THE CONCEPT OF SOVEREIGNTY

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Ramona Gabriela TĂTAR
"Drăgan" European University Lugoj,
Lugoj, România
ramona.tatar@yahoo.com

Adela MOIȘI
"Drăgan" European University Lugoj,
Lugoj, România
addelll@yahoo.com

Abstract: *The aim of our paper is to emphasize that an abstract and rigid concept, such as sovereignty, must be understood in conjunction with the transformations of society as a whole, in the context of globalization, international cooperation and the achievement of common goals set by various intergovernmental organizations. non-governmental. An outdated and limited concept must be adapted and accepted in appropriate forms, so as to capture the realities of a constantly evolving world of the meanings of the notions and principles with which it operates. At the same time, we set out to capture the essential aspects of the evolution of the concept of sovereignty, from the socio-political mechanism through which it was formed to the innovative meaning it has today, trying to predict how foreshadows that it will be used in the future.*
Keywords: *sovereignty, European Union, integration, independence, public international law*

Introduction

This paper aims to capture the essential aspects of the evolution of the concept of sovereignty, from the socio-political mechanism through which it was formed to the innovative meaning it has today, trying to predict the way in which it is foreshadowed that will be used in the future. Although it is a central concept of both international relations and domestic public policy, sovereignty adapts its meaning, like most fundamental notions, to the realities, context and expectations that society presupposes. We will begin by focusing on terminological clarifications in order to capture the need and the way in which the concept of sovereignty was constructed, both historically and doctrinally. In order to present the revolutionary way in which the concept of sovereignty is understood in the European Union, a community building of European states, we will expose the original meaning conferred by Westphalian sovereignty and arrive at the inevitable erosion of the concept of sovereignty as agreed with the integration. European Union and the return to classical and radical forms: Brexit, the ruling of the Constitutional Court of Poland and the huge scandal it generated, the direction in which Hungary is heading as foreshadowed in the statements of Prime Minister Viktor Orban. And although she is not a member of the European Union, we now mention the case of Ukraine, which Vladimir Putin said in 2021 on the official website of kremlin.ru that he understands that Ukraine's sovereignty can only exist in partnership with Russia.

We will start, however, specifying the general and abstract meaning that the concept has from the constitutional point of view, we will then present it strictly theoretically as a constituent element of the state, after which we will stop at all the meanings it implies, meanings presented from a historical point of view, successively, as the notion affected by the socio-political context has transformed, as we will see: Westphalian, secular, classical, modern sovereignty, sovereignty of the people, sovereignty of the nation, national sovereignty. We will expose the sui generis, unique and revolutionary form of the sovereignty of the member states of the European Union in relation to the European construction of which Romania is also a part. However, we will not ignore the presentation of the new idea of global, planetary sovereignty, as announced by the theorists of the green state. We will now conclude by presenting the aim of the paper, which is to emphasize that an abstract and rigid concept, such as sovereignty, must be understood in conjunction with the transformations of society as a whole, in the context of globalization, international cooperation and achieving common goals, various intergovernmental or even non-governmental organizations. An outdated and limited concept must be adapted and accepted in appropriate forms, so as to capture the realities of a constantly evolving world of the meanings of the notions and principles with which it operates.

The concept of sovereignty

The constitutional source of sovereignty

Sovereignty is the exclusive right to exercise supreme political authority (legislative, judicial, executive) over a geographical region, over a group of people, or over themselves. The concept of sovereignty is at the confluence of several branches of law: constitutional law, public international law, community law, but it has a strong meaning and utility for areas that we will exemplify not at all exhaustive: civil law when it regulates people, general theory of law when defining concepts and principles, administrative law when presenting institutions or tax law when regulating the legal relations in which taxpayers participate. We understand the paramount importance of this notion for the rule of law since Article 1 paragraph 1 of the Romanian Constitution, which states categorically: "Romania is a nation state, sovereign and independent, unitary and indivisible." And art. 2 paragraph 1 details: "National sovereignty belongs to the Romanian people, who exercise it through its representative bodies, constituted by free, regular and fair elections, as well as by referendum". We will explain at the right time this idea, which for the time being we only intend to retain. However, we complete here with what Mircea Djuvara memorably stated in the General Theory of Law. Rational law, sources and positive law: “The state is an absolute reality, as it does not recognize any higher authority, as the private person recognizes the authority of the state. The state does not recognize anything superior to it self ”(D, 1999).

