Civil Aviation Organisation (ICAO), created in 1944 under the Chicago Convention, develops Standards and Recommended Practices (SARPs) in areas such as flight safety, navigation, airport operations, environmental protection, and security. SARPs are not treaties and are not formally binding in the way EU regulations are, yet they are adopted by states almost universally: without harmonised global standards, international air traffic would be unsafe and practically impossible, since an aircraft compliant with one country's rules but not another's could not operate across borders. ICAO thus creates a de facto uniform regulatory environment that aviation authorities, airlines, and manufacturers must respect, even though ICAO itself cannot impose sanctions or legislate independently of states. Its authority rests on technical necessity and global interdependence – a state that ignored ICAO standards risks having its airlines banned from international routes – so compliance is voluntary in legal form but practically unavoidable. The case also exposes the trade-off common to international agencies: strength in flexibility, expertise, and speed, but comparative weakness in input legitimacy, since standards are prepared by technical experts and regulators rather than parliaments, leaving ICAO reliant chiefly on output legitimacy – its demonstrated effectiveness in ensuring global aviation safety.

The Codex Alimentarius Commission, a joint body of FAO and WHO established in 1963, develops international food standards, guidelines, and codes of practice covering matters from pesticide residues to food labelling and hygiene. States are not legally required to follow Codex standards, yet they are widely implemented in domestic food safety law – partly because global food trade requires harmonised rules, and partly because the WTO recognises Codex standards as benchmarks in trade disputes, which means these formally “non-binding” rules can effectively determine the outcome of international trade conflicts. FAO's guidelines on sustainable fisheries and forestry management follow a similar logic: not treaties, but carrying strong normative weight, and for many developing countries, a practical condition for receiving international funding and technical assistance. The limitation, in both cases, lies in enforcement: a state that disregards FAO or Codex standards faces no direct sanction, only reputational cost, trade disadvantage, or donor pressure.

International agencies differ fundamentally from supranational organisations. Supranational organisations rest on an explicit transfer of sovereignty, allowing them to adopt binding rules – sometimes directly applicable to individuals, as with EU regulations – and to build legitimacy on formal democratic mechanisms (parliaments, elected representatives, treaty-based mandates) that trace decision-making back to the people. International agencies, by contrast, **depend on the voluntary acceptance of their members**; their law-making is soft law, **persuasive and widely applied**, sometimes **unavoidable in practice, but not formally enforceable**, and their legitimacy rests mainly on the authority of expertise and the effectiveness of the solutions they provide.

7.2. Transregulatory networks (TRNs)

Transregulatory networks (TRNs) – also studied under the heading of transgovernmental or transnational regulatory networks – are informal multilateral forums that bring together regulators or administrative officials from different states to share practice, coordinate oversight, and harmonise rules within their existing domestic authority. Unlike formal international agencies, TRNs are not created by treaties or intergovernmental organisations: their authority derives entirely from the domestic powers of their participants, making them flexible, peer-driven forums rather than formal bureaucracies. Cooperation occurs in ad hoc or regular meetings where members discuss technical challenges, draft model regulations, and review each other's practices through consensus and mutual learning rather than binding legal authority; their outputs – non-binding standards, guidelines, codes of conduct – constitute soft law that nonetheless carries real practical weight, since failure to follow TRN standards can isolate a regulator within the network or damage a country's reputation.

Anne-Marie Slaughter famously described the resulting picture as 'a new world order' of disaggregated states that govern through networks of central bankers, securities regulators, competition authorities, and data-protection authorities who cooperate directly with their foreign counterparts – sharing information and agreeing common standards without going through their respective foreign ministries. The advantage of TRNs is **effectiveness and expertise**; their recurring problem is that the standards they generate may bind citizens in practice while escaping ordinary parliamentary and judicial control.

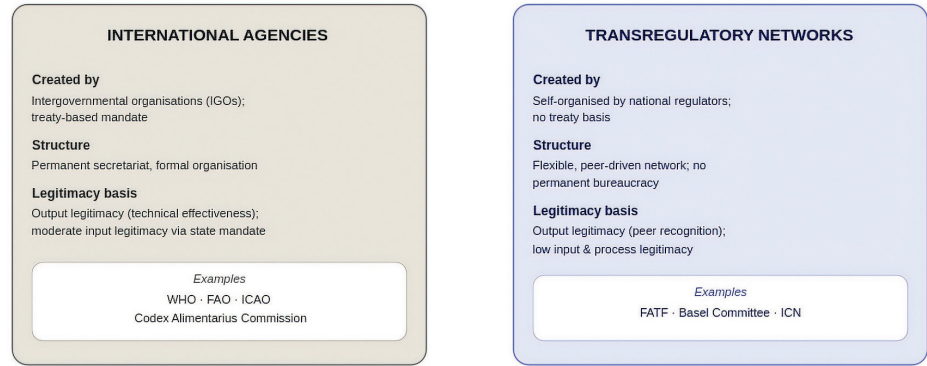


A well-known example is the Financial Action Task Force (FATF), which brings together national financial regulators to set global standards

against money laundering and terrorism financing – not treaties, but exerting strong influence through peer review and reputational pressure.

TRNs raise legitimacy concerns at three levels.

- Input legitimacy is limited because participants are technical experts and regulators rather than elected officials, creating a gap in democratic accountability: citizens have little influence over standards their governments adopt through these networks.
- Process legitimacy is constrained because TRNs often operate informally, with deliberations not fully open to public scrutiny, and decisions reached by peer consensus that can exclude affected stakeholders, civil society, or smaller states.
- Output legitimacy, by contrast, tends to be strong: TRN standards are often widely adopted, harmonising regulatory approaches across states and sectors – FATF recommendations are voluntarily implemented by most states due to reputational and market incentives, and Basel banking standards influence national legislation worldwide without binding treaty authority.



31. The three legitimacy gaps of transregulatory networks

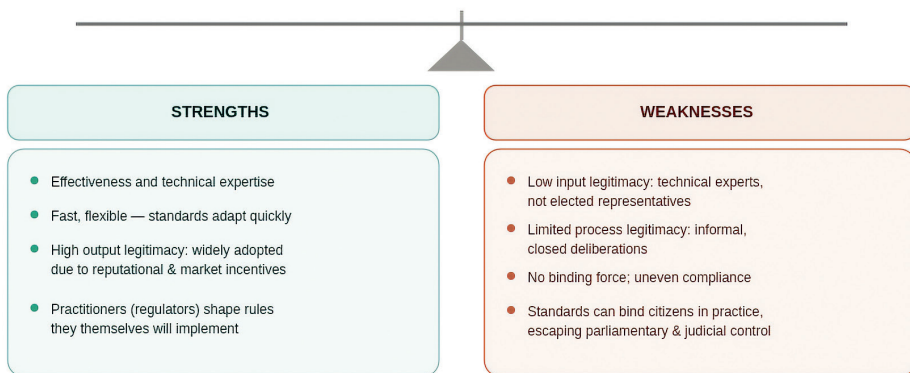
 *The **Basel Committee on Banking Supervision**, established in 1974, consists of central bank governors and banking supervisors from major economies and aims to strengthen the global banking system through standards on capital adequacy, risk management, and liquidity – the Basel I, II, and III accords. These standards are non-binding in legal terms, a textbook example of soft law, yet they carry tremendous practical weight: banks and states that fail to implement them risk reputational damage, reduced access to international markets, and peer scrutiny.*

The BCBS illustrates all three IN-LAW dimensions at once – input informality, since participants are national regulators and technical experts rather than elected officials or diplomats; process informality, since deliberations occur in closed, technical, peer-driven forums reaching decisions by consensus; and output informality, since the resulting standards are soft law whose authority comes from practical necessity and the reputational and financial consequences of non-compliance.

The connection to domestic public administration runs in both directions. National banking regulators and central banks translate BCBS standards into domestic law, supervisory frameworks, and operational procedures – administrations as executors of international norms. Domestic regulators then report on implementation challenges and outcomes, feeding experience back into future BCBS guidance, while public administrators participating in BCBS working groups help shape the standards themselves, contributing practical knowledge that ensures international norms remain feasible and effective. State administrations are thus not passive implementers, but active participants in norm creation, translators of soft law into national regulation, and monitors of compliance – a continuous, two-way interaction between global norm-setting and domestic administration that exemplifies the impact of globalisation on public administration as a whole.

Feature	International agencies	Transregulatory networks
Legal basis	Created by IGOs; authority from member-state mandate.	Informal, peer-driven; authority from domestic powers of participating regulators.
Structure	Permanent secretariat, formal organisation.	Flexible, network-based; usually no permanent bureaucracy.
Outputs	Soft law: technical standards, guidelines, recommendations.	Soft law: model regulations, best-practice guidelines, coordination frameworks.
Input / process legitimacy	Moderate; structured procedures, but limited transparency.	Low; informal deliberations, sometimes opaque.
Output legitimacy	High; standards widely adopted due to technical necessity.	Often high; adoption driven by peer recognition and practical benefit.
Examples	WHO, FAO, ICAO, Codex Alimentarius.	FATF, Basel Committee on Banking Supervision, International Competition Network.

32. The Basel Committee (BCBS): a transregulatory network at work



Effectiveness (output legitimacy) is bought at the cost of weaker input and process legitimacy

33. Strengths and weaknesses of transregulatory networks

7.3. Public administration and informal international law-making

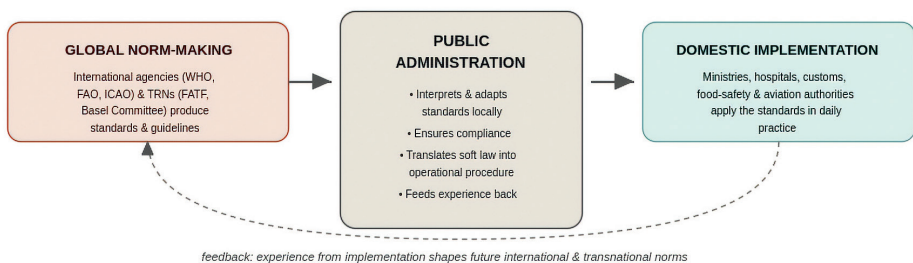
The rise of international agencies and TRNs has fundamentally affected how states conduct public administration. Classical public administration focuses on implementing laws, policies, and services within national borders, but globalisation and informal international law-making have extended the administrative landscape beyond the state: states are no longer the sole actors defining rules and standards in many areas, and global norms produced by agencies and TRNs now **shape national administrative practice directly**.

 *International agencies such as the WHO, FAO, or ICAO produce technical standards and guidelines that national public administrations adopt and implement: when the WHO issues health protocols for COVID-19, it is domestic health authorities – ministries, hospitals, local administrations – that translate them into operational policy, from handwashing campaigns to quarantine measures and vaccination strategies. FAO food-safety standards and ICAO aviation rules are implemented in the same way, by national food-safety authorities and civil aviation administrations, so that international outputs shape organisational routines, administrative procedures, and regulatory enforcement at the state level – making domestic administrations the executors of global decisions. TRNs have a complementary, two-way effect: by bringing together national regulators to harmonise policy and share best practice, they let state administrators learn from peers and adjust domestic regulation in line with global norms, but also let public administration actively contribute to norm creation at the international*

level – a financial regulator attending FATF or Basel Committee meetings does not merely receive standards, but helps shape the ones their own agency will later implement.

This interaction raises real **questions of legitimacy and accountability**. Input legitimacy becomes indirect, since citizens do not vote on WHO standards or Basel guidelines – their national representatives do, or administrative officials simply apply them. Process legitimacy becomes complex because decision-making inside international agencies and TRNs is often expert-driven and informal, even though domestic administrations remain responsible for implementing the results transparently and fairly. Output legitimacy becomes correspondingly central: domestic public administrations must demonstrate that the policies they adopt actually solve the intended problems, whether in public health, finance, or environmental protection.

In essence, public administration acts as the bridge between informal international law-making and domestic implementation. State administrations interpret and adapt international standards to local legal and social contexts; ensure compliance with globally coordinated rules; translate soft law into operational procedure; and feed back the experience and expertise that can influence future international norms through participation in TRNs or agencies. The result is a deeply interconnected governance system in which domestic public administration is simultaneously an executor, a regulator, and a participant in global norm creation – and in which effective public administration requires not only competence in domestic policy, but also the ability to engage with international actors, understand soft-law instruments, and integrate them into national practice.



34. Public administration as the bridge between global norm-making and domestic implementation

Looking ahead

This chapter traced how globalisation reshapes the Westphalian model: states remain central, but authority increasingly emerges above and across them, through global governance, global administrative law, and informal international law-making (IN-LAW). International agencies and transregulatory networks showed how much of this happens through soft law – flexible, expert-driven, but weaker in input and process legitimacy.

Globalisation, however, is still mostly *horizontal*: states retain their sovereignty and choose, case by case, how far to defer to international standards. **Chapter IV moves to supranationalism**, where that deference becomes structural. A supranational organisation does not merely produce influential guidelines – it receives a genuine transfer of sovereignty from its member states and can adopt laws that bind them directly, sometimes even individuals, without further national approval.

The European Union is the most developed example of this model. Where Chapter III's transregulatory networks rely on peer pressure and reputation, the EU's institutions – the Commission, the Council, the Parliament, the Court of Justice – can legislate, adjudicate, and enforce with a binding force no IN-LAW network possesses. The next chapter examines how this works: the legal foundations of supranational authority, the EU's institutional architecture, and how multilevel administration inside the Union turns the soft-law dynamics of this chapter into hard, directly enforceable obligations on national administrations.

TEST QUESTIONS – CHAPTER III

- 1. How does globalisation differ from internationalisation in its basic logic?**
 - a) Globalisation assumes nation-states remain the only relevant actors, while internationalisation does not
 - b) Globalisation produces integration and interdependence that can transcend or weaken the nation-state itself, rather than simply connecting states that remain in control
 - c) Internationalisation only concerns trade, while globalisation only concerns culture
 - d) There is no meaningful difference between the two concepts
- 2. Which two legal-scholarly formulas does the textbook use to summarise the shift from internationalisation to globalisation?**
 - a) “Hard law vs soft law” and “input vs output legitimacy”
 - b) “The denationalisation of law” and “the rise of a multi-level legal order”
 - c) “Direct effect” and “primacy”
 - d) “Conferral” and “subsidiarity”
- 3. How globalisation reshapes the classical model of state sovereignty, which development does the COVID-19 pandemic specifically illustrate?**
 - a) The rise of non-state actors as legitimate participants in international relations
 - b) The erosion of absolute sovereignty, as states had to coordinate policies and rely on guidance from international bodies despite differing national interests
 - c) The shift from voluntary to entirely judicial cooperation
 - d) The disappearance of all soft-law instruments
- 4. What distinguishes a supranational court’s enforcement power, as illustrated by the example of emissions-trading litigation it discusses, from an international agency’s standards?**
 - a) A supranational court’s rulings are not binding, unlike an agency’s
 - b) A supranational court’s interpretation of the applicable law is final, and a national administration found to apply it incorrectly is legally obliged to change its practice, whereas an agency’s standards depend on voluntary acceptance

- c) Both produce identical, fully enforceable outcomes with no practical difference
 - d) An international agency's standards always override a supranational court's rulings
5. **What practical implication is identified as “loss of finality at the domestic level” in the context of supranational enforcement mechanisms?**
- a) National courts can never review administrative decisions
 - b) A national administrative decision, even one upheld domestically, may later be reopened or overridden through a supranational channel
 - c) Domestic legislatures lose the power to pass any new laws
 - d) All administrative decisions automatically expire after five years
6. **What distinguishes a trade-dispute settlement mechanism's effect on domestic law from that of a fully supranational court?**
- a) A trade-dispute mechanism has automatic direct effect in domestic legal orders, exactly like a supranational court's rulings
 - b) A trade-dispute mechanism does not penetrate directly into the domestic legal order – there is no doctrine of direct effect – but the practical pressure it generates (e.g. authorised retaliation) is still substantial
 - c) A trade-dispute mechanism has no enforcement mechanism whatsoever
 - d) A trade-dispute mechanism applies only to environmental disputes
7. **Which organisation is given as the textbook's example of a private standard-setting body whose technical standards (e.g. for quality management or information security) become functionally binding through administrative practice despite lacking formal legal force?**
- a) The International Organisation for Standardisation (ISO)
 - b) A formal intergovernmental trade body
 - c) The Basel Committee on Banking Supervision
 - d) The Financial Action Task Force
8. **According to the typology, what distinguishes “global governance” from “multilevel governance”?**
- a) Global governance addresses problems no single state can solve alone and often relies on voluntary or reputation-based compliance, while multilevel governance is structured within defined territorial levels (e.g. a union and its member states)
 - b) Multilevel governance applies only outside Europe

- c) Global governance is always legally binding, while multilevel governance is not
 - d) They are entirely identical concepts used interchangeably
9. **About why “global administrative law” is a difficult term to pin down, the phenomenon it describes is challenging to define because it is:**
- a) Not only global, not only administrative, and not only legal
 - b) Purely administrative and nothing else
 - c) Confined exclusively to a single regional organisation
 - d) A purely theoretical construct with no practical application
10. **Which historical episode illustrates why soft law (international health guidelines) was chosen over hard law (a binding treaty) in global public health governance?**
- a) The 2008 financial crisis
 - b) The rapid issuance of hygiene and handwashing guidance during a global pandemic
 - c) The 1973 oil crisis
 - d) An isolated regional disease outbreak with no global coordination at all
11. **Informal international law-making (IN-LAW) is described as “informal” along three distinct axes. Which of the following is NOT one of those three axes?**
- a) Actor (input) informality
 - b) Process informality
 - c) Judicial informality
 - d) Output informality
12. **Which example does the textbook give to illustrate “process informality” in IN-LAW – a body that is not an intergovernmental organisation but a multi-stakeholder platform where states, private companies, and civil society cooperate informally?**
- a) The body that oversees the global domain name system
 - b) A formal United Nations specialised agency
 - c) A classical bilateral trade treaty
 - d) A national supreme court

13. A central-bank standard-setting committee is described in the textbook as illustrating all three IN-LAW dimensions simultaneously. Which of the following correctly matches an IN-LAW dimension to a corresponding feature of that committee?