The constitution of any state, as a fundamental law, contains essential organizational principles, which determine exactly who holds power and who exercises it, as well as the political, economic system, the system of state bodies, the area of competence and whether some powers have actually been given to another body, as we shall see below. Moreover, it was underlined: “The Constitution - the fundamental law of Romania - established a control of the constitutionality of laws, initiatives to revise the Constitution,

treaties or other international agreements, of the regulations of the Parliament, as well as of Government ordinances, through a special body, and specialized, namely the Constitutional Court" (N, 2010). However, legal sovereignty presupposes the ability of the state to legislate sovereignly and independently on its territory.

The constituent elements of the state

In essence, the state exists by bringing together three elements: a material element (territory), a personal element (population or nation) and a formal institutional element (sovereignty, in the sense of exclusive political authority). The formal institutional element refers to the power of the state, defined as a form of social authority that an individual or a group of individuals has over others to achieve a common, general goal, assumed even by community members or sometimes imposed on them by those who exercise power.
Moreover, one of the features of state power is that it is sovereign, a feature designating the character of state power to be supreme in the territory of a state, that is, to know no power over it (internal sovereignty) and, equally, to be independent abroad, in relation to other states (external sovereignty). It is, therefore, "both the power of the commanding state in the interior, materialized in the elaboration of generally binding norms, and the behavior of the state in relation to other states, organizing its international relations, without any interference from the outside" (S. 2018)

The evolution of the concept

Westphalian sovereignty

At the end of the Middle Ages and the beginning of modernity, under the religious pretext, the Thirty Years' War (1618 - 1648) took place between the Protestant Union (Swedish Empire, Kingdom of Bohemia, Kingdom of France, Kingdom of England and others) and the pro-imperial Catholic League (Holy Empire). Roman, Bavaria, Spanish Empire, Archduchy of Austria and others). The fight for hegemony in Europe was triggered by the incident known as the Prague Defenestration, which involved throwing three Catholic dignitaries out the window. Although they survive, the event has a general European conflict that will last 30 years and which, in the end, will completely change Europe, making it a continent of sovereign states. The property of Protestant non-believers was confiscated and handed over to Catholics, and this is considered to be the largest transfer of ownership in Central Europe. Europe becomes in chaos after a long period of continuous war, so that after losing its religious character (Catholics ally with Protestants to fight other Catholics) and all parties understand that there will be no winner, work begins on agreements and after five years of preparations in the province of Westphalia halfway between the Swedish capital and the French capital, the Westphalian Peace is being made. The euphoria of peace that initially engulfed everyone ends dramatically for many when they realize that, after a life of war, they do not know how to adapt to new conditions and new arrangements. However, the Treaty of Westphalia establishes the principle of state sovereignty, ie each signatory party undertakes to respect the territorial rights of the other parties and not to interfere in internal affairs. Post-Western Europe is a continent of sovereign states. This is the purest meaning of sovereignty, the original, uncomplicated meaning of this major concept. And, always when we refer to sovereignty in the strictest and narrowest sense, this is: that of Westphalian sovereignty.

Although considered a rudimentary form of the notion, Westphalian sovereignty encompasses the set of principles that first define the concept of national sovereignty, and the importance of this treaty for international law is that for the first time an international act recognized the equality of states as a principle of international law, and for the first time in history the independent states of Europe have united in an international community.
At the time, the concept of sovereignty meant the creation and assertion of the state in the international arena, the establishment of sovereignty as the internal autonomy of the Prince - who had emerged victorious over the Papacy, the equality of states in relations between them, the introduction of the balance of power as a means of peacekeeping. Monarchs, however, continued to be the expression of statehood, so that sovereignty was primarily about their person.

The doctrine of sovereignty developed as part of the transformation of the medieval European system into a modern state system, and this process culminated in the Treaty of Westphalia. Internationally, sovereignty has served as a basis for mutual recognition, on the basis of legal equality, but also as a basis for diplomacy and international law.

The secular theory of sovereignty

In his work The Six Books of the Republic, written in 1576, Jean Bodin (B, 1993) developed for the first time the theory of state sovereignty. Being a follower of the hereditary monarchy, as a form of state organization, he attributes the sovereignty to the king. Sovereignty, in Bodin's view, lies in the power of the state to make laws. Bodin is the author of the secular theory of sovereignty, making the king an independent sovereign from the outside, famous for his assertion that the sovereign prince is accountable only to God, and this idea led to the detachment of states from papal power (A, 2013). In addition, not only the secular character is defining for this sovereignty, but also the hereditary one, insofar as, at the death of a monarch, the title is inherited by his successor as we understand today the rules of civil law: it is transmitted to its legal or testamentary heirs, being inconceivable that a patrimony will remain without owner for some time" (B, 2001). But to the same extent, Bodin is the founder of the contemporary theory of sovereignty. The concept of state sovereignty was known to some extent in antiquity and in the Middle Ages, but it was Bodin who introduced the notion of state and sovereignty into political theory. In a classical sense of the definition developed by Jean Bodin, sovereignty is the absolute and perpetual power of a Republic, as a term used for both private individuals and those who held absolute control of the Republic. Sovereignty has, according to Bodin, five attributes or marks: the prerogative to appoint senior magistrates and to define the function of each; enactment or repeal of laws; declaring war or concluding peace; the right of judgment, of last resort; right to life and death (or pardon).

State sovereignty

The Dutch jurist and diplomat Hugo Grotius (1583-1645) made a special contribution to the development of the concept of sovereignty. He not only grounded the idea of sovereignty, but also delimited the sovereignty of the state from the sovereignty of the monarch. In his work De jure belli ac pacis, Grotius, analyzing a set of general and international norms of law, came to the conclusion of the need to differentiate the bearer of state power and the state as a subject of power and sovereignty.

The classical theory of sovereignty

New ideas were developed by the French philosopher Jean-Jacques Rousseau (1712-1778), who most explicitly formulated the classical theory of sovereignty, based on the social contract in his famous work The Social Contract. Rousseau described the people as the holders of sovereignty, and the leaders of the state as submissive officials who can be removed at any time (P et al., 2010). In his view, Rousseau concluded that by concluding the social contract, a moral and collective body is created, a public person, called a state, when it is passive and sovereign, when it is active, making a clear distinction between the will of the community, the general will and the will of the citizens. By general will is conceived the will of the community as such, this being precisely the sovereignty (R, 2013). Rousseau stated that "there is no fundamental law in the state that cannot be revoked, including the social pact itself; for if all the citizens came together to break this pact by mutual agreement, no one would be able to doubt that it was broken very legitimately "(R, 2013). Basically, Rousseau's conception best explains how sovereignty is created and, ultimately, legitimized by citizens. Thus, individuals waive some of their rights and give other people rights, first and foremost the right to make decisions for them, but this delegation is based on a common goal, organization and efficiency, and this limitation must be understood precisely in the sense of freedom assumed, just as in the case of assignments of civil law: "autonomy of will, as well as contractual freedom, allow the assignment of debt" (B, 2009). In reality, sovereignty is legitimized precisely by a cession.

National sovereignty

Sharing the concept that sovereignty belongs to the people, the French jurist and philosopher Charles Montesquieu (1689-1755) included in the scientific and political circuit the category of nation, attaching it to the notion of sovereignty, thus generating a new conception, namely that of national sovereignty. (M, 1964). In his work Lessons in Legal Philosophy, Giorgio del Vecchio, Italian philosopher, professor of law, argued: "the concept of sovereignty is correlated with the concept of state. A state is not such, or at least not perfectly so, if it lacks sovereignty. The so-called semi-sovereign states, states under protectorate or vassal states, represent imperfect state figures "(H, 2019).

Sovereignty of the people

A new approach to the notion of sovereignty was presented by the English philosopher and politician John Locke (1632-1704). As a foundation of the struggle with the manifestations of despotism in the realization of state power, he imposed the principle of people's sovereignty. Arguing his conception in Two Treatises of Government, Locke points out that, based on his sovereign rights, "the people entrust the realization of state power to the legislative assembly, which the people themselves elect. Following this delegation, the people do not lose their status as sovereign. In case of necessity, the people have the right: to cancel the social contract; to remove or overthrow and / or modify the composition of its representatives within the power of the state; to revolt "(H, 2010). Popular sovereignty is the doctrine that the public powers of the state have their origin in a concessive granting of power to the people and is perhaps the cardinal doctrine of modern constitutional theory, placing full constitutional authority in the people in general rather than in the hands of some. judges, kings or a political elite. Although its classical formulation is found in the main theoretical treatments of the modern state, such as the

treatises of Hobbes, Locke and Rousseau, this book explores the intellectual origins of this doctrine and investigates its main source in late and early medieval times and modern thought.