- a) Output informality – because its standards are formally binding treaties requiring ratification
- b) Input informality – because its participants are national regulators and technical experts rather than elected officials or diplomats
- c) Process informality – because it holds fully public, televised plenary sessions
- d) Actor informality – because only elected ministers may attend its meetings

14. A global standard-setting body focused on countering money laundering and terrorism financing is given as an example of which broader phenomenon?

- a) A fully supranational court with binding judicial powers
- b) A transregulatory network whose standards are widely adopted through peer review and reputational pressure rather than treaty obligation
- c) A classical bilateral diplomatic mission
- d) A private commercial arbitration tribunal

15. What recurring problem do transregulatory networks (TRNs) raise, according to the textbook, despite their effectiveness?

- a) They do not influence domestic regulation whatsoever
- b) Standards they generate may bind citizens in practice while escaping ordinary parliamentary and judicial control
- c) They are always legally binding treaties subject to full judicial review
- d) They exclusively involve heads of state rather than technical regulators

IV. SUPRANATIONALISM

Contents

1. What is supranationalism?
2. Supranational regimes
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 - 2.2. Types of supranational regimes
 - (a) Weakly supranational regimes – binding quotas, objection rights retained
 - (b) Fully binding sectoral regimes – no opt-out, mandatory implementation
 - (c) Resource management regimes over common spaces: the antarctic and the deep seabed
 - (d) The Commission on the Limits of the Continental Shelf (CLCS)
 - (e) The judicial function – supranational review of administrative action

Looking ahead

1. What is supranationalism?

The previous chapter traced how States, without surrendering their sovereignty, increasingly act together through *globalisation*: informal networks, soft-law standards, and global administrative structures that shape national administration from outside, yet always leave the final word with the State itself. Supranationalism marks the point where this pattern changes qualitatively.

In formal terms, **supranationalism** refers to a system in which sovereign States voluntarily delegate authority to an institution that operates above the national level.

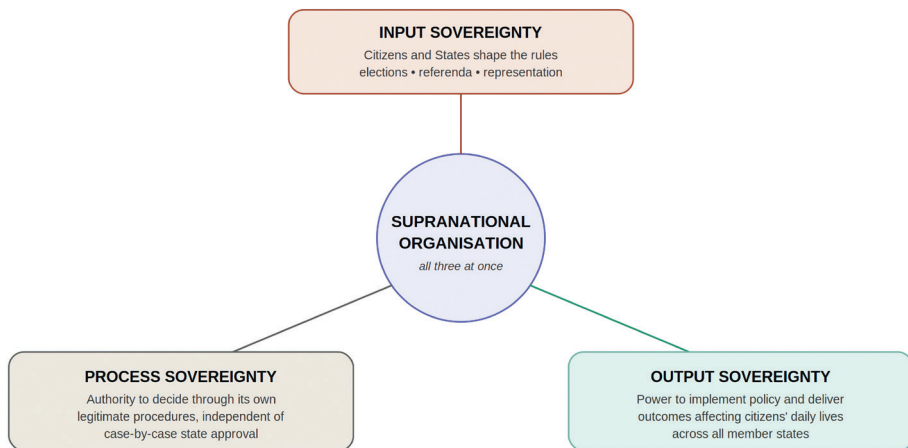
Unlike a traditional international organisation, where States merely coordinate and can walk away at will, a supranational body can produce rules that are legally binding on member States and, in some cases, directly enforceable against individual citizens and companies, without any need for the national parliament to pass an implementing act. The rule does not wait for translation into domestic law – it already has legal force the moment it is adopted.

Supranationalism is best understood through three dimensions of sovereignty, each of which a fully supranational body exercises at the same time:

- **Input sovereignty** – the capacity of citizens and Member States to shape the rules that govern them, through elections, referenda, and representative institutions.

- **Process sovereignty** – the authority of the institution to make binding decisions through its own legitimate procedures, independent of the approval of each member State each time.
- **Output sovereignty** – the power to implement policies and deliver outcomes that affect the daily lives of citizens across all member States.

A supranational organisation exercises all three dimensions simultaneously. It is this combination – not mere co-operation – that marks the qualitative difference between supranationalism and ordinary international relations. An organisation that only coordinates positions (input) without being able to decide and implement on its own (process and output) is not supranational, however influential it may be in practice.



35. The three dimensions of sovereignty exercised simultaneously by a supranational organisation

Every system of governance, at whatever level it operates, must perform three basic functions: it must make rules (*legislative power*), put those rules into practice (*executive power*), and resolve disputes about what the rules mean and whether they have been respected (*judicial power*). Supranational organisations are no different – they simply perform these functions above, rather than within, the State.

- **Legislative function:** a supranational body enacts rules – regulations, directives, decisions – that member States are obliged to follow.
- **Executive function:** a supranational body implements those rules, manages common resources, and monitors compliance.
- **Judicial function:** a supranational court interprets the founding treaties, reviews the legality of institutional acts, and resolves disputes.

The presence of all three functions under one supranational roof is what distinguishes an organisation like the European Union, although there are examples of supranationalism for either of the branches of law.



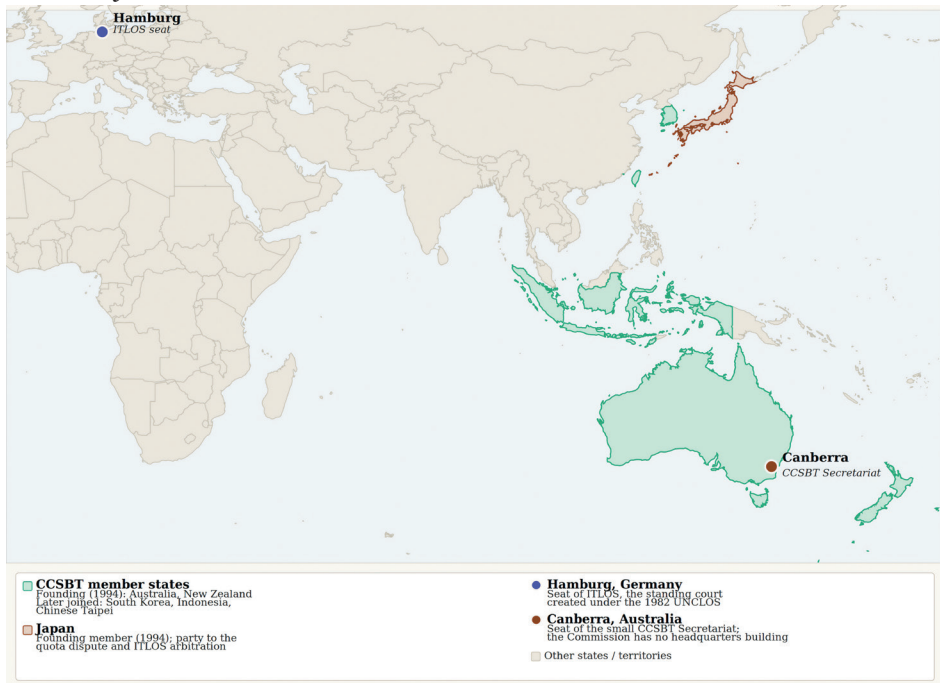
All three functions under one roof is what distinguishes a supranational body from a mere forum like the G20

36. *The three classical functions of public power are reproduced at the supranational level*

Illustrative case: the *Southern Bluefin Tuna Commission*. Even outside Europe, supranationalism exists in practice. Australia, Japan, and New Zealand established the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) in 1994.

The Convention for the Conservation of Southern Bluefin Tuna, concluded in 1993, aims to ensure the conservation of southern bluefin tuna through its appropriate management and optimum utilisation. The Parties to the Convention regard it as an implementing agreement under the framework established by the United Nations Convention on the Law of the Sea (UNCLOS). The Convention recognises that cooperation among the Contracting Parties is essential for achieving the objectives of the Convention. The Convention also establishes rules for the settlement of disputes. Pursuant to Article 16, if a dispute arises between two or more Parties concerning the interpretation or application of the Convention, the Parties shall seek to resolve it by peaceful means. These include negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, or any other peaceful means of their own choosing. If the Parties are unable to settle the dispute through these means, they may, by mutual consent, submit it either to the International Court of Justice (ICJ) or to an arbitral tribunal. The CCSBT is a small, specialised fisheries commission – its three founding members were later joined by South Korea, Indonesia, Chinese Taipei, and the European Union; it has no permanent headquarters building and is administered by a small Secretariat based in Canberra, Australia. The Commission adopts binding conservation and management measures (legislative function) and monitors compliance (executive function). Disputes between member States may be referred to international dispute-settlement mechanisms, including arbitration or the International Tribunal for the Law of the Sea (ITLOS), in accordance with the CCSBT Convention and UNCLOS.

When Japan exceeded its quota, Australia and New Zealand commenced proceedings under UNCLOS and successfully sought provisional measures before the International Tribunal for the Law of the Sea (ITLOS), after which the dispute was referred to an Annex VII arbitral tribunal. ITLOS is a standing court created by the 1982 UN Convention on the Law of the Sea (UNCLOS); it has twenty-one judges elected by the States Parties to UNCLOS and sits in Hamburg, Germany. The case illustrates both the promise of supranational governance – collective regulation beyond the State – and its limits: effectiveness still ultimately depends on the willing co-operation of the parties, and the enforcement ultimately depends on States' willingness to comply with international obligations, while dispute-settlement mechanisms remain constrained by questions of jurisdiction and State consent.



37. *The Commission for the Conservation of Southern Bluefin Tuna (CCSBT) and the Southern Bluefin Tuna arbitration*

2. Supranational regimes

International practice has produced a range of **supranational regimes**: bodies that, while not full States or federations, nonetheless possess authority to adopt

binding individual decisions or to legislate for their member States and, in some cases, directly for private parties. These regimes share the defining feature of supranationalism – the transfer of sovereign competence to an organ that acts independently. Yet, they vary considerably in their degree of autonomy, their enforcement capacity, and the fields they cover. Understanding these regimes is essential to appreciating how public administration is reshaping itself beyond the nation-State: national agencies do not disappear when a supranational regime is created, but they take on a new role as the regime's domestic executing arm.

A **supranational regime** is an international body, established by treaty among two or more States, that is empowered to adopt legally binding decisions or rules affecting member States (or their nationals) without requiring separate national ratification of each act. The regime operates through its own organs (commission, council, tribunal), possesses legal personality, and exercises at least one of the three classical branches of public power: legislative (norm-setting), executive (administrative or implementing), or judicial (dispute settlement).

2.1. Legal basis of supranational authority

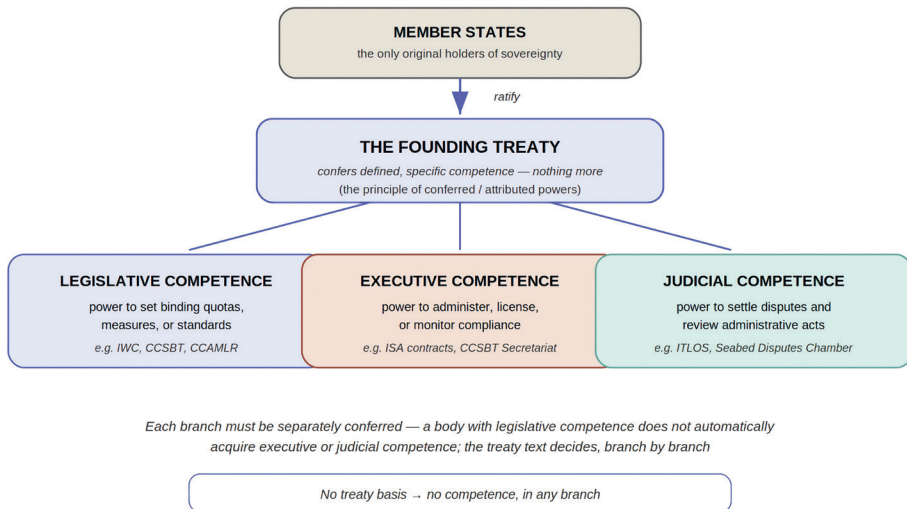
Before asking how much authority a body has, a prior question must be answered: *where does that authority come from?* Unlike a State, a supranational body has no original sovereignty of its own – it is not born with power, and it cannot simply assume new competences because they seem useful. Every power it exercises, in whichever branch, must be traceable to an act of the member States themselves.

That act is the founding **treaty** (sometimes called a convention, statute, or constitutive instrument). A treaty is an agreement between States governed by international law; once ratified according to each State's own constitutional procedures, it binds the State under international law and creates the legal personality of the organisation it establishes. The treaty performs two functions at once: it is the act by which States consent to be bound, and it is the instrument that defines, precisely, what the new body may and may not do.

- **Conferral of competence** – a body has only the powers expressly or impliedly conferred on it by its founding treaty; it cannot legislate, administer, or adjudicate beyond that conferral (a principle often called *attributed powers* or *conferred competence*).

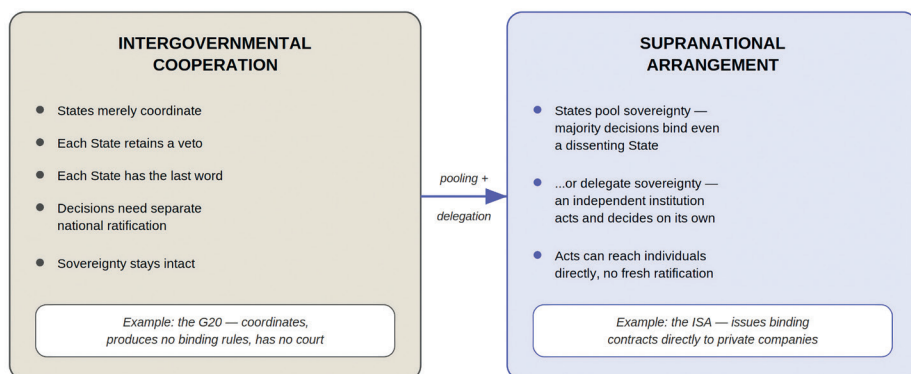
- **Specificity by branch** – the treaty may confer legislative competence (the power to set binding quotas or standards), executive competence (the power to administer, license, or monitor), judicial competence (the power to settle disputes), or any combination of the three – each must be separately authorised.
- **Consent at entry, obligation thereafter** – a State's consent is voluntary when it joins or ratifies, but once the treaty is in force, the resulting obligations bind the State irrespective of any later change of preference, subject only to the withdrawal or objection mechanisms the treaty itself provides.

This is why the typology that follows can be read as a typology of treaties as much as of institutions. In every case, the source of authority is the same: a treaty by which States conferred a defined power on a body of their own creation.



38. The legal basis of supranational authority

Supranationalism is best understood by contrast with ordinary intergovernmental cooperation, and the contrast turns on what States do with their sovereignty. In intergovernmental cooperation, States merely coordinate, each retaining a veto and the last word. In a supranational arrangement, States go further and either **pool** sovereignty (decisions are taken by majority, so a State can be bound against its will) or **delegate** sovereignty (powers are transferred to an independent institution that can act and decide on its own). In its strongest form, exemplified by the European Union, these features are complemented by binding legal acts capable of producing direct effects within domestic legal orders and by interpretation and enforcement through an independent court.



39. Intergovernmental cooperation contrasted with a supranational arrangement

A useful typology of such regimes can be organised around the degree of authority exercised and whether the body's acts bind directly or only through the domestic legal order of each member State. Three broad steps can be distinguished, moving from weak to fully developed supranational authority.

2.2. Types of supranational regimes

(a) Weakly supranational regimes – binding quotas, objection rights retained

The **International Whaling Commission (IWC)**, established in 1946 under the International Convention for the Regulation of Whaling, illustrates a “weakly supranational” regime.

 *The IWC currently has around 88 member governments from every continent; it has no fixed headquarters of its own and is served by a small Secretariat based in Impington, near Cambridge, in the United Kingdom.*

The IWC adopts **binding catch limits (quotas)** and **total moratoriums** – legislative acts in substance – by a three-quarters majority of its members. These decisions amend the Schedule to the Convention automatically, without requiring a fresh treaty ratification. They bind commercial whaling fleets directly. This is qualitatively different from a mere recommendation: a fishing company cannot simply ignore an IWC Schedule amendment.

However, the regime retains a significant sovereignty escape: any member State that files a **formal objection within ninety days** is not bound by the amendment. Japan used this mechanism for decades before finally withdrawing

from the Convention in 2019. The IWC thus acts as a **quasi-legislature** for its members that have not opted out, and it expects member States' enforcement authorities to give domestic legal effect to its decisions – yet enforcement itself remains entirely with national administrations.

- (b) Fully binding sectoral regimes – no opt-out, mandatory implementation

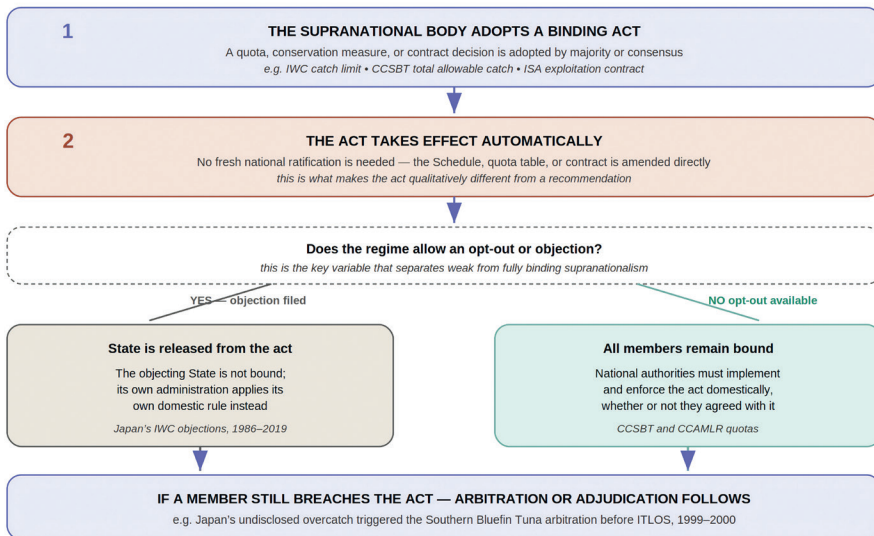
The **Commission for the Conservation of Southern Bluefin Tuna (CCSBT)**, established in 1994 by Australia, Japan, and New Zealand (later expanded), provides a more fully supranational model.