Later, in the eighteenth century, there is that important translation from the sovereignty of the monarch to that of the nation or people, driven by the Declaration of Independence of the United States of America, later enshrined in the Declaration of Human and Citizen Rights and the Constitution of revolutionary France. An important step is taken by those who recognize the modeling and moderating characters of sovereignty, rejecting an idyllic image of perfect inalienable sovereignty. Georg Jellinek is one of the pioneers of moderating theories that bring about the self-limitation of sovereignty: in his view, states accept international law as a self-imposed necessity, but are often determined to violate this international norm. The state limits its sovereignty by sovereign will by committing itself through treaties and conventions, which means setting by its own decision the limits beyond which it does not want to go.

In the twentieth century, G. Scelle's conception reconsidered sovereignty as an amount of powers that states could delegate to a greater or lesser extent to international bodies. The twentieth century also brought about the creation of the League of Nations and later the United Nations, these bodies recognizing the quality of subject of international law to sovereign and independent states, their territorial and material competences and condemning the aggressions of some state entities over others. Sovereign equality of States has become one of the basic principles on which the Charter of the United Nations is based: Article 2 is relevant in this respect: The Organization is based on the principle of sovereign equality of all its Members. UN Resolution no. 2625 of 1970 defined the principle of sovereign equality by the following ideas: states are legally equal; each state enjoys the rights of full sovereignty; each state has the obligation to respect the personality of the other states; territorial integrity and political independence of the state are inviolable; each state has the right to freely choose and develop its political, social, economic and cultural system; each state has an obligation to respect its international commitments in full and in good faith and to live in peace with the other states. The 21st century brings new interpretations to the notion of sovereignty, caused by the intense global transformations that have affected the role and functions of the nation state.

Sovereignty of the member states of the European Union

In A Dictionary of the European Union, in the definition given to the sovereignty of the Member States, we find questions rather than answers: “the sovereignty of the Member States has been significantly diminished by their acceptance of the principles of the founding treaties and their subsequent amendments. The breach of national sovereignty has further increased with the accumulation of the acquis communautaire. The concrete effect is that while the European Union cannot be a sovereign body in the true political or legal sense, neither can the Member States. The issue of sovereignty has remained a controversial issue within the EU" (L, 2004). Sovereignty was a topic of great importance and topicality, especially in contemporary realities, given that the European project has seriously undermined the concept of sovereignty, as well as the scientific view of scientists on it.V. Popa reports that EU law inevitably “affects certain aspects of Member States' sovereignty. However, Member States have voluntarily transferred parts of their sovereignty to the European institutions in order to build a stronger and more efficient

Europe. EU states recognize that it is better for them to work together than as independent states and outside the Union ”(P, 2015). However, Community law takes precedence over domestic law in all areas. In principle, domestic law must be harmonized with European rules, otherwise sanctions will be imposed on states, as is the case in Poland, which we will discuss immediately. Some authors consider that “legislative harmonization in the various areas of Community law depends to a large extent on the transposition and implementation of directives adopted by the Community institutions. The directives, according to art. 249 para. (3) of the Treaty establishing the European Community, do not operate automatically at national level, such as regulations, but, following publication in the Official Journal of the European Union, are transposed into national law by the adoption of legislation or other measures by national authorities. ”(N, 2009).

The current concept

In the vision of Professor I. Deleanu, expressed in the work Constitutional Law and Political Institutions, sovereignty represents that quality of state power, based on which this power has the vocation to adopt any political, legal, military, economic decision in all internal affairs and external, without any interference from another power. Additionally, in the monograph Constitutional Institutions and Procedures, he emphasizes that “sovereignty is not a magic word, an occult and miraculous force; it expresses the right of the state to decide for itself. However, sovereignty cannot be any pretext for arbitrariness, voluntarism, arrogance or self-consolation ”(D, 2006). In the scientific article The concept and content of sovereignty, V. Pușcaș concludes: “the concept of sovereignty has been defined in countless ways, framed in different contexts by philosophers, lawyers, and the basic idea always remains the same, namely that the sovereignty of a state combines two elements. inseparable: the supremacy of power within the state and the independence of the state from other powers. Sovereignty is "the supreme authority with which the state is endowed by the people through constitutional democratic forms and, as the supreme power of the state, implies its exclusive competence over the national territory and its independence from any other external power" P, 2007). At the same time, Stephen D. Krasner identifies four meanings of the notion of sovereignty: internal sovereignty, which refers to the organization of public authority within a state and the level of effective control exercised by those in power; the sovereignty of interdependence, which aims at organizing the public authority to control cross-border movements (regulating the circulation of information, ideas, goods, population, pollution or capital beyond its borders); international legal sovereignty, which presupposes the mutual recognition of states or other entities; Westphalian sovereignty, which admits the exclusion of external actors from the configurations of internal authority (K, 1999). And, as V. Pușcaș argues, in contemporary constitutional doctrine, the content of sovereignty internally is characterized by the following general features: the original and plenary character is manifested by the fact that sovereignty is exercised and emanates directly from the people and cannot be attributed to others. powers outside the country. The prerogatives of sovereignty are plenary, because they include all areas of activity of the society organized in the state: political, economic, cultural, social, internal, external. The unique character of sovereignty consists in the non-existence of another power of the same nature, which competes with it. If the sovereignty of the people is unique, it turns out that the sovereignty of the state is essentially unique,

which does not exclude the division and separate exercise of state functions. The nature of indivisibility reveals that sovereignty, being unitary, cannot be divided into shares belonging to different holders. The inalienable character emphasizes that the nation cannot abandon, cede, lend or alienate definitively and irrevocably the sovereignty, either of a state or group of persons, or of some international organizations. The imprescriptible character holds that sovereignty exists as long as its holder exists: the respective people or nation. And the character of fullness expresses the fact that sovereignty cannot be restricted, arbitrarily limited by an internal or external power. The territory of a state can be subject to only one full sovereignty.

Erosion of the concept

Sovereignty, rest in peace!

In the book published in 2020, with the alarming title Sovereignty. Rest in peace, Don Herzog wonders if there is anything left of the usefulness of the concept of sovereignty, insofar as it is assumed, according to classical theory, that the social order requires a sovereign: an actor with unlimited authority, undivided and irresponsible. But constitutionalism limits the authority of the state, federalism divides it, and the rule of law holds it accountable. Don Herzog presents both the political struggles that shaped sovereignty and those that shattered it. He claims that it is no longer a useful guide to our legal and political problems, but only a source of confusion. And he concludes: it is time to withdraw sovereignty. From the preface of the paper, Herzog tells us: "I do not come to praise the concept of sovereignty, but to bury it. Well, it's not exactly right: I'm not able to do the funeral myself. But I want to denounce the role of the concept in our politics and law as outdated and confusing. I want to propose to withdraw the concept, to learn to think, speak and act without relying on it. If you are instantly alarmed, if you are certainly thinking about it, we need to secure our national borders or protect state governments against federal power or avoid meddling in the internal affairs of other countries, then relax: I have little to say about such questions. I just want to insist that we do not appeal to sovereignty when we argue about them. It happens that I believe that once we remove the trunk eaten by the worms of sovereignty, everything we have built through sovereign immunity in tort law will collapse. And, good road! But it's not my goal in the end to pursue demolition work here. There are a lot of complicated problems here that cannot be completely solved, as I will say, through an appeal to sovereignty. We need to engage in arguments with as much detail as possible, case by case, on the merits. We can do this once we set aside sovereignty "(H, 2020). Less dramatic, Bogdan Aurescu also presents in the New Sovereignty a critique, but also a solution to the problems generated by the change of the international context. In the approach of a complex analysis of the concept of sovereignty, it is of real importance to delimit the two aspects of sovereignty: the substance of sovereignty and its exercise, for a more real and comprehensive understanding of the issue of losing or limiting the sovereignty of the nation. The author argues in favor of non-absolute sovereignty, based on the premise that sovereignty is the fundamental concept of international law: substantial content "(A, 2003), but neither can it be excessively restricted, unlimited, in both cases being in a situation of abuse of sovereignty. Substantial sovereignty is that indivisible, exclusive, inalienable, plenary component, enjoying an original character, being a complete portfolio of competences with identical and equal