 *As introduced earlier in this chapter, the CCSBT is a small fisheries commission with no fixed headquarters, served by a Secretariat in Canberra.*

The CCSBT's Commission adopts **binding total allowable catch (TAC) decisions** and national allocations by consensus, and in 2001 created an Extended Commission (including South Korea, Indonesia, and Chinese Taipei) empowered to adopt binding quotas and to control illegal fishing. The body has its own legal personality, a permanent Secretariat, a budget, and dispute settlement through arbitration.

When Japan secretly exceeded its agreed quota for more than a decade, Australia and New Zealand invoked UNCLOS arbitration (*Southern Bluefin Tuna Cases*, ITLOS/Annex VII, 1999–2000). The CCSBT thus combines **legislative functions** (setting binding quotas), **executive-administrative functions** (monitoring, scientific assessment, compliance review), and **quasi-judicial functions** (arbitration procedures). It should be noted, however, that the Convention provides only for arbitration based on the separate consent of all parties to the dispute. National fisheries authorities must implement and enforce the CCSBT's decisions domestically: this is a paradigmatic example of domestic public administration acting as the executor of a supranational regime's mandate.

The two cases just discussed – the IWC and the CCSBT – follow the same underlying process, but diverge at a single decisive point: whether the regime allows a member to opt out of a binding act. The diagram below traces that process step by step, from the adoption of the act to its eventual enforcement.



40. How a binding supranational act moves from adoption to domestic enforcement

(c) Resource management regimes over common spaces: the antarctic and the deep seabed

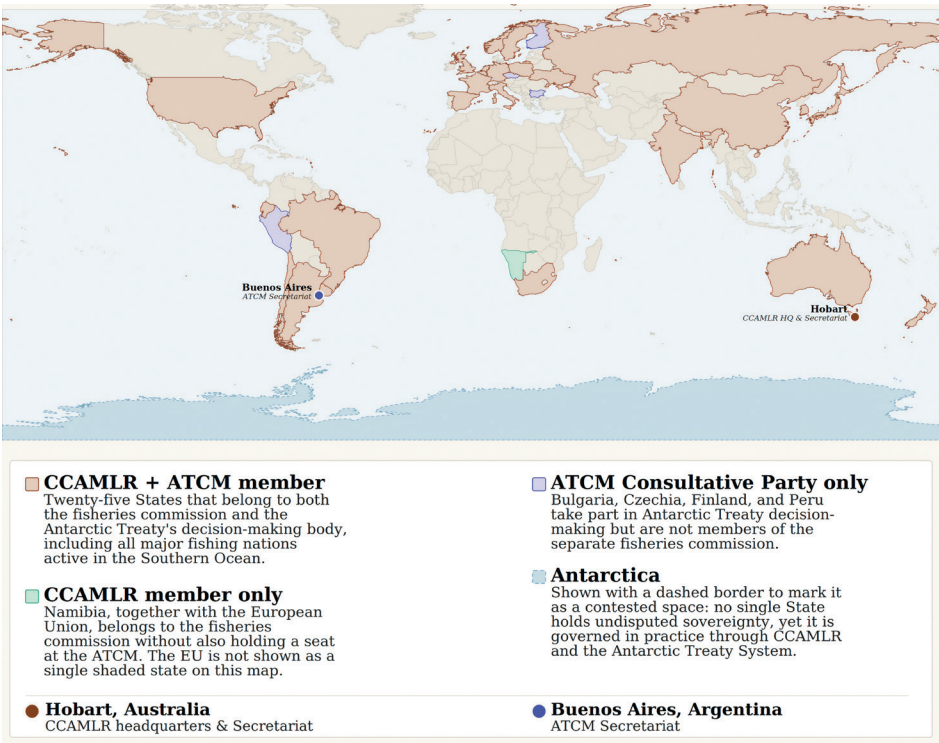
The **Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)**, operating since 1982 as part of the Antarctic Treaty System, represents an authoritative body over a contested space where no single State holds undisputed sovereignty.

 *The CCAMLR has twenty-six members, including major fishing nations and the European Union; its headquarters and small permanent Secretariat are based in Hobart, Tasmania, Australia.*

The CCAMLR can adopt **conservation measures** by consensus that are automatically **binding** on all members, including catch limits, gear restrictions, and marine protected areas. Members without an active fishery in the relevant zone are still bound. This gives the CCAMLR a genuinely **legislative character**: it creates obligations for States and their fishing industries without the need for separate legislative action in each national parliament.

The parallel **Antarctic Treaty Consultative Meeting (ATCM)** adopts “Measures” that enter into force once all Consultative Parties ratify them, “**decisions**” that are **immediately binding** on Consultative Parties regarding internal procedures, and “resolutions” that are non-binding recommendations. This is a three-tier hierarchy of normative output that mirrors domestic legislative technique at the international level.

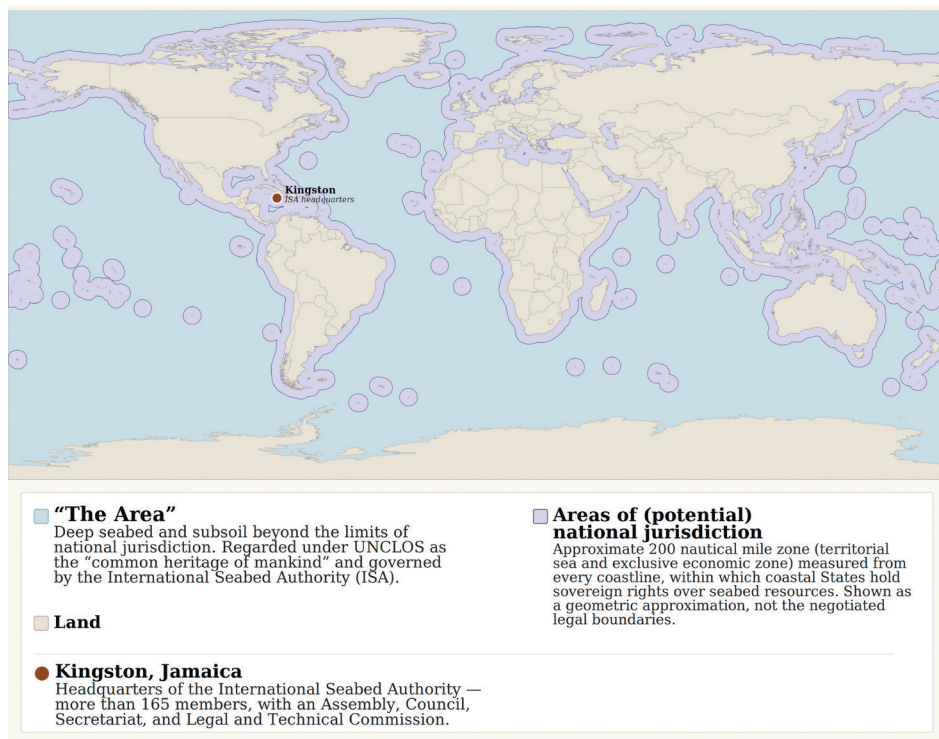
 The ATCM is the annual meeting of the original 1959 Antarctic Treaty's Consultative Parties – currently twenty-nine States with an active interest in Antarctic affairs; it has no permanent seat, meeting in a different host country each year, and is supported by a Secretariat based in Buenos Aires, Argentina.



41. The Antarctic Treaty System: CCAMLR and ATCM membership

The most ambitious resource management regime is the **International Seabed Authority (ISA)**, established in 1994 under Part XI of UNCLOS to govern deep-seabed mineral resources beyond national jurisdiction (the “Area”, regarded as the “common heritage of mankind”).

 The ISA has more than 165 members (effectively all UNCLOS States Parties); it is headquartered in Kingston, Jamaica, and is the only one of the regimes discussed in this chapter with a full institutional structure of its own – an Assembly, a Council, a Secretariat, and a Legal and Technical Commission.

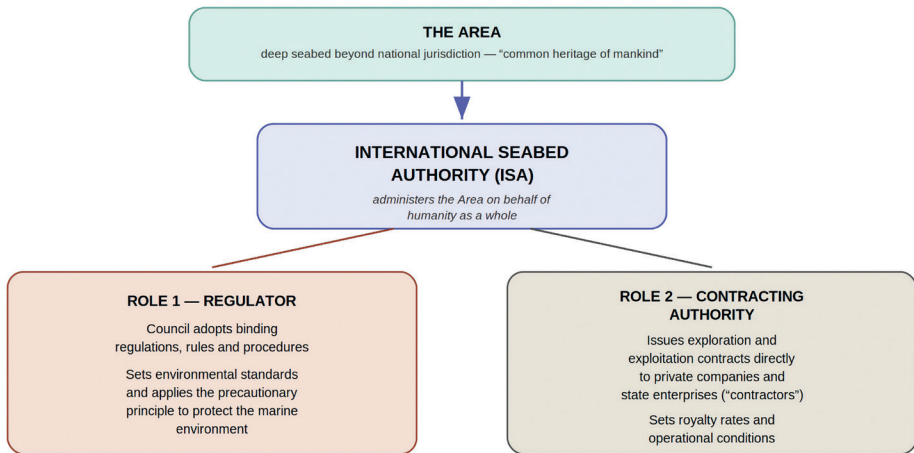


42. “The Area” under UNCLOS Part XI and the International Seabed Authority (ISA)

The ISA is unique because it **acts as both regulator and contracting authority**: it issues exploration and exploitation contracts directly to private companies and State enterprises (known as “contractors”), setting environmental standards, royalty rates, and operational conditions. Its Council can adopt **“regulations, rules and procedures” that are legally binding** on all member States and on contractors. The ISA thus functions as a genuine international administrative authority: it takes **individual administrative decisions** (issuing permits, approving plans of work) that directly affect private legal relationships – something far closer to a domestic regulatory agency than to a classical intergovernmental organisation. Because the ISA’s outputs bind private actors directly, its procedural safeguards – transparency of decision-making, access to the Seabed Disputes Chamber of ITLOS – become questions of global administrative law in the truest sense.

The International Seabed Authority is a striking example of supranational administration over a global commons. The deep seabed beyond national jurisdiction is designated by the UN Convention on the Law of the Sea as the **“common heritage of mankind”**; the ISA administers it **on behalf of humanity as a whole**, licensing exploration and exploitation, collecting and

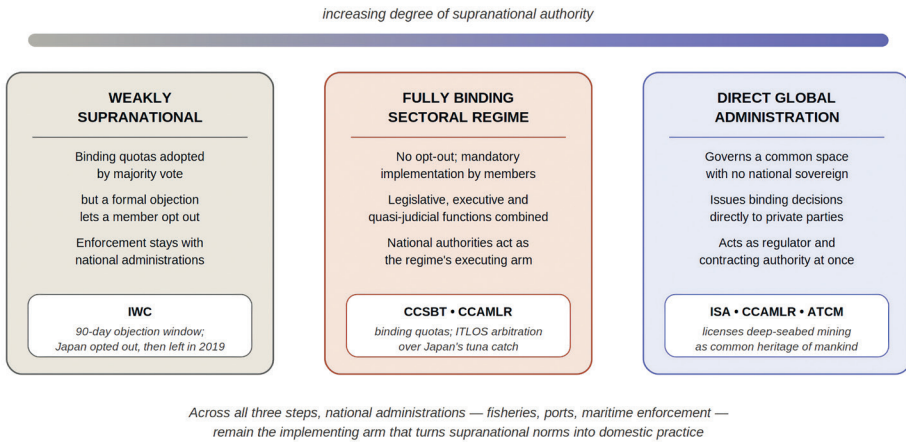
distributing benefits, and applying the precautionary principle to protect the marine environment. Here, an international body does not merely coordinate States: it directly governs an area and its resources, exercising unmistakably administrative functions.



Because ISA decisions reach private actors directly, procedural safeguards — transparency, access to the Seabed Disputes Chamber — become questions of global administrative law

43. The International Seabed Authority's dual role

These examples show that supranational authority can exist well outside the EU, even if usually in a more sector-specific or geographically defined form. What they share – and what distinguishes them from ordinary IGOs – is the existence of an organ that adopts binding individual decisions or general rules without requiring fresh consent from each member State. In each case, domestic public administrations – fisheries authorities, port authorities, maritime enforcement agencies, mining regulators – function as the “implementing arm” of these supranational regimes, integrating the regime’s norms directly into national administrative practice.



44. A typology of supranational regimes, organised by the degree of authority exercised

(d) The Commission on the Limits of the Continental Shelf (CLCS)

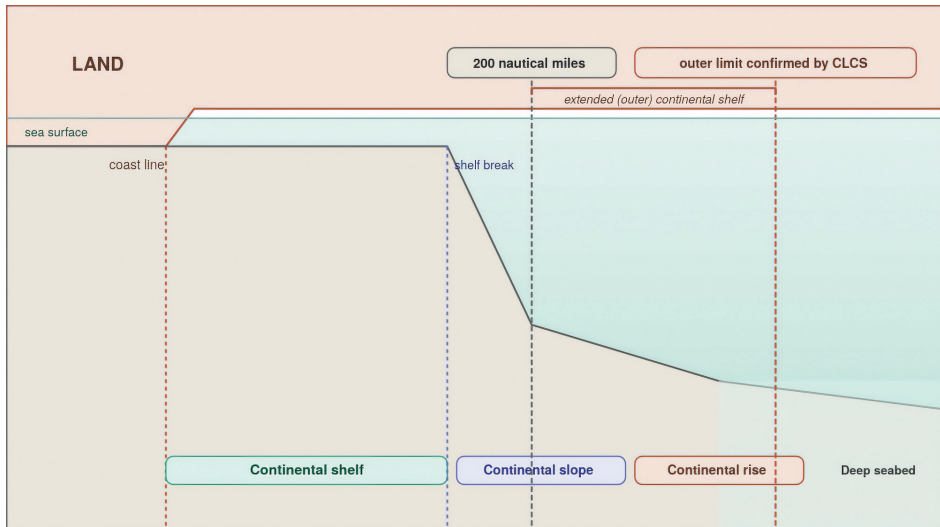
After the International Whaling Commission, the Antarctic Treaty System and the International Seabed Authority, the fourth example of a supranational-type regime in the law of the sea is the **Commission on the Limits of the Continental Shelf (CLCS)**, established under the 1982 UN Convention on the Law of the Sea (UNCLOS). Unlike the previous three bodies, which all exercise authority over a space that belongs to no state, the CLCS does the opposite: it helps a coastal state extend its own existing sovereign rights beyond the limit that would otherwise apply. Before we can understand how the CLCS works, we first need to understand what a **continental shelf** actually is.



*The continental shelf is the natural underwater extension of a continent. Along most coastlines, the seabed does not drop suddenly into the deep ocean; instead, it continues for some distance as a relatively flat, shallow platform, before falling away steeply toward the deep ocean floor. Geologists distinguish three parts of this underwater landscape: the **continental shelf** itself (the shallow, gently sloping platform closest to the coast), the **continental slope** (a much steeper drop where the shelf ends, known as the “shelf break”), and the **continental rise** (a gentler apron of sediment leading down to the deep seabed). Together, the shelf, the slope and the rise form what is called the continental margin – in other words, the part of the seabed that is geologically still “land”, even though it lies under water.*

This geological reality matters legally because it does not always match a simple distance-based rule. In some places (for example, along steep

volcanic coasts) the continental margin ends only a few nautical miles offshore. In others (for example, wide, flat margins such as those found in parts of the Arctic Ocean or off the eastern coast of South America) the geological continental shelf can extend for several hundred nautical miles – far beyond the point where most other maritime zones end.



45. *The continental margin: shelf, slope and rise, and the 200 nm and CLCS-confirmed outer limits*

UNCLOS gives every coastal state a continental shelf **out to 200 nautical miles from its coastal baseline**, automatically – no matter what the seabed actually looks like there. This is a legal, not a geological, shelf: even a state with a very narrow natural margin still receives the full 200 nautical miles.

The interesting case is the opposite one: what happens if the natural, geological shelf continues beyond 200 nautical miles? Article 76 of UNCLOS allows a coastal state to claim this extended, or “outer”, continental shelf as well – but only up to certain outer limits, which the Convention fixes using two alternative technical formulae (based either on the thickness of sediment or on a fixed distance from the foot of the continental slope), combined with overall distance caps of 350 nautical miles from the baseline, or 100 nautical miles from the 2,500-metre depth line, whichever gives the state the more generous result. The details of these formulae are highly technical; what matters for our purposes is the underlying idea: a state may extend its shelf beyond 200 nautical miles only as far as the seabed genuinely continues to be the natural prolongation of its landmass, and only within the outer boundaries that UNCLOS itself sets.

Because these **calculations require detailed geological, geophysical and hydrographic data**, and because a unilateral claim by one state could **easily overlap with the claims** (or the high seas rights of all states) elsewhere, UNCLOS did not leave the assessment of these claims to the coastal state alone. It created an independent, scientific body to check the data and to confirm – or reject – the proposed outer limits. This is the CLCS.

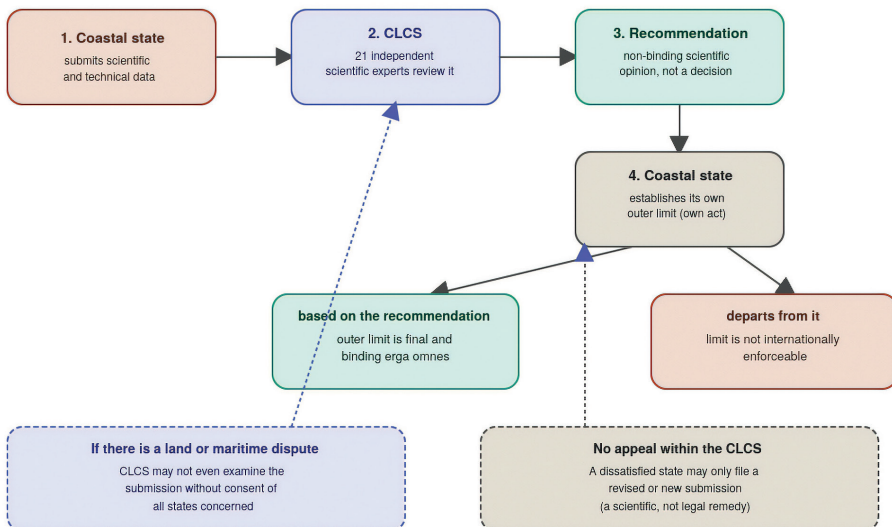
 *The idea of a continental shelf beyond the shore is far older than UNCLOS: the 1945 Truman Proclamation was the first unilateral claim by a state (the United States) to the resources of its adjacent seabed, and many other states followed with similar claims in the following decades, without any common international rule. The first attempt to codify a common standard came with the 1958 Geneva Convention on the Continental Shelf, but its rules – based on a fixed depth (200 metres) or on the vague criterion of “exploitability” – quickly became unworkable, since improving technology meant states could exploit ever deeper waters, making the outer limit of the shelf a constantly moving target.*

During the Third UN Conference on the Law of the Sea (1973–1982), negotiators therefore looked for a more stable, geologically grounded formula, which became Article 76 of UNCLOS, together with a dedicated technical annex (Annex II) establishing the Commission on the Limits of the Continental Shelf itself. The Commission became operational in 1997, once UNCLOS had entered into force and enough coastal states had joined it. Its underlying purpose was twofold: first, to give coastal states a way of turning a geological fact into a legally secure, internationally recognised outer limit; and second, to prevent states from making excessive, unverified claims that would eat into the international seabed – the common heritage of mankind administered by the International Seabed Authority described in the previous section. In this sense, the CLCS closes the geographical gap between the coastal state’s own continental shelf and the area under the ISA’s authority: whatever a state can lawfully add to its shelf under Article 76 is, by definition, no longer part of the international seabed.

The CLCS is made up of 21 **experts in geology, geophysics and hydrography**, elected by the states parties to UNCLOS, who serve in their personal, independent **scientific capacity** rather than as representatives of their home states. This is already a first sign of its special, supranational-like character: instead of state delegates negotiating a political compromise, a body of scientists applies a technical standard to determine a legal outer limit.

The **procedure follows four steps**.

1. It starts with the **coastal state** that believes its continental shelf extends beyond 200 nautical miles **submits detailed scientific and technical data** to the Commission, showing exactly where its margin ends.
2. Second, a **subcommission of CLCS** experts **examines** this data against the criteria of Article 76, and may ask the state for clarifications or further evidence.
3. The **CLCS adopts a recommendation**, stating whether it agrees with the proposed outer limit, or where it thinks the limit should instead lie. This recommendation is a scientific opinion, not a binding legal decision: the coastal state remains free to disagree with it.
4. It is still the **coastal state itself**, not the Commission, that **formally establishes the final and binding outer limit** of its continental shelf, through its own domestic legal act. However, UNCLOS attaches an important condition to this act: the resulting limit is “final and binding” on all other states (in legal language, *erga omnes*) only if it is based on the Commission’s recommendation. If the state instead sets a limit that departs from what the CLCS recommended, that limit is not guaranteed to be respected by other states or recognised as opposable to them.



46. The CLCS procedure

This makes the Commission’s powers narrower than those of the IWC, the Antarctic Treaty System or the ISA.

The first is that the **CLCS is not allowed to deal with real legal disputes between states**. If there is an unresolved land or maritime boundary dispute

involving the area covered by a submission, the Commission's own Rules of Procedure prevent it from even examining that part of the submission, unless every state involved in the dispute agrees. Genuine conflicts between neighbouring states over where a shared shelf should be divided are therefore left entirely outside the Commission's work, to be resolved instead through negotiation or through the general dispute-settlement mechanisms of UNCLOS (such as the International Tribunal for the Law of the Sea, the International Court of Justice, or arbitration).

The second is that **there is no appeal against a CLCS recommendation**. A state that is unhappy with the outcome cannot challenge it before any tribunal within the CLCS system; its only option is to prepare and submit revised or additional data as a new submission. This is a scientific and technical form of review, aimed at correcting or completing the evidence – not a legal remedy in the ordinary sense.

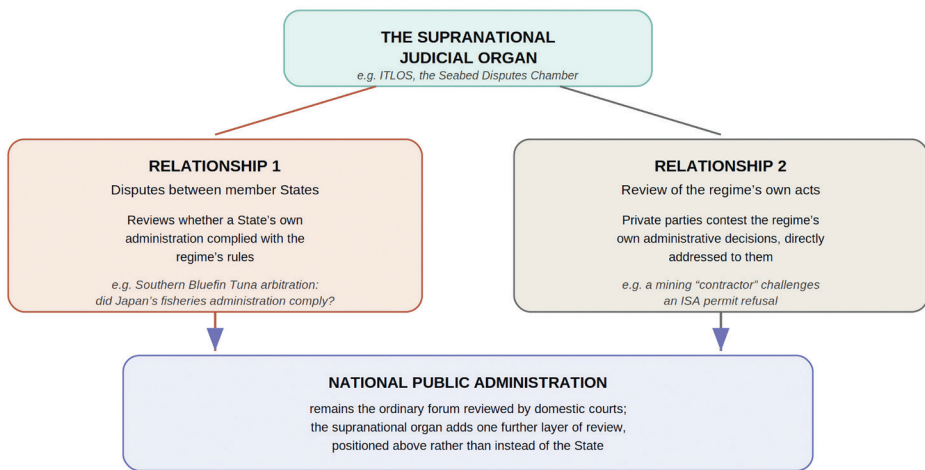
 *The CLCS does not fit neatly into the same pattern as the IWC, the Antarctic Treaty System or the ISA, yet it shares an important family resemblance with them: an international, expert-based body is inserted into a process that would otherwise be entirely a matter of one state's sovereign discretion, and that body's output has real legal consequences even though it is formally non-binding. A coastal state cannot simply declare an extended continental shelf and expect the rest of the world to accept it; the claim only becomes secure once it has passed through this shared, international scientific procedure. In that sense, sovereignty over the outer continental shelf is not removed from the state – as it would be in a fully supranational body – but its exercise is conditioned on cooperation with an international institution, which is itself a form of internationalised, quasi-supranational governance.*

(e) The judicial function – supranational review of administrative action

The legislative and executive dimensions discussed above explain how a supranational regime makes and implements rules. But every regime examined so far also depends on a third, distinct function: an independent body that can review whether the rules have been respected, and resolve disagreement about what they mean. This *judicial function* is where supranationalism touches public administration most directly – not because it replaces national administration, but because it sits in review of it.

Two distinct relationships follow from this. First, a supranational tribunal can resolve a dispute **between member States** about whether a regime's rules were respected – as in the *Southern Bluefin Tuna* arbitration before ITLOS, where the underlying question was whether Japan's domestic fisheries administration had complied with a quota set by the CCSBT. The tribunal does not administer fisheries itself; it reviews whether a State's administration did.

Second, and more unusually, a supranational tribunal can review a regime's **own administrative acts** when these affect private parties directly. The ISA's Seabed Disputes Chamber of ITLOS is the clearest example. *The Chamber is a specialised eleven-judge division within ITLOS, sitting in the same seat in Hamburg, created specifically by UNCLOS to hear disputes arising from deep-seabed mining activities.* Because the ISA issues exploration contracts and individual administrative decisions directly to private companies, those companies need a forum to contest a refusal, a sanction, or a contractual dispute – exactly the kind of judicial protection that domestic administrative law gives against a national regulator. The Chamber can hear disputes between contractors and the Authority, between States Parties, and over the legality of the Authority's own decisions.



Together, the three functions close the loop: rule-making, implementation, and review

47. *The two relationships of the judicial function and how each ultimately connects back to national public administration*

Domestic courts and administrative bodies are not absent from this picture; they remain the ordinary forum for reviewing how national authorities apply a regime's rules at home. What changes is that a further layer of review now exists *above* the State: a national fisheries authority that wrongly licenses a vessel, or a national agency that wrongly refuses a permit derived from a supranational

rule, can, in principle, have that decision tested not only before a domestic court but, indirectly, before the regime's own judicial or arbitral organ. The judicial function thus closes the loop opened by the legislative and executive functions: rule-making, implementation, and review together form the same three-part structure found in any developed system of public administration – only relocated, in part, above the State.

Looking ahead

Supranationalism marks a structural break with the logic of intergovernmental cooperation examined in the previous chapters. Where internationalisation and globalisation leave the final word with the State, a supranational organisation exercises input, process, and output sovereignty simultaneously, and performs all three classical functions of public power – legislative, executive, and judicial – under a single institutional roof. Outside the EU, this pattern already appears, in graduated form, in sectoral and resource-management regimes such as the IWC, the CCSBT, the CCAMLR, and – in its most developed form – the International Seabed Authority, which regulates, contracts with private parties, and answers for its own decisions before its own judicial organ.

What these regimes still lack, however, is the density and permanence of institutional architecture that turns supranationalism into a full system of governance. **Chapter V turns to the European Union** as the most developed case of supranationalism in practice, and examines it as a global actor in its own right: how its institutions combine the legislative, executive, and judicial functions traced in this chapter into a permanent multilevel order, and how that order, in turn, projects the EU's regulatory power onto the international stage.

TEST QUESTIONS – CHAPTER IV

1. **What are the three dimensions of sovereignty that a fully supranational body exercises simultaneously?**
 - a) Legislative, executive, and judicial sovereignty
 - b) Input, process, and output sovereignty
 - c) National, regional, and local sovereignty
 - d) Hard, soft, and customary sovereignty
2. **What combination of elements is identified as distinguishing a genuinely supranational body from a mere forum of cooperation?**
 - a) Pooling and/or delegation of sovereignty producing binding decisions that reach individuals directly and are interpreted by an independent court
 - b) A large membership and a generous operating budget
 - c) The exclusive use of consensus-based decision-making with no possibility of a binding outcome
 - d) A seat at a major international summit
3. **Which fisheries-related supranational body, founded by Australia, Japan, and New Zealand and later joined by other states, is described as a “more fully supranational model” with no opt-out for its binding catch decisions?**
 - a) The International Whaling Commission (IWC)
 - b) The Commission for the Conservation of Southern Bluefin Tuna (CCSBT)
 - c) The Codex Alimentarius Commission
 - d) The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)
4. **What mechanism allows a member State of the International Whaling Commission to avoid being bound by a Schedule amendment, illustrating a “weakly supranational” regime?**
 - a) A unanimous veto exercised jointly by all members
 - b) A formal objection filed within a fixed time window after the amendment is adopted
 - c) Permanent withdrawal from the United Nations
 - d) A direct appeal to a regional human-rights court

5. **Which country used the IWC's objection mechanism for decades before eventually withdrawing from the underlying Convention altogether?**
 - a) Norway
 - b) Iceland
 - c) Japan
 - d) Russia
6. **Where is the small Secretariat of the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) based, despite the Commission itself having no fixed headquarters building?**
 - a) Hobart, Tasmania
 - b) Canberra, Australia
 - c) Wellington, New Zealand
 - d) Hamburg, Germany
7. **In the Southern Bluefin Tuna dispute discussed in the textbook, which standing international tribunal did Australia and New Zealand invoke arbitration before, after Japan exceeded its agreed quota?**
 - a) A regional human-rights court
 - b) The International Tribunal for the Law of the Sea (ITLOS)
 - c) A supranational trade court
 - d) A purely domestic Japanese administrative court
8. **In which city is the headquarters and small permanent Secretariat of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) located?**
 - a) Buenos Aires, Argentina
 - b) Canberra, Australia
 - c) Hobart, Tasmania, Australia
 - d) Kingston, Jamaica
9. **What is the key difference between the Antarctic Treaty Consultative Meeting's "Measures" and its "Decisions"?**
 - a) Measures enter into force only once all Consultative Parties ratify them, while Decisions are immediately binding on Consultative Parties regarding internal procedures
 - b) Measures are non-binding recommendations, while Decisions require a fresh treaty
 - c) Measures only apply to fishing, while Decisions only apply to mining
 - d) There is no meaningful difference; the terms are used interchangeably

- 10. Which body administers the deep seabed (referred to as “the Area”) beyond national jurisdiction as the “common heritage of mankind,” and is headquartered in Kingston, Jamaica?**
- a) A specialised UN shipping-safety agency
 - b) The International Seabed Authority (ISA)
 - c) The International Tribunal for the Law of the Sea
 - d) A body the textbook describes as not existing in this form
- 11. What unique dual role does the International Seabed Authority (ISA) perform?**
- a) It acts as both a humanitarian relief agency and a court of human rights
 - b) It acts as both regulator and contracting authority, issuing exploration and exploitation contracts directly to private companies
 - c) It acts purely as an advisory body with no binding powers whatsoever
 - d) It only mediates disputes between states, never engaging private parties
- 12. Which specialised judicial body, described as a division within a standing maritime tribunal, was created specifically to hear disputes arising from deep-seabed mining activities?**
- a) The Seabed Disputes Chamber
 - b) A purely advisory arbitration panel with no judges
 - c) A national maritime court
 - d) A regional human-rights court
- 13. According to the typology, which of the following correctly orders the three example regimes discussed, from “weakly supranational” to having “a fully developed institutional structure of its own”?**
- a) The deep-seabed regime → the Antarctic marine-resources regime → the whaling regime
 - b) The Antarctic marine-resources regime → the whaling regime → the deep-seabed regime
 - c) The whaling regime → the bluefin-tuna regime → the deep-seabed regime
 - d) The deep-seabed regime → the whaling regime → the bluefin-tuna regime
- 14. Under the principle described in the chapter as “conferral of competence” applied to supranational bodies generally, what is the source of every power such a body exercises?**
- a) Customary international law applicable to all states equally
 - b) An act of the member states themselves, traceable to the body’s founding treaty

- c) Unilateral self-assertion by the body's own secretariat
- d) A vote of the UN General Assembly

15. What is the key difference between “pooling” and “delegating” sovereignty in a supranational arrangement?

- a) Pooling means decisions are taken by majority so a State can be bound against its will, while delegating means powers are transferred to an independent institution that can act and decide on its own
- b) Pooling applies only to budgetary matters, while delegating applies only to military matters
- c) There are two words for the same legal mechanism
- d) Pooling is reversible, while delegating can never be reversed under any circumstances

V. THE EUROPEAN UNION: A UNIQUE ORGANISATION AND A GLOBAL ACTOR

Contents

1. From coal and steel to a legal order of its own
2. The nature of European integration
3. Institutional architecture
 - 3.1. Who does what?
 - 3.2. Who has the power to do what? The system of competences
 - 3.3. How EU law reaches the ground: administration and networks
4. The EU as a global actor
 - 4.1. Common foreign and security policy
 - 4.2. The structural architecture of acting globally
 - 4.3. The EU in international organisations and transnational regulatory networks
 - 4.4. Participation in international organisations
 - 4.5. Transnational regulatory networks
 - 4.6. Legitimacy concerns in global governance
- Looking ahead

The previous chapter traced supranationalism as a structural break with intergovernmental cooperation: an arrangement in which States pool or delegate sovereignty to a body that legislates, administers, and adjudicates under a single institutional roof. Outside Europe, this pattern appears in graduated form – in the IWC, the CCSBT, the CCAMLR, and, in its most developed form, the International Seabed Authority. The European Union is what happens when that pattern is pursued to its fullest extent, across an entire economy and society, for more than seventy years. It is the world's most developed example of supranational governance – and, as this chapter will show, the density of its internal architecture is precisely what gives it the capacity to act, with a single voice, on the world stage.

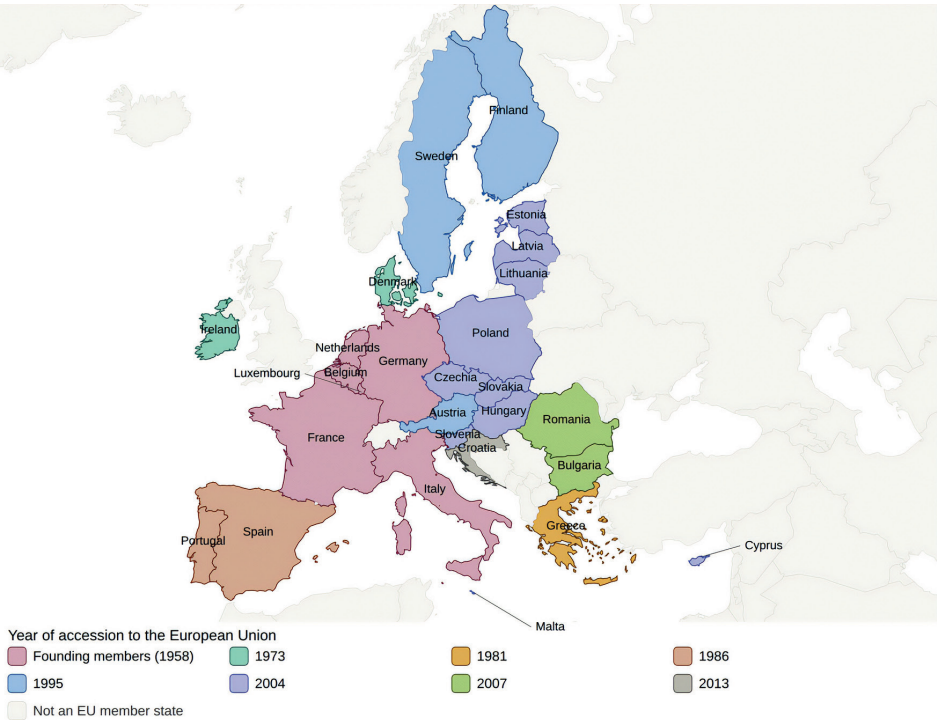
The EU is, however, not a state. It has no army of its own, it does not levy direct taxes on citizens, and it does not replace its member states in international law. Yet it is far more than a conventional international organisation. The EU sits in a category of its own, and understanding why – institutionally, legally, and administratively – is the necessary foundation for understanding how it behaves as a global actor.

1. From coal and steel to a legal order of its own

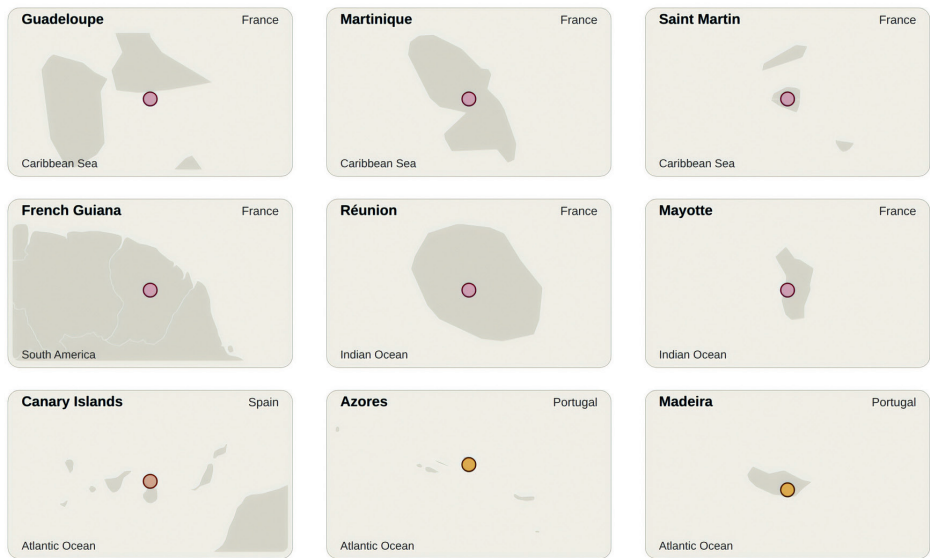
The EU's story begins in the ruins of the Second World War. European statesmen – above all French Foreign Minister Robert Schuman, French economist Jean Monnet, and German Chancellor Konrad Adenauer – concluded that the best way **to prevent future wars** between France and Germany was to make war economically impossible, by pooling their coal and steel industries under a common authority. The result was the **European Coal and Steel Community (ECSC)**, established by the **Treaty of Paris in 1951**.

Six states – France, West Germany, Italy, Belgium, the Netherlands, and Luxembourg – then extended the model to the whole economy. The **Treaties of Rome (1957)** created the **European Economic Community (EEC)** and the **European Atomic Energy Community (Euratom)**. The core ambition, repeated ever since, was to achieve “*ever closer union among the peoples of Europe*.”

From that small beginning, the project expanded steadily – in the number of member states (from 6 to 27 today), in the policy areas it covers, and in the depth of integration it achieves. Key milestones include the Single European Act (1986), which accelerated completion of the internal market; the Maastricht Treaty (1992), which created the European Union as such, introduced EU citizenship, and set the path to monetary union; the Amsterdam and Nice Treaties (1997 and 2001); and the **Treaty of Lisbon (2009)**, which gave the EU a consolidated legal personality, created the post of President of the European Council, and established the office of High Representative for Foreign Affairs and Security Policy.



EU outermost regions (Article 349 TFEU) — fully part of the EU, outside continental Europe



48. The territory of the European Union.

Source: https://european-union.europa.eu/easy-read_en (Claude)

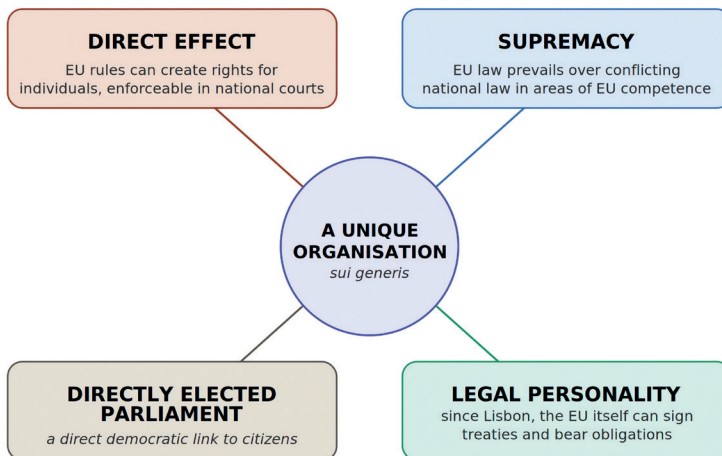
2. The nature of European integration

The EU meets the **classic definition of an international organisation**:

- it rests on a formal instrument of agreement among the governments of sovereign states (the founding and amending treaties);
- it has three or more states as parties (currently 27);
- and it possesses a permanent secretariat and institutions with ongoing tasks.

Yet the EU **differs from ordinary international organisations** in several fundamental respects:

- **Direct effect** – EU law can confer rights and obligations directly on individuals, without the need for national implementing legislation. A citizen can invoke a directly effective EU rule before a national court.
- **Supremacy** – where EU law and national law conflict in an area of EU competence, EU law prevails. National courts are obliged to set aside incompatible national rules.
- **A directly elected parliament** – the European Parliament is directly elected by EU citizens, giving supranational governance a direct democratic connection to the people it governs.
- **Legal personality** – since the Treaty of Lisbon, the EU as such – not just the separate Communities – has legal personality: it can sign treaties, hold rights, and bear obligations under international law.



No ordinary international organisation combines all four features at once

49. A unique organisation: four features no ordinary international organisation combines at once

These features place the EU firmly in the supranational category discussed in the previous chapter. They also explain why membership of the EU requires far more of a state than joining the United Nations or the World Trade Organization.

Two of these features deserve definition because they are unique to the EU legal order and were created by the Court of Justice, not written into the original treaties. **Direct effect**, established in *Van Gend en Loos* (1963), means that provisions of EU law that are sufficiently clear, precise and unconditional create rights that individuals may invoke directly before their national courts, without waiting for national implementing measures. **Primacy (supremacy)**, established in *Costa v ENEL* (1964), means that in a field of EU competence, where EU law and national law conflict, EU law prevails and the national court must set aside the conflicting national rule. Together, direct effect and primacy transform the EU from an ordinary treaty regime into an autonomous legal order penetrating directly into the domestic sphere (see Schütze, *European Constitutional Law*, in the bibliography).

3. Institutional architecture

3.1. Who does what?

The EU's institutional design reflects its dual nature as both a project of the member states and a project of the peoples of Europe. Understanding who has what role is essential to making sense of how the EU functions – and, later in this chapter, of how it speaks internationally.

The **European Council** brings together the **heads of state or government** of all 27 Member States for regular summits in different cities of Member States, together with its own President (a permanent full-time post since Lisbon) and the President of the European Commission. The European Council does not legislate. Its function is **strategic direction**: it defines the EU's general political priorities and sets the agenda for the integration process. Decisions are normally taken by consensus, which preserves the intergovernmental character of this body. On certain matters – such as nominations for the top EU posts – qualified majority or unanimity rules apply.

The **Council of the EU** (informally: the Council of Ministers), seated in Brussels, is the institution in which the **governments** of the Member States are represented, each sending the **minister responsible for the policy area under discussion**. It is one of the two branches of the EU's legislature. The

Council exercises **legislative power jointly with the European Parliament**, and it is the main decision-maker in areas of intergovernmental cooperation (notably foreign and security policy, where unanimity is usually required). In most other areas, the ordinary legislative procedure applies: a proposal from the Commission is sent to both the Parliament and the Council, and the two institutions negotiate until they agree. Qualified majority voting (QMV) applies in most ordinary legislative procedure votes: a measure passes if at least 55% of member states (representing at least 65% of the EU's total population) vote in favour.

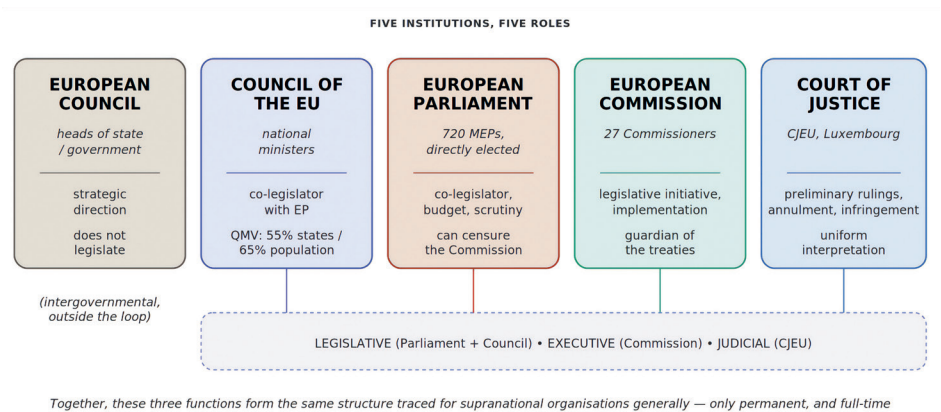
The **European Parliament** (EP), seated in Strasbourg and Brussels, is the only **directly elected** institution of the EU. Its 720 members (as of the 2024 elections) are chosen by **EU citizens** every five years. MEPs sit in transnational political groups, not national delegations. The Parliament exercises **co-legislative power** with the Council, votes on the EU budget, scrutinises the activities of the Commission (and can dismiss it by a two-thirds censure vote), and ratifies most international agreements concluded by the EU. The Parliament has grown substantially in power since the 1980s and is now a genuine co-equal in the legislative process for most areas of EU policy.

The **European Commission**, seated in Brussels, is the EU's executive body and the guardian of the treaties. It has 27 Commissioners (one per member state, including the President), but they are sworn to act in the EU's interest, not in the interest of their home country. The Commission performs three core functions. First and most distinctively, it holds the (1) **right of legislative initiative**: in most policy areas, the legislative process cannot begin until the Commission tables a proposal. Second, the Commission (2) **implements EU law** and **manages the EU budget**. Third, it (3) **monitors compliance**: if a member state fails to implement EU law correctly, the Commission can bring infringement proceedings before the CJEU.

The **Court of Justice of the European Union** (CJEU), seated in Luxembourg, comprises two courts: the Court of Justice and the General Court. Its task is to ensure that EU law is interpreted and applied uniformly across all member states. Its jurisdiction includes preliminary rulings (national courts may – and the highest courts must – refer questions of EU law interpretation to Luxembourg), annulment actions (reviewing the legality of EU acts), infringement proceedings (against member states), and actions for failure to act. Through landmark rulings such as *Van Gend en Loos* (1963, establishing direct effect) and *Costa v. ENEL* (1964, establishing supremacy), the CJEU shaped the fundamental architecture of the EU legal order.

Apart from the five main institutions of the EU as a backbone, there are other institutions and many organs and bodies of the integration to fulfil all those tasks the EU has gained over the decades.

The European Council and the Council of the EU are two different bodies. Students frequently confuse them. The European Council = heads of state/ government, sets strategic direction. The Council of the EU = national ministers, and it legislates. Neither should be confused with the Council of Europe, which is an entirely separate international organisation with 46 members focused on human rights and the European Convention on Human Rights.



50. The major institutions

3.2. Who has the power to do what?
The system of competences

One of the most important and frequently misunderstood features of the EU is that it can only act where the Member States have given it the power to do so. This is called the principle of conferral. The EU has no general legislative power: every act it adopts must rest on a specific Treaty basis.

The Treaty on the Functioning of the EU (TFEU) divides competences into three main categories.

(1) Exclusive Competences (Article 3 TFEU)

In these areas, **only the EU may legislate**. Member states may act only if expressly authorised to do so by the EU, for example, to implement an EU act. The exclusive competence areas are: the customs union; the competition rules necessary for the functioning of the internal market; monetary policy for eurozone Member States; the conservation of

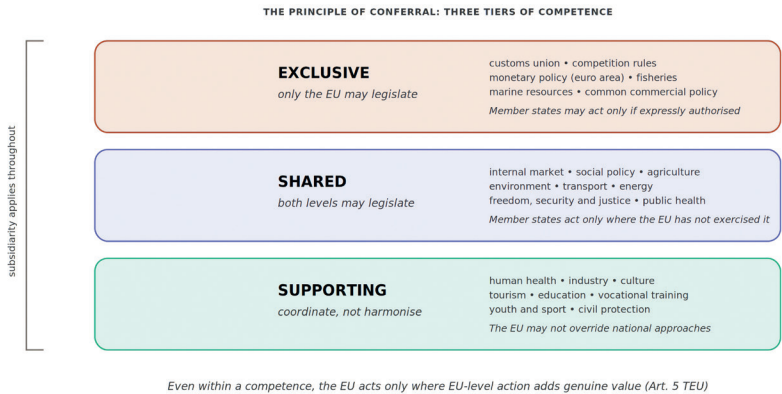
marine biological resources under the common fisheries policy; and the common commercial policy. The rationale is straightforward: these are areas where patchwork national legislation would undermine the single market or create irresolvable inconsistencies. Having a **single European set of rules** is therefore a matter of systemic necessity.

(2) Shared Competences (Article 4 TFEU)

In these areas, **both the EU and the member states may legislate**. Member states may act where the EU has not yet exercised its competence, or where the EU has decided to cease exercising it. Shared competences cover most of what the EU does on a day-to-day basis: the internal market, social policy, economic and territorial cohesion, agriculture, environment, consumer protection, transport, energy, the area of freedom, security and justice, and common public health safety concerns. This category generates much of the complexity of EU law. Because both levels may be active, lawyers and administrators must always check whether, and to what extent, EU legislation has occupied a given field.

(3) Supporting, Coordinating, and Supplementing Competences (Article 6 TFEU)

Here, the EU may act to support, coordinate, or supplement the actions of member states, but it cannot harmonise national laws. Areas include the protection and improvement of human health, industry, culture, tourism, education, vocational training, youth and sport, civil protection, and administrative cooperation. The idea is that in these **sensitive areas** – which touch on cultural identity, national tradition, and constitutional arrangements – it is appropriate for the EU to play a facilitating and coordinating role **without overriding national approaches**.



51. The principle of conferral: three tiers of EU competence, from exclusive to merely supporting

Even where the EU has competence, it does not mean it must always act. The principle of subsidiarity **and proportionality** (Article 5 TEU) requires that the EU act only if the objectives of the proposed action **cannot be sufficiently achieved by the Member States acting alone**, and can be better achieved at the EU level by reason of the scale or effects of the proposed action. **National parliaments** have a specific **monitoring** role: they may raise an issue if they believe a Commission proposal breaches subsidiarity, which obliges the Commission to review its proposal.

3.3. How EU law reaches the ground: administration and networks

Making a law in Brussels is only the beginning. EU law must then be administered, applied, and enforced across 27 national systems with different languages, legal traditions, and administrative cultures. The EU has developed a multilevel administrative system to handle this challenge – one that puts into practice, on a continental scale, the legislative–executive–judicial structure traced in the previous chapter for supranational regimes generally.

EU law is administered at two levels. At the **direct level**, EU institutions – primarily the European Commission and EU agencies – apply EU law themselves. This is the exception, not the rule. The Commission has direct enforcement powers mainly in competition law (where it can investigate companies, impose fines, and order remedies without involving national authorities).

At the **indirect level** – which covers the vast majority of EU law implementation – national administrations are responsible for applying EU rules. They receive EU funding, manage EU programmes (such as agricultural subsidies and structural funds), enforce EU environmental standards, and process applications under EU procedures (such as asylum and visa applications). They are bound to do so **correctly** and **in good faith**, but the EU institutions do not – in general – have hierarchical authority over them: the Commission cannot simply order a national ministry to change a decision. What the Commission can do, when a member state persistently fails to implement EU law correctly, is bring infringement proceedings. If the CJEU finds against the member state and the violation continues, it can impose financial penalties. This is the ultimate enforcement tool, but it is slow and reserved for serious or persistent failures.

Because the EU lacks a comprehensive set of its own administrative authorities, it has developed networks within the European Administrative Space.

European Administrative Networks (EANs): structured cooperation arrangements between national administrative bodies that need to work together to implement or enforce EU policies across borders. These networks are the connective tissue of the EU administration.

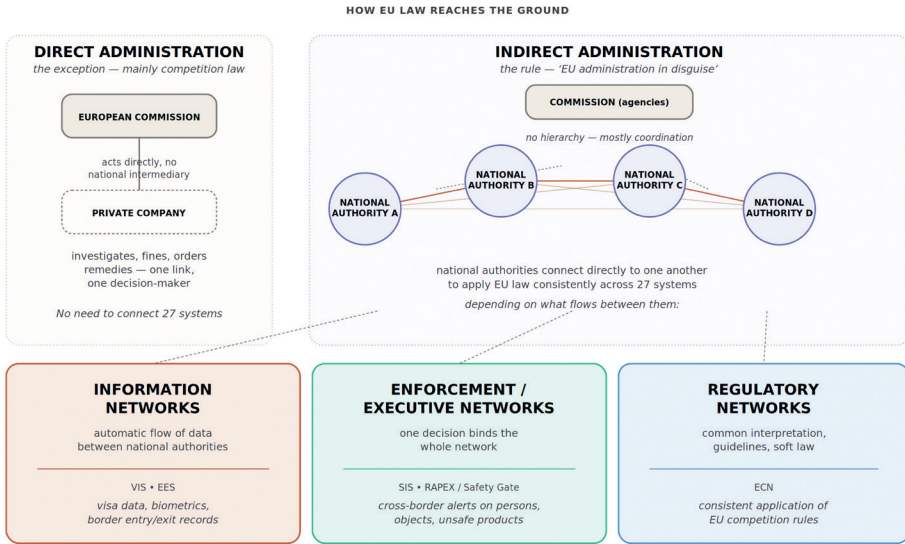
The **European Administrative Space** refers to the gradual convergence of the administrative systems, principles and practices of the Member States under the influence of EU law – a shared set of standards (legality, proportionality, the right to be heard, the duty to give reasons) that national administrations are expected to meet when they apply EU law.

European administrative networks are the concrete structures through which national authorities and the Commission cooperate to apply that law in practice. Because most EU law is implemented not by Brussels but by national administrations acting as ‘EU administration in disguise’, these networks are the real connective tissue of the Union’s administration.

There are broadly three types that are rather the literature categorisation based on major features rather than strict, normative and distinct types.

- **Information networks** ensure a systematic, automatic flow of data between national authorities. An example is the Visa Information System (VIS), which allows Schengen states to exchange visa data, including biometric fingerprints, across a shared central IT system. Another is the Entry/Exit System (EES), designed to record entry and exit data for non-EU nationals at external Schengen borders.
- **Enforcement/executive networks** coordinate national authorities in producing a single operative decision or enforcement outcome. The Schengen Information System (SIS) is the best-known example: it allows police, border guards, and judicial authorities to issue and consult cross-border alerts on persons and objects. A closely related system, RAPEX (now the Safety Gate), allows national consumer-protection authorities to share alerts on dangerous products. When one national authority declares a product unsafe under the General Product Safety Directive, all other authorities in the network must act accordingly: the single national decision operates as an effective obligation for the entire market.
- **Regulatory networks** bring together national regulators to develop common interpretations, guidelines, and best practices. These networks do not have legislative power, so their outputs take the form of soft law. The European Competition Network (ECN), linking the

Commission and national competition authorities, is a prominent example: it enables consistent application of EU competition rules across all member states and allows authorities to pool expertise and coordinate case handling.



52. Direct and indirect administration, and the three types of networks that connect them

4. The EU as a global actor

Everything traced so far – the layered institutions, the system of competences, the multilevel administration – explains how the EU governs internally. It is also the foundation of how the EU acts externally. The EU is not only a system of internal governance: it is one of the most significant actors in international relations, representing a market of nearly 450 million people and a combined GDP larger than any individual country except the United States. How the EU projects its values and interests outward is one of the most interesting and contested dimensions of the integration project.

The EU's **external capacity** is the subject of **EU external relations law**, a substantial field in its own right. Its central puzzle is that the EU can act on the international plane only where the Treaties **confer competence**. Thus, the EU's capacity to act internationally is, like its domestic legislative power, limited to what the Treaties allow. However, the Treaties do not enumerate every possible international action. The **doctrine of implied powers** – first articulated in

the ERTA/AETR case (1971) – fills the gap: where the EU has the power to legislate internally in a given area, it also has the power to negotiate and conclude international agreements in that area, even if the Treaties do not say so explicitly.

The result is a layered global actor whose **international voice** is strong where its internal competence is exclusive (notably trade) and weaker where competence remains shared or national (notably foreign and security policy).

The Lisbon Treaty codified this by giving the **EU legal personality** as such (previously, the three Communities each had personality separately). This means the EU can **conclude international agreements, participate in international organisations, and take on international obligations in its own name** across all its areas of competence. This capacity was formerly fragmented; Lisbon consolidated it.

Article 21 TEU sets out the **guiding principles** of EU external action: democracy, the rule of law, the universality of human rights, respect for human dignity, equality, solidarity, and respect for the United Nations Charter and international law. The EU's goals include **preserving peace, preventing conflicts, fostering sustainable development, encouraging the integration** of all countries into the world economy, and promoting an international system based on multilateral cooperation and good global governance.

4.1. Common foreign and security policy

Foreign and security policy occupies a special place in the EU's architecture. It remains **largely intergovernmental**: decisions in this area are typically taken by **unanimity in the Council** (meaning a single member state can block a decision), and the European Parliament's role is limited to consultation and information. The Commission and the CJEU also have a reduced role.

The reasons for this intergovernmentalism are rooted in history and in the **sensitivity** of the subject matter. Defence and foreign policy go to the heart of national sovereignty: a government cannot easily explain to its voters why it was outvoted on a question of sending troops or recognising a foreign government. Member states have therefore been reluctant to transfer these powers to supranational institutions in the same way as, say, tariff policy.

The result is that the EU's external action in security and defence – under the Common Security and Defence Policy (CSDP) – is built on voluntary contributions of member states. EU military and civilian missions require political consensus. The EU has mounted dozens of such missions (in the

Western Balkans, the Horn of Africa, Mali, Ukraine) but always through intergovernmental agreement, not supranational command.

 *Member states retain their own foreign ministries, embassies, and foreign policies. A German foreign minister may advocate for German interests in a way that does not perfectly align with the common EU position. At the same time, EU Treaty obligations require Member States to support EU external and security policy actively and unreservedly; to coordinate their actions in international organisations and at conferences; and to refrain from measures that would jeopardise the attainment of EU objectives. In the UN Security Council, the two EU permanent members (France and the UK, before Brexit) and the rotating non-permanent EU members are expected to present the EU position where one has been defined, and to request that the HR/VP be given the floor to express it.*

As a global actor, the EU **acts collectively** on issues where pooling 27 member states' weight gives it more leverage than any one country could have alone. A few of the main dimensions:

(a) Trade and economic power

The EU negotiates trade agreements as a single bloc, making it one of the largest trading powers in the world, and uses this to set regulatory standards that often become de facto global benchmarks (the “Brussels effect” – GDPR is a well-known example).

(b) Foreign policy and diplomacy

Through the Common Foreign and Security Policy and the EEAS network, the EU engages bilaterally with almost every country and maintains representations at major multilateral bodies (UN, WTO, etc.), as shown on the map above.

(c) Development and humanitarian aid

The EU and its member states together are the world's largest provider of development assistance and one of the leading humanitarian donors.

(d) Peace, security and crisis management

Through CSDP missions and operations (currently around 20 ongoing civilian and military missions), election observation missions, and diplomatic mediation efforts (e.g. the Iran nuclear talks, Belgrade-Pristina dialogue).

(e) Norm and standard-setting

Beyond trade, the EU positions itself as a promoter of human rights, democracy, the rules-based international order, and, more recently,

digital and green standards (Digital Diplomacy, Global Gateway, EU Green Diplomacy).

(f) Multilateralism

The EU consistently champions multilateral institutions and rules-based cooperation as the most effective way to manage global challenges, partly as a counterweight to more unilateral or power-based approaches from other major actors.

(g) Strategic partnerships

It cultivates differentiated relationships with major powers, emerging economies, and developing countries, rather than a one-size-fits-all approach.

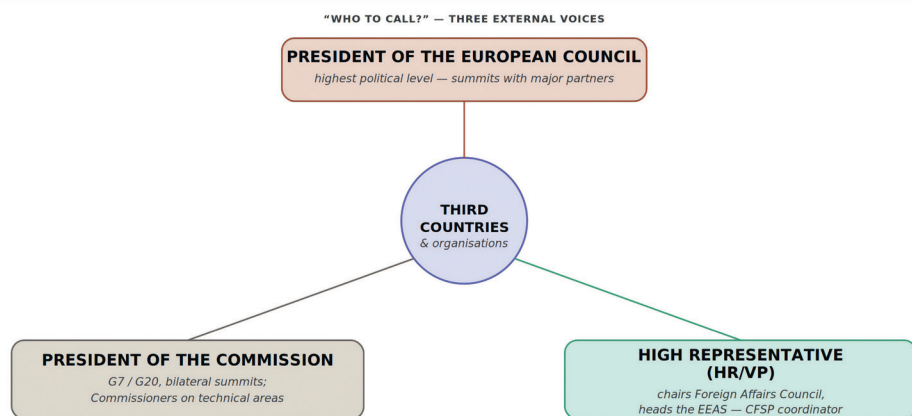
The tension that runs through all of this – and that’s probably relevant to your research – is that the EU’s *external* unity is constantly tested by the fact that foreign policy still requires unanimity among member states, so its actual influence as a “global actor” depends heavily on whether the 27 capitals agree on a given issue

4.2. The structural architecture of acting globally

One persistent criticism of the EU as a global actor has been the “**who to call?**” **problem:** when a foreign government or international organisation wants to deal with the EU, who picks up the telephone? Lisbon made significant progress in answering that question.

There are three main external voices.

- **The President of the European Council** represents the EU at the highest political level on foreign and security issues, including at summits with major third-country partners.
- **The President of the European Commission** represents the EU at the G7 and G20 summits and in bilateral summits with key partners. Relevant Commissioners may represent the EU in specific technical areas (trade, neighbourhood policy, humanitarian aid).
- **The High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission (HR/VP)** is the EU’s chief foreign policy coordinator and representative in the field of Common Foreign and Security Policy (CFSP). The HR/VP chairs the Foreign Affairs Council, heads the European External Action Service (EEAS), and conducts political dialogue on behalf of the EU with third parties.



53. *"Who to call?" – the three external voices that speak for the EU on the world stage*

The **European External Action Service (EEAS)**, an organ created by the Lisbon Treaty, provides the diplomatic infrastructure: EU Delegations in over 140 countries and at major international organisations function as the EU's embassies, building relationships, reporting on developments, and promoting EU interests. It has been around since 2011, and it carries out the EU's Common Foreign and Security Policy – basically acting as the diplomatic arm that represents the EU internationally, alongside the network of EU delegations and representations shown in the map above. It works closely with the European Commission and EU member states rather than replacing national diplomatic services – it coordinates and represents the EU as a bloc on matters where it has competence.

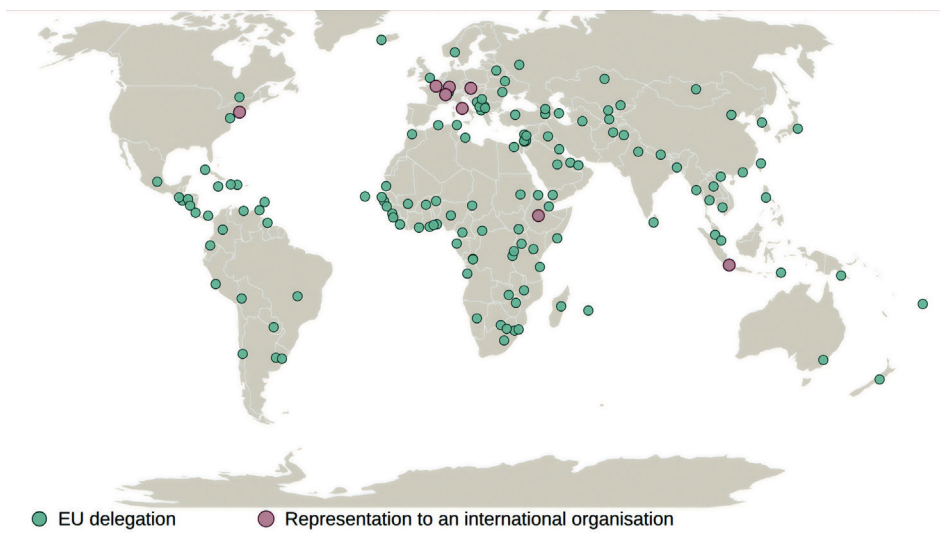
A few of its core functions:

- **Diplomatic representation:** running the global network of EU delegations and representations to international organisations
- **Foreign policy coordination:** supporting the High Representative for Foreign Affairs and Security Policy in shaping and implementing the EU's external action
- **Crisis response:** through its Crisis Response Centre, handling security and consular crises affecting EU citizens and interests abroad
- **Peace, security and defence:** planning and overseeing CSDP missions and operations
- **Multilateral and bilateral relations:** managing relationships with individual countries, regions, and multilateral bodies, including human rights, trade, migration, and climate diplomacy
- **Election observation:** deploying EU election observation missions worldwide

The EU has permanent representation at the following international organisations:

- **African Union (AU)** in Addis Ababa (Ethiopia)
- **Association of Southeast Asian Nations (ASEAN)** in Jakarta (Indonesia)
- **Council of Europe** in Strasbourg (France)
- **OECD** in Paris (France)
- **United Nations (UN and its organisations)** in Geneva (Switzerland), New York (USA), Rome (Italy), Paris and Vienna
- **World Trade Organisation (WTO)** in Geneva (Switzerland).

These are distinct from the EU's roughly 140 bilateral delegations to individual countries, which represent the EU to a national government rather than to a multilateral body. The Geneva-based delegations are notable in that two separate EU representations exist there side by side: one covering the UN and other Geneva-based international organisations generally, and one specifically dedicated to the WTO.



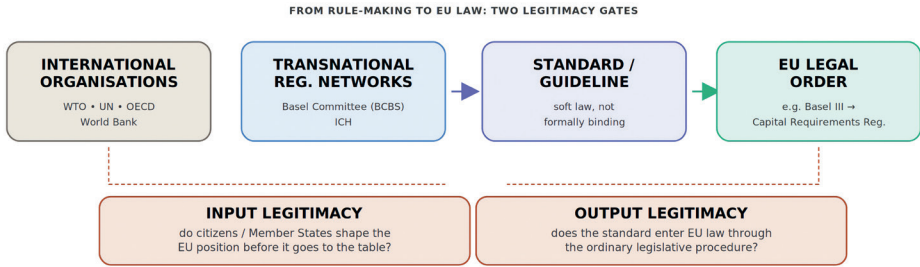
54. EU representation in the world as in 2026.

Source: https://www.eeas.europa.eu/eeas/eu-world-0_en (Claude)

4.3. The EU in international organisations and transnational regulatory networks

Beyond bilateral foreign policy, the EU participates extensively in the work of international organisations and in transnational regulatory networks. This participation raises important questions about **who represents the EU, what**

positions it can take, and how democratic accountability is maintained when rule-making occurs at a global level removed from any electorate.



Both gates are imperfectly developed — an area of active scholarly debate and institutional reform

55. From rule-making to EU law

4.4. Participation in international organisations

In areas of exclusive EU competence, in principle, the EU may negotiate and conclude international agreements and cast votes in the relevant international bodies.



In practice, however, the EU enjoys full membership in only a limited number of international organisations, most notably the OECD. In the vast majority of international organisations, voting rights continue to be exercised by the Member States, which frequently coordinate their positions and vote in accordance with a common EU position.

In areas of shared competence, the position is more complex: the EU and the member states may both be parties to the same agreement, and coordination of their positions is legally required by the duty of sincere cooperation (Article 4(3) TEU).

The EU **participates in a wide range of international forums**. It has observer status at the United Nations General Assembly and contributes over €1 billion per year to UN external assistance programmes. It is a member in its own right of the World Trade Organisation (WTO). This is one of the clearest examples of the EU acting as a unitary international actor with exclusive competence over trade policy. The European Commission takes part in the work of the OECD beyond mere observer status. The EU works closely with the World Bank Group on development finance. All 27 Member States are also members of the Council of Europe, and since the Lisbon Treaty, the EU has been required to accede to the European Convention on Human Rights, although that accession is still legally pending.

Where **member states** are members of an international body in which the EU is not formally represented, they remain individually sovereign states. Yet they are under Treaty **obligations** to coordinate their positions, to **uphold EU values**, and in areas of EU competence, to give voice to the agreed EU position rather than acting in purely national self-interest.

4.5. Transnational regulatory networks

A newer and increasingly important phenomenon in global governance is the transnational regulatory network (TRN): an informal or semi-formal arrangement that brings together national regulatory agencies or technical experts to produce common standards, guidelines, or best practices. These networks do not produce legally binding norms in the classical sense, yet the standards they establish often acquire normative force through domestic implementation and professional expectation. They have become essential infrastructure for governing global finance, pharmaceuticals, food safety, aviation, and many other technical domains. The EU is an active participant in several major TRNs. Two examples illustrate the opportunities and the challenges.

 *The Basel Committee on Banking Supervision (BCBS) brings together banking supervisors from major economies to develop prudential standards for banks. Within the BCBS, nine EU Member States participate through their national banking authorities; the European Central Bank (ECB) holds two seats (one in its central banking capacity, one in its supervisory capacity under the Single Supervisory Mechanism). The European Commission and the European Banking Authority (EBA) attend as observers. The Basel III framework, developed by the BCBS, was then implemented into EU law through the Capital Requirements Regulation and Directive. This is an example of a TRN feeding into the EU legislative process – but also a transparency concern, since BCBS discussions are not public and the ECB's accountability for its positions within the BCBS is limited.*

The International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH) brings together regulators and industry to harmonise the requirements for developing and authorising medicines. The European Commission is the only supranational member of the ICH, representing the regulatory framework applicable across all EU and EEA Member States. The European Medicines Agency (EMA) provides scientific and technical

support and links the ICH's outputs to the EU's centralised authorisation procedure. The ICH's guidelines are not formally binding, but they are widely treated as obligatory by industry and regulators alike.

4.6. Legitimacy concerns in global governance

The EU's participation in TRNs and other global governance forums raises genuine legitimacy concerns. These concerns operate at two stages of the process.

- **Input legitimacy** – do citizens and Member States have adequate opportunity to shape the position the EU (or its institutions) takes in global forums? The evidence is mixed.

 *The European Ombudsman, for example, has found that the ECB's participation in the G30 (a private forum of senior financial officials) risked creating a perception of closeness between supervisor and supervised, and recommended **greater transparency** about what is discussed. More broadly, the preparatory stages at which the EU's position is formed before international negotiations are often under-documented and poorly scrutinised.*

- **Output legitimacy** – once a standard or guideline has been produced by a TRN, how does it enter the EU legal order? If the Commission simply adopts it into an implementing act or allows it to be treated as obligatory by national regulators without going through the ordinary legislative procedure, the democratic chain is broken. The CJEU has accepted that the **EU institutions may 'take account' of international soft law produced by bodies to which the EU is not a party**, but this judicial pragmatism must be matched with proper legislative and procedural safeguards.

 *The CJEU in Case C-366/10, **Air Transport Association of America and Others (the "ATAA" case)** (judgment of 21 December 2011). The Court reviewed the validity of Directive 2008/101 (which extended the EU's Emissions Trading Scheme to aviation) against international law. In doing so, it took into account ICAO Assembly resolutions on emissions trading (Resolution A35-5 and Appendix L to Resolution A36-22), a non-binding instrument adopted by the International Civil Aviation Organisation, even though the Chicago Convention, which established ICAO, has been ratified by all EU Member States, but the European Union itself is not a party to it. This sits within a broader line of case law where the Court has taken a similar approach – also visible in **C-286/90 Poulsen and Diva Navigation** and **C-308/06 Intertanko** – accepting that instruments (including soft law)*

produced by international bodies to which the EU is not formally a party can still inform the interpretation of EU law, provided the EU's Member States are all party to the underlying convention establishing that body.

Accountability has two sides.

- **Internal accountability** requires clear lines of responsibility within the institution: who took what decision, and on what basis?
- **External accountability** requires the institution to answer to stakeholders and to provide meaningful remedies when its actions cause harm.

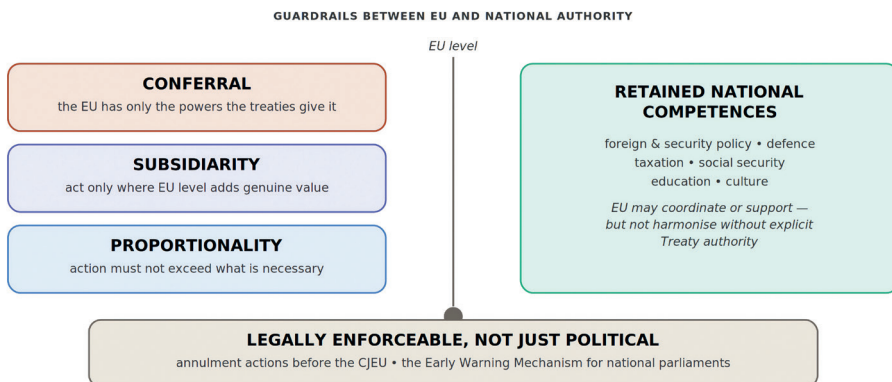
Both are imperfectly developed in the context of the EU's participation in global governance.

The **duty of sincere cooperation** – Article 4(3) TEU – is one of the foundational obligations of EU membership. It runs in both directions:

- the EU institutions must respect the rights of Member States,
- and the Member States must support the EU's tasks and refrain from any measure that would jeopardise its objectives.

In the context of international organisations, this means member states cannot simply vote as they please in a body where EU competences are at stake: they must first **coordinate their position within the EU framework**, and where an agreed EU position exists, they must uphold it. A member state that challenges the scope of EU competence at the international level before any internal coordination has taken place risks breaching this obligation.

The relationship between the EU and its member states is not a zero-sum game. It is not the case that every power transferred to Brussels is simply taken away from national capitals. The integration process has created **new capacity to act collectively** – on trade, on climate, on pharmaceuticals safety – that no single member state, however large, could replicate alone.



Nevertheless, the balance between supranational powers and national sovereignty is genuinely contested, and it is constantly renegotiated. Several principles help to define where the line falls.

- **Conferral:** the EU has only the powers the treaties give it. Everything else belongs to the member states.
- **Subsidiarity:** even within its competences, the EU should act only where action at EU level adds genuine value.
- **Proportionality:** EU action must not exceed what is necessary to achieve the treaty objective.
- **Retained national competences:** foreign and security policy, defence, taxation, social security, education, and culture remain primarily national. The EU may coordinate, support, or supplement, but it may not harmonise in these areas without explicit Treaty authority.

What makes the EU distinctive is that these principles are not merely political declarations. They are **legally enforceable**. A member state that believes the EU has exceeded its powers, or that the principle of subsidiarity has been violated, may bring an annulment action before the CJEU. National parliaments, through the Early Warning Mechanism, can collectively trigger a review of Commission proposals. The EU's internal legal order contains genuine mechanisms for policing the boundary between EU and national authority.

At the same time, membership of the EU creates a dense web of obligations that constrain national sovereignty in practice, even in areas formally reserved to member states. A member state setting its immigration policy must comply with EU asylum law; a member state concluding a bilateral investment treaty must ensure it does not conflict with the EU's common commercial policy. The integration of legal orders is deep and pervasive – and, as the next section shows, this depth is precisely what allows the **EU to act as a single voice** abroad even while internal authority remains carefully divided.

Looking ahead

This chapter has shown that the EU's strength as a global actor rests on the same architecture that governs it internally: a layered system of competences, a multilevel administration in which national authorities do most of the day-to-day work, and a dense network of obligations – conferral, subsidiarity, sincere cooperation – that keep that architecture coherent. The European Administrative Networks discussed in this chapter – information networks

such as VIS and the EES, enforcement networks such as SIS, regulatory networks such as the ECN – were described mainly in terms of cooperation and coordination: who talks to whom, and on what legal basis.

What has been left to one side until now is the substance that actually flows through these networks: data. A visa application, a Schengen alert, a passenger record, a biometric fingerprint – each is a piece of data generated by one national administration, transmitted through a shared infrastructure, and relied upon by another. **Chapter VI** turns to this layer directly. It examines how the EU's drive toward digital, data-driven administration – visible already in systems such as the VIS, the SIS, and the newer ETIAS – transforms the cooperative networks traced in this chapter into something closer to a single, shared administrative space, in which a decision or a flag entered by one national authority can determine the outcome of a procedure conducted by another, often without the individual concerned ever seeing where, or by whom, the underlying data was first generated. The chapter asks what this means for legal protection, for the duty to state reasons, and for the EU's own legitimacy concerns – now sharpened by the fact that it is not only standards and decisions that cross borders, but the data on which they are based.

TEST QUESTIONS – CHAPTER V

- 1. Which three statesmen does the textbook credit with the founding idea of pooling coal and steel industries to make future war economically impossible?**
 - a) Robert Schuman, Jean Monnet, and Konrad Adenauer
 - b) Winston Churchill, Charles de Gaulle, and Harry Truman
 - c) Helmut Kohl, François Mitterrand, and Margaret Thatcher
 - d) Jacques Delors, Altiero Spinelli, and Paul-Henri Spaak
- 2. Which treaty created the European Union as such, introduced EU citizenship, and set the path to monetary union?**
 - a) The Single European Act
 - b) A later, more technical amending treaty
 - c) The treaty signed in the Dutch city of Maastricht
 - d) A treaty signed in Nice
- 3. Which two features of EU law were created by the Court of Justice itself rather than written into the original treaties?**
 - a) Subsidiarity and proportionality
 - b) The principles allowing individuals to invoke EU rules directly before national courts, and requiring EU law to prevail over conflicting national law
 - c) Conferral and implied powers
 - d) Qualified majority voting and unanimity
- 4. How many Commissioners sit on the European Commission, and on what basis are they sworn to act?**
 - a) One per member state, sworn to act in their home country's interest
 - b) One per member state, sworn to act in the EU's interest rather than their home country's
 - c) A fixed number unrelated to the number of member states, directly elected by EU citizens
 - d) A number equal to the Council of Europe's membership
- 5. What is the key functional difference between the European Council and the Council of the EU?**
 - a) The European Council legislates jointly with Parliament, while the Council of the EU sets the strategic direction only

- b) The European Council brings together heads of state/government and sets strategic direction without legislating, while the Council of the EU comprises national ministers and exercises legislative power jointly with Parliament
 - c) They are simply two different names for the same institution
 - d) The European Council is judicial, while the Council of the EU is purely advisory
6. **Which body is the Council of the EU sometimes mistakenly confused with, even though it is “an entirely separate international organisation” with a much larger, non-EU-specific membership focused on human rights?**
- a) The European Parliament
 - b) The Council of Europe
 - c) The European Commission
 - d) The Court of Justice of the European Union
7. **What gap did a doctrine first articulated in a 1971 case fill, regarding the EU’s ability to act on the international stage?**
- a) It abolished the need for any internal EU competence before acting externally
 - b) It allowed the EU to negotiate and conclude international agreements in areas where it has internal legislative competence, even where the Treaties do not say so explicitly
 - c) It transferred all foreign-policy power to individual member states permanently
 - d) It created the European Parliament’s power to initiate legislation
8. **According to the EU’s competence structure, what is the underlying rationale for treating certain policy areas (such as the customs union) as matters for the EU alone, rather than shared with member states?**
- a) Because patchwork national legislation in these areas would undermine the single market or create irresolvable inconsistencies
 - b) Because the founding treaties left these areas entirely undefined
 - c) Because these are the areas that member states most wanted to keep entirely for themselves
 - d) Because the European Parliament unilaterally decided to claim them

- 9. In which category of competence may the EU only support, coordinate, or supplement member state action, for example, in culture, tourism, or education, without harmonising national laws?**
- a) Exclusive competences
 - b) Shared competences
 - c) Supporting, coordinating, and supplementing competences
 - d) A category the textbook describes as not existing
- 10. What is the “Brussels effect,” illustrated by the example of EU data-protection rules?**
- a) The tendency of EU regulatory standards to become de facto global benchmarks through the EU’s trade and market power
 - b) The requirement that all EU institutions be physically located in Brussels
 - c) A nickname for the European Council’s veto power
 - d) The effect of inflation on the EU budget
- 11. Who are the “three external voices” identified by the textbook as speaking for the EU on the world stage?**
- a) The President of the European Council, the President of the European Commission, and the High Representative for Foreign Affairs and Security Policy
 - b) The President of the European Parliament, the President of the Court of Justice, and the Secretary-General of NATO
 - c) The heads of government of the EU’s three largest member states
 - d) Representatives of the Council of Europe, the OECD, and the WTO
- 12. What is the European External Action Service (EEAS), discussed in the chapter’s account of post-Lisbon institutional architecture?**
- a) A military alliance that replaces NATO for EU member states
 - b) The diplomatic infrastructure of the EU, running EU Delegations in many countries and supporting the High Representative
 - c) A judicial body that reviews foreign-policy decisions
 - d) A purely advisory NGO with no formal EU mandate
- 13. Within a major international banking-standards committee discussed in the chapter, how many seats does the European Central Bank hold, and in what capacities?**
- a) One seat, in its capacity as a Eurozone government adviser
 - b) Two seats: one in its central banking capacity, one in its supervisory capacity

- c) No seats; the ECB only attends as an observer
- d) Three seats, one for each of its main decision-making bodies

14. What did an EU oversight body find regarding the European Central Bank's participation in a private forum of senior financial officials?

- a) That the ECB's participation was entirely without legitimacy concerns
- b) That it risked creating a perception of closeness between supervisor and supervised, recommending greater transparency
- c) That the ECB should withdraw entirely from all international forums
- d) That the forum in question should be dissolved by EU regulation

15. According to the EU courts, taking international soft-law instruments into account, what broader judicial approach do these cases illustrate?

- a) That EU courts may never consider any instrument produced by a body to which the EU itself is not formally a party
- b) That EU courts have accepted that instruments, including soft law, produced by international bodies to which the EU is not formally a party can still inform the interpretation of EU law, provided the EU's member states are all parties to the underlying convention
- c) That EU courts automatically defer to any international body's resolutions without independent review
- d) That EU courts only ever apply purely domestic legal sources

**VI. BORDERLESS
ADMINISTRATION:
THE CROSS-BORDER
USE OF DATA**

Contents

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 - 4.4. Structural problems of data-driven individual decision-making
5. Data-driven composite procedures

the previous chapters traced how public administration ceased to be a purely national affair: States cooperate through *internationalisation*, authority and normsemergeaboveandacrossStatesthrough*globalisation*and*supranationalism*, and the European Union has built the most developed supranational order of all. This final chapter brings that whole story down to ground level: the point at which internationalised and globalised administration becomes concrete in the everyday life of a single citizen: the cross-border use of **data** in administrative decision-making.

The reason data deserves a chapter of its own is simple. In a digitalised and integrated environment, **administrative authorities** increasingly do not establish the facts of a case through their own investigation. Instead, they **read** those **facts out of databases** that were filled in by *other* authorities, in *other* procedures, often in other States or even outside the EU altogether. When a border guard refuses entry, when an authority withdraws a residence permit, or when a travel authorisation is denied, the decisive fact is frequently a record retrieved from a **shared information system**.

The **decision is taken in one jurisdiction**, but the **data on which it rests was created in another**. This is the precise moment at which the internationalisation and globalisation of administration touch the individual most directly – and, as this chapter shows, it is also the moment at which legal protection is most at risk of breaking apart.

1. About data

Before turning to any particular legal regime, it is worth pausing on the word **data** itself, since the rest of the chapter uses it as a technical term rather than a loose synonym for ‘information’.

Data is any piece of information that has been recorded – stored in a register, a database, or a file – in a form that can be retrieved, transmitted, and reused independently of the person or event it originally described.

What matters for administrative law is not the content of a given fact, but the fact that it has been **detached from its original context and made portable**.

 *A birth date written once in a national civil register and a fingerprint captured once at a border crossing are, in this sense, the same kind of object: each becomes data the moment it is recorded in a system from which some other authority, at some later point, can call it back up.*

This portability is precisely what makes data legally interesting. Two further distinctions follow directly from it.

- First, data is either **personal** – relating to an identified or identifiable individual – or it is **not**, and this single distinction determines which legal regime applies to its movement.
- Second, data only becomes administratively significant once it **travels**, that is, once it is read by an authority other than the one that first recorded it. A fact sitting unused in a national register raises no cross-border question at all; the same fact, queried by an authority in another State or fed into a shared EU system, immediately raises the questions: who is responsible for its accuracy, and who can be asked to correct it.

The EU is the legal order in which the free movement of data has been most fully worked out, not least because it has built a shared interoperability architecture across its information systems. Most importantly for the chapter’s argument, the EU regime is also the stage at which the problems addressed below are at their mildest, because EU law at least guarantees a shared baseline of fundamental-rights protection across Member States.

2. The free flow of data as a ‘fifth freedom’

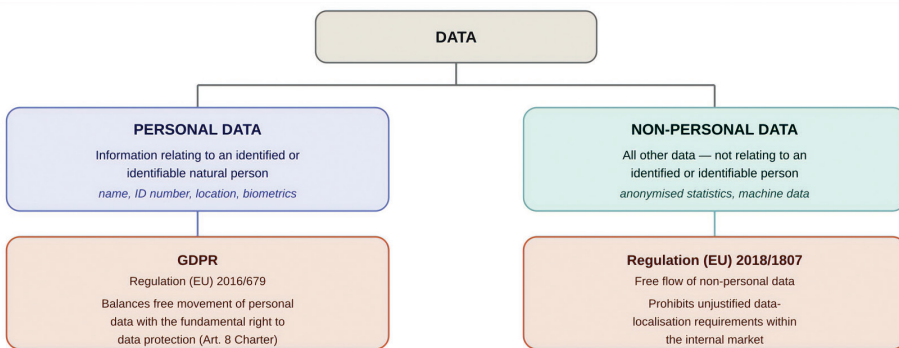
To understand data-driven administration, we must start with the legal status of **data** itself, and with what it means for data to be transferred across a border.

A **data transfer** is simply the movement of data from one holder, system, or jurisdiction to another: for example, when an authority in one State queries a database maintained by another State, or when a national register feeds information into a shared EU system. Once data can be transferred this easily, the question of *which* data may move, and *under what conditions*, becomes a central question of administrative law.

In EU law, the free movement of data has come to be described as a ‘**fifth freedom**’, placed alongside the four classical freedoms of the internal market: the free movement of goods, persons, services and capital. The phrase expresses a policy ambition announced by the European Commission in **2017**: that **data** should be able to **circulate within the EU as freely as the traditional factors of production**.

Personal data: any information relating to an identified or identifiable natural person – for example a name, an identification number, location data, or biometric data. **Non-personal data:** all other data, for example anonymised statistics or machine-generated industrial data.

The distinction matters because two different legal regimes apply. The free flow of *non-personal* data is secured by Regulation (EU) 2018/1807, which prohibits unjustified data-localisation requirements. The free flow of *personal* data is governed by the General Data Protection Regulation (Regulation (EU) 2016/679, the **GDPR**), which pursues a careful balance: it guarantees the free movement of personal data within the EU while simultaneously protecting the fundamental right to the protection of personal data, enshrined in Article 8 of the Charter of Fundamental Rights.



Two regimes, one policy goal: data should move as freely as goods, persons, services and capital — the ‘fifth freedom’

57. Two categories of data and the two regimes securing their free movement within the EU

Data is not only used to decide a single case. Once an authority holds large volumes of data, it can use that data in several distinct ways, and it helps to be able to name each of them.

Data from many individuals is analysed together, not to decide any one person’s case, but to identify patterns – for example, which routes, document types, or transaction patterns are statistically associated with irregular migration or fraud. The output is a policy tool, such as a list of indicators border guards are told to watch for, rather than a decision about a named person. So, aggregated, often anonymised data is used to **plan administrative capacity**, evaluate how a scheme is performing, or inform future legislation. This use is the farthest removed from the individual, but the underlying data is the same.

The same database can feed a single-case decision today, a risk-analysis model tomorrow, and a profiling score the day after. This is precisely why the structural problems identified below – broken reasoning, hollowed-out remedies – are so persistent: a problem in the quality or fairness of the underlying data does not stay contained to the **use for which it was first collected, but travels** with the data into every later use.

3. The common infrastructure of the area of freedom, security and justice

In the field of the **Area of Freedom, Security and Justice (AFSJ)**, the EU policy area covering borders, asylum, migration, and police and judicial cooperation, the legal foundations of data-driven administration were laid above all by the two **interoperability regulations**, (EU) 2019/817 and (EU) 2019/818. These

introduced four technical components that tie the EU's previously separate information systems into a single, searchable whole:

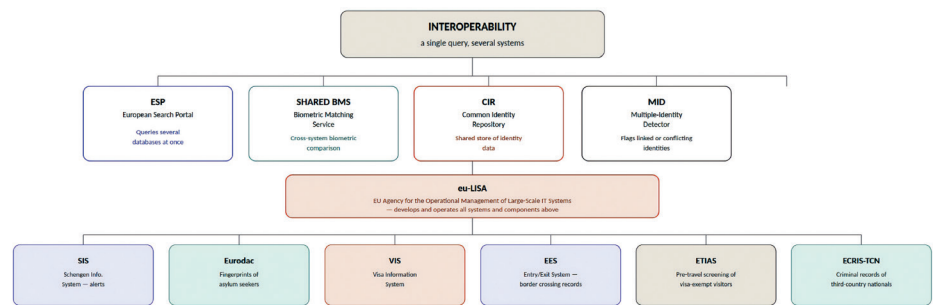
- **European Search Portal (ESP):** allows authorities to query several databases at once;
- **shared Biometric Matching Service (shared BMS):** compares biometric data across systems;
- **Common Identity Repository (CIR):** a shared store of identity data; and
- **Multiple-Identity Detector (MID):** flags linked or conflicting identities.

Adopted on the same day in May 2019, the two interoperability Regulations are functionally a single legal framework split in two only because of the EU's variable Treaty bases:

- Regulation 2019/817 covers *borders and visas*, while
- Regulation 2019/818 covers *police and judicial cooperation, asylum, and migration*.

Crucially, none of this infrastructure runs itself. Day-to-day technical management of the ESP, the shared BMS, the CIR, and the MID, together with the underlying systems they connect, falls to **eu-LISA**, the **European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice**, headquartered in Tallinn with a technical site in Strasbourg and a backup site in Sankt Johann im Pongau, Austria. Originally established in 2011 to run SIS II, VIS, and Eurodac, eu-LISA's mandate was substantially expanded by the interoperability Regulations themselves, which made the Agency **directly responsible for designing, developing, and operating** the four new components.

This matters for the legal analysis in two ways: first, eu-LISA is now a **central actor** in composite administrative procedures, since it operates the infrastructure through which Member State authorities exchange data without itself taking the individual decisions that affect applicants; and second, this **creates an accountability gap**, because eu-LISA's technical responsibility for the matching and flagging logic does not translate into legal responsibility for the administrative decision a national authority takes based on a CIR hit or an MID-generated link.



58. The four interoperability components and the EU information systems they connect and eu-LISA as the agency operating them

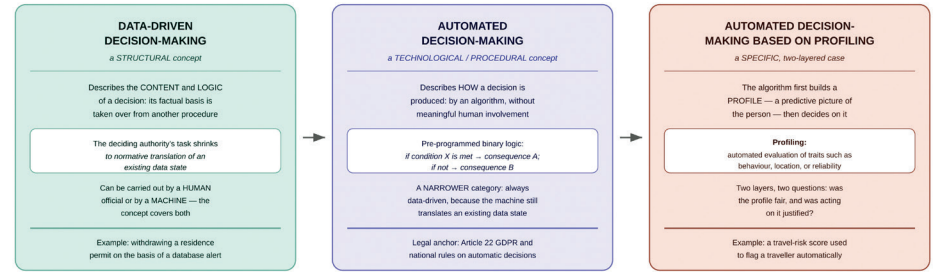
The systems they connect are: the *Schengen Information System* (SIS), which contains ‘alerts’ on persons and objects; *Eurodac*, which stores the fingerprints of asylum seekers; the *Visa Information System* (VIS); the *Entry/Exit System* (EES), which records border crossings of third-country nationals; the *European Travel Information and Authorisation System* (ETIAS), which will screen visa-exempt travellers before arrival; and *ECRIS-TCN*, which will identify which Member States hold criminal-record information on non-EU nationals.

4. Authority decisions based on data

4.1. Data-driven administrative decision-making

Before going further, we must define **data-driven administrative decision-making** precisely, and distinguish it from a narrower concept with which it is easily confused: **automated decision-making**. The two concepts answer different questions about a decision, and keeping them apart is essential to everything that follows.

Data-driven decision-making is a *structural* concept: it describes the **content and logic** of the decision, not the technology used to produce it.



59. From the broadest to the most specific concept

Data-driven decision: A decision is data-driven when its factual basis is taken over from data created in *other* procedures and stored in a register, so that the deciding authority's task is reduced to the normative translation of an existing data state – **regardless of whether a machine or a human being performs that translation.** It covers both human officials reading a database and algorithms processing the same data automatically.

4.2. Automated decision – making

Automated decision-making is a *technological and procedural* concept, and a narrower one: it describes **how** a decision is produced, namely by an algorithm, without meaningful human involvement, based on pre-programmed binary logic (if condition X is met, consequence A follows; if not, consequence B). The two concepts overlap but are not identical: **every automated decision is also data-driven, but not every data-driven decision is automated.**

 *The withdrawal of a residence permit based on an alert in a database, or a border measure based on an international wanted-person notice, is typically not an automated decision a human official takes it yet it carries all the structural features of the data-driven model, because the official has no real choice but to translate the alert into a legal consequence.*

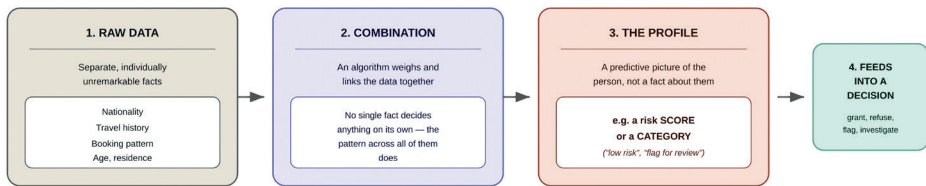
4.3. Automated decision – making based on profile

A further, more specific case arises when an automated decision is built on a **profile**: the algorithm does not simply read an existing record, but first constructs a predictive picture of the person from many small pieces of data, and only then decides based on that picture.

Profiling is the automated processing of personal data to evaluate or predict aspects of a person, for instance, their likely behaviour, location, reliability, or risk level.

Profiling does not by itself decide anything; it produces a score or a category that *feeds into* a later decision.

 *A travel-risk score built from someone's nationality, travel history and other indicators is a profile; refusing them boarding because of that score is the automated decision built on top of it.*



60. How profiling works

This matters because profiling adds a **second layer** that needs its own scrutiny. The profile is not the same as the data it is built from. Even where every underlying fact is accurate, the profile built from those facts can still be unfair, inaccurate, or discriminatory, and because the profile itself is rarely visible to the person concerned, they can usually only challenge the final decision, not the reasoning that produced the profile feeding into it.

4.4. Structural problems of data-driven individual decision-making

The data-driven model generates three structural problems that run through the rest of this chapter.

- **Separation of the reason from the forum:** the legal effect is produced in one procedure, while the true cause of the decision is rooted in another procedure, under another jurisdiction.
- **Hollowing-out of the duty to give reasons:** if the decision is essentially the normative translation of a data state, the statement of reasons easily shrinks to a formula such as ‘according to the register’, which formally satisfies the duty to give reasons, but does not make the real reason knowable or contestable.
- **Fragmentation of legal remedy:** the right to an effective remedy becomes formal where the forum that hears the remedy has no power over the jurisdiction that produced the data.

5. Data-driven composite procedures

The structural feature underlying these three problems is the **composite administrative procedure** (sometimes called a ‘multi-jurisdictional’ procedure).

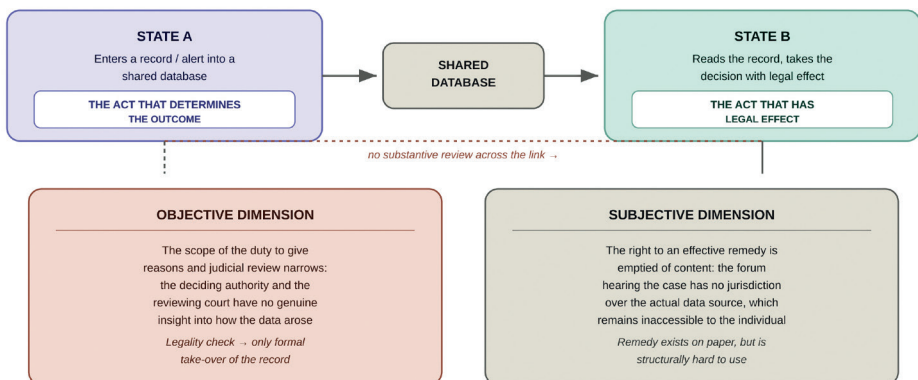
A **composite procedure** is one in which the final decision is produced through the combined inputs of authorities from more than one legal order, for example, where an authority in State B is bound to act based on a record entered by an authority in State A.

The concept was developed in EU administrative-law scholarship, notably by Herwig Hofmann. In a composite procedure, the act that has *legal effect* (the refusal, the withdrawal) is separated from the act that actually *determines the outcome* (the entry of the data).

In such procedures, legal protection breaks along two dimensions, and it is worth defining each carefully.

- **Objective dimension:** the scope of the duty to give reasons and of judicial review narrows: the deciding authority and the court reviewing it have **no genuine insight** into how the data came into being, so the legality check is reduced to verifying **the formal taking-over of a record** produced under another jurisdiction.
- **Subjective dimension:** the individual's right to an effective remedy and to contest the data is emptied of content: **the forum where the remedy is sought** (the court of the deciding State) **has no jurisdiction over the actual source of the data**, while the jurisdiction that generated the data is neither directly accessible to the individual nor obliged to review it.

This **double break** – the simultaneous weakening of objective control and subjective remedy – is the central problem of cross-border, data-driven administration, and it will reappear, in progressively sharper form, as we move from purely national data, through data shared within the EU, to data originating entirely outside it.



61. The composite data-driven procedure

With these concepts in hand, we can now follow the data itself, step by step, as it travels farther and farther from the authority that ultimately relies on it. At each stage, the deciding authority's margin of appreciation shrinks a little more, while the duty to give reasons and the right to a remedy remain anchored at the national level – producing a growing gap between where the data lives and where the individual can actually challenge it.

- **Stage 1 – National data:** the authority establishes the facts of the case through its own investigation, entirely within one jurisdiction. Reason, forum and remedy are all in the same hands.
- **Stage 2 – Data from another EU Member State:** the authority relies on a record entered by a different Member State and retrieved through interoperability (Section 6 below). The matter is still governed by EU law, but the deciding authority has no power to review the source act.
- **Stage 3 – Data from outside the EU:** the authority relies on data originating from a third State or an international organisation, such as INTERPOL (Section 7 below). EU fundamental-rights control does not genuinely reach the source at all.



62. Legal protection over the data source

 The next two sections examine Stages 2 and 3 in turn: first, the clearest illustration inside the EU, the SIS alert; and then the most difficult case, data reaching EU procedures from outside the EU altogether.

The clearest illustration of Stage 2 is the SIS alert. The SIS Regulation requires national authorities to take prescribed measures on the basis of the alerts they find in the system. This means that the deciding authority's margin of appreciation shrinks to the normative translation of the data: the true cause of the decision is the act of the authority of the Member State that entered the alert, against which the deciding authority has no power of substantive review. Hungarian judicial practice on the withdrawal of a residence permit based on a SIS alert shows the consequences in concrete terms. A court reviewing such a decision tends to examine the lawfulness

of the administrative act based on the facts existing at the moment it was taken, so that the mere existence of the alert is sufficient to establish the lawfulness of the decision, even if the data is later deleted. This is formally consistent with the principle that legality is judged at the time of the act, but it means that the individual's only real route of challenge is to contest the data itself, which must be done before the authorities of the State that entered the alert, with no built-in coordination between the two procedures.

*A further complication arises even when the underlying legal concepts are not themselves harmonised. In the **Deldits** case (C247/23), the Court of Justice held that the principle of data accuracy is functional in nature: the correctness of data must be assessed by reference to the purpose of the processing. In the *Mirin* case, the Court reinforced the obligation to recognise civil-status changes established in another Member State. Yet the deeper question – what happens when shared databases contain data reflecting divergent national legal concepts (for example, differing national definitions of a civil-status category) – remains open. Data that is formally 'accurate' in the field of the register may nonetheless be misleading when read in another legal order, with direct consequences for the individual.*

*Stage 3, when the data originating outside the EU's legal control multiplies the difficulties. The leading example is **INTERPOL** (the International Criminal Police Organisation), whose databases, above all the system of Red Notices, but also the Stolen and Lost Travel Documents database (SLTD) and the Travel Documents Associated with Notices database (TDawn) – are queried directly in national and EU procedures. The red notice is a request to law-enforcement authorities worldwide to locate and provisionally arrest a person pending extradition. It is not an international arrest warrant, but it produces very real effects on a person's freedom of movement. Under INTERPOL's own Rules on the Processing of Data, responsibility for the content of the data lies with the uploading State, but there is no guaranteed follow-up to ensure that national systems are updated when the data changes. The Court of Justice, in the *WS* case, accepted that a Red Notice may justify restrictions on free movement, but only under defined conditions – confirming that the data generates EU legal effects even though EU fundamental-rights control does not genuinely reach the data itself.*

Crucially, the ETLAS Regulation expressly will provide that the automated pre-travel screening described in Section 2 also queries

INTERPOL's databases. This will build third-country data directly into the logic of automated EU decision-making: a travel authorisation may be refused based on data created in a procedure over which neither the traveller nor the EU exercises effective fundamental-rights control. The misuse of Red Notices for political purposes, documented by the European Parliament and others, shows that this is not a hypothetical concern.

The natural reaction to the problems described above is to ask: why not simply write common EU rules that fix the gap?

First, the **procedure is still mostly a national matter**. Even where EU law creates a right – say, the right to have a database entry corrected – it is normally each Member State that decides *how* that right is exercised in practice: which authority you write to, what form the request takes, how long the authority has to answer. The EU only insists on two minimum guarantees: the new national rule must treat an EU-law claim no worse than a similar domestic claim, and it must not make the EU right practically impossible or excessively difficult to use. Everything else is left to the Member State.

Second, **the EU itself has no general power to write a single rulebook for all administrative procedures**. It can harmonise specific sectors – data protection is one, which is why the GDPR and the AFSJ Regulations exist – but a single, horizontal code covering every type of administrative decision does not exist, and proposals to create one have not moved forward.

Given these two limits, the realistic path forward is not a single grand reform, but **step-by-step fixes built into the Regulations that already exist** – adding a notification duty here, a right to information there, each time a sectoral Regulation such as the SIS Regulation or the ETIAS Regulation is updated. This chapter brings the argument of the whole course to its sharpest point. Public administration, once the paradigm of an internal, national activity, now routinely takes decisions whose factual basis is created beyond the deciding state, in another member state, or beyond the EU altogether. The shared data infrastructure delivers great gains in security and efficiency, but it produces a structural gap: data circulates at the supranational and transnational level, while the mechanisms of legal protection (the duty to give reasons, the right to a remedy, the possibility of contesting the data) remain anchored at the national level and according to national procedural law.

With this, the book's central thesis is complete: the public administration of the twenty-first century is internationalised and globalised, and the rule of law must be internationalised and globalised with it.

TEST QUESTIONS – CHAPTER VI

1. **What is the precise technical definition of “data” as used throughout the chapter?**
 - a) Any opinion expressed by a public official
 - b) Any piece of information that has been recorded in a form that can be retrieved, transmitted, and reused independently of the person or event it originally described
 - c) Only biometric information such as fingerprints
 - d) Exclusively information held in paper-based registers
2. **What does it mean to describe the free flow of data in EU law as a “fifth freedom”?**
 - a) A policy ambition that data should circulate within the EU as freely as the traditional factors of production (goods, persons, services, capital)
 - b) A requirement that all data be physically stored within a single member state
 - c) A purely theoretical idea with no connection to any actual EU policy
 - d) A rule that applies only to non-personal, anonymised statistics
3. **What distinguishes the legal regime governing personal data from the one governing non-personal data within the EU’s free movement of data?**
 - a) There is no distinction; a single regime covers both categories identically
 - b) Personal data is governed by a regime balancing free movement with protecting the fundamental right to data protection, while non-personal data is governed by a regime mainly aimed at prohibiting unjustified data-localisation requirements
 - c) Non-personal data may never cross a border under any circumstances
 - d) Personal data is entirely unregulated at EU level
4. **Which four technical components did the EU’s interoperability framework introduce to tie previously separate information systems into a single, searchable whole?**
 - a) A common visa fee, a common passport design, a common customs tariff, and a common asylum form
 - b) A search portal allowing queries across several databases, a shared biometric matching service, a common identity repository, and a tool that flags linked or conflicting identities

- c) A single European police force, a single border guard corps, a single customs union, and a single currency
 - d) Four separate national databases with no shared technical architecture at all
5. Which EU agency is responsible for the day-to-day technical management of the interoperability components described in the chapter, and in which city is it headquartered?
- a) A border-management agency headquartered in Warsaw
 - b) eu-LISA, headquartered in Tallinn
 - c) A law-enforcement cooperation agency headquartered in The Hague
 - d) A data-protection oversight body headquartered in Brussels
6. What is the precise distinction between a “data-driven” decision and an “automated” decision?
- a) They are exactly the same thing, and the terms are interchangeable
 - b) Every automated decision is also data-driven, but not every data-driven decision is automated
 - c) Automated decisions are always more favourable to the individual than data-driven ones
 - d) Data-driven decisions never involve any database whatsoever
7. What does the chapter mean by “profiling,” and what is its key limitation as a basis for legal challenge?
- a) Profiling decides the final outcome directly, so it can always be challenged the same way as a decision
 - b) Profiling produces a score or category that feeds into a later decision, but is rarely visible to the person, who can usually only challenge the final decision rather than the profiling reasoning itself
 - c) Profiling is purely a manual administrative process with no use of personal data
 - d) Profiling is legally identical to a simple database query
8. The concept of the “composite administrative procedure” – in which the act with legal effect is separated from the act that actually determines the outcome – was developed in EU administrative-law scholarship by which kind of contribution?
- a) A purely judicial doctrine invented directly by the Court of Justice with no academic origin
 - b) A named scholar’s theoretical work on multi-jurisdictional procedures, as the textbook credits

- c) A provision written word-for-word into the founding treaties
 - d) An idea that the textbook says has no identifiable origin
- 9. In the textbook's three-stage model of data travelling farther from the deciding authority, which stage corresponds to data retrieved through EU interoperability from another Member State?**
- a) Stage 1 – National data
 - b) Stage 2 – Data from another EU Member State
 - c) Stage 3 – Data from outside the EU
 - d) There is no such intermediate stage; the model has only two stages
- 10. According to a case discussed in the chapter concerning the correction of inaccurate civil-status data, what did the Court of Justice hold about how the accuracy of data should be assessed?**
- a) That data accuracy is an absolute, fixed standard applicable identically in every legal order regardless of context
 - b) That the principle of data accuracy is functional in nature: correctness must be assessed by reference to the purpose of the processing
 - c) That national authorities may never correct inaccurate data once entered
 - d) That data accuracy is irrelevant to administrative decision-making
- 11. What is the international policing alert discussed in the chapter, often loosely (and incorrectly) described in public debate as an “international arrest warrant”?**
- a) A binding international arrest warrant enforceable in all UN member states
 - b) A request to law-enforcement authorities worldwide to locate and provisionally arrest a person pending extradition, which is not itself an arrest warrant but produces real effects on freedom of movement
 - c) A purely advisory recommendation with no effect on an individual's freedom of movement
 - d) A formal EU regulation governing third-country nationals
- 12. According to a case discussed in the chapter concerning the use of such international policing alerts within the EU, what did the Court of Justice accept?**
- a) That such alerts can never be relied upon by EU authorities under any circumstances
 - b) That such an alert may justify restrictions on free movement, but only under defined conditions

- c) That such alerts automatically and unconditionally trigger expulsion from the EU
- d) That the issuing international body has full fundamental-rights jurisdiction over EU member states

13. The automated pre-travel screening conducted by the EU's newer travel-authorisation system also queries which kind of third-country databases. Is that true?

- a) Only databases maintained by individual EU member states
- b) Only commercial airline databases
- c) INTERPOL's databases, including its stolen-document and notice-related databases
- d) No third-country databases whatsoever; the system relies exclusively on EU-internal data

14. Which two structural problems, described in the chapter as a “double break,” characterise legal protection in data-driven composite procedures?

- a) The objective dimension (a narrowed duty to give reasons and judicial review) and the subjective dimension (the individual's emptied-out right to an effective remedy)
- b) The legislative dimension and the executive dimension
- c) The input dimension and the output dimension of sovereignty
- d) The hard law dimension and the soft law dimension

15. What is the central, structural gap produced by the EU's shared data infrastructure?

- a) Data circulates at the supranational and transnational level, while mechanisms of legal protection (the duty to give reasons, the right to a remedy) remain anchored at the national level
- b) There is no structural gap at all; legal protection has fully kept pace with data-sharing
- c) Data circulation has been entirely halted to preserve legal protection
- d) National administrations no longer rely on any external data whatsoever

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