content for all states, as an ideal potential for the state to realize all rights and to and assume all obligations under this content. The exercise of sovereignty is that which can be changed or reshaped and which can transform absolute sovereignty into a relative one. It is not the substance of sovereignty that is affected by the transformations of globalization, but the way it is exercised and it can be concluded that the thesis of total loss of national state sovereignty with the intensification of global and integrative-regional processes is impossible to sustain, because even if the state transfers certain attributes of sovereignty its supranational bodies, this approach is carried out with the deliberate consent of the sovereign state, which in turn keeps the substance of its sovereignty intact. And, without fully debating the issue, we will only mention in passing the consideration made by Elisa Barcan in the journal Continuity and Change in European Governance published by the Academic Club of European Studies, which considers that there is a juxtaposed sovereignty over the Member States of the European Union. Today's sovereign state, in the process of contemporary transformations, is not and cannot be identical with the sovereign state of past centuries or with the sovereign state of the first half of the twentieth century. It must respond to contemporary and future needs, unique and complex needs, in relation to which the sovereign state must adapt, transform, improve. Being the main feature of state power, which in turn is an important component of the state, sovereignty is a feature of the state itself. At the level of the European Union, and on the international stage in general, the states are each sovereign. The European Union is thus a juxtaposition of the sovereignty of the Member States. Therefore, sovereignty cannot be absolute, but each state must respect the sovereignty of the other states, as well as the rules of Community law. The evolution of states is accompanied by the evolution of the concept of sovereignty, which designates them. Therefore, the concept of sovereignty must, in the context of Europeanization, be rethought.

The sarcasm of integration and disintegration

At the same time that some European countries want to join the Union, others are doing their best to regain their autonomous status and the total sovereignty they had before being part of the European construction. The United Kingdom has already done so, Hungary is preparing from the shadows, Poland is reconsidering its constitutional concepts, and the French far right is threatening. The united Europe diplomatically ignores these signals, preparing sanctions. Brexit, the withdrawal of the United Kingdom from the European Union and Euratom in early 2020, is one of the biggest challenges facing the Union. For the first time, a Member State declares its intention to leave the Union, an event considered by Eurosceptics to be the beginning of disintegration. In his 2018 book, EU after Brexit, Francis Jacobs wonders what the consequences will be for the remaining 27 Member States and whether the EU will be weaker or stronger after the unity of European construction has been tested in this way. (I, 2018) And he concludes in this book that the unity of the Union is stronger, both economically and politically. Hungary's illiberal democracy is, in fact, a threatening hybrid of nationalism, authoritarianism, effective and subtle control over the media, but also over the electoral system and the justice system. Basically, in this club of European democracies, Hungary is a hybrid between dictatorship and democracy. And, although it seems impossible for an already member state not to respect the rule of law, the separation of powers in the state and the freedom of the press, in Viktor Orban's Hungary, all this is happening. Fidesz, once in power, changed the

Constitution and became almost a single party in the state, insofar as the elections are free, but the electoral system favors Fidesz, as has just been seen in the recent elections. In 2010 there is a shift towards nationalism, and in 2015 Orban's struggle with the EU begins, which wants Hungary not to become an economic colony of the EU. In a 2013 speech, Orban said: "People like me would like to do something significant, something extraordinary. History gives me this opportunity. When I was in leadership positions I was always faced with historical challenges. In a crisis, there is no need for institutional governance. What is needed is someone to tell people that risky decisions need to be made and to tell them to follow. We need strong national leaders now. " (L, 2016)

On the other hand, Poland has been sued by the European Commission following the decisions of the Constitutional Court challenging the supremacy of EU law, in an escalation of the long-running battle between Brussels and Warsaw. The EU executive is concerned about the work of the Polish constitutional court, whose recent case law challenges the primacy of European law over domestic law. Poland's constitutional court ruled in July 2021 that the measures imposed by the European Court of Justice were unconstitutional, although it was agrees with the rule of law when it became a member of the Community bloc in 2004. The right-wing nationalist government Law and Justice (Pis), which came to power in 2015, tried to challenge this principle, while bringing domestic courts under political control. The EU lawsuit is a response to the July ruling and a similar one in October. Proof that Brussels has lost some of its patience is the statement of EU Justice Commissioner Didier Reynders: "We have tried to engage in a dialogue, but the situation is not improving. The fundamental elements of the EU legal order, especially the primacy of EU law, must be respected, "said the European Commissioner. The commission also said it had serious doubts about the independence and impartiality of the Polish constitutional court, a body that includes former PiS MPs on its bench. More specifically, the Polish Government explicitly argues that the Commission's legal action is an attack on its sovereignty.

The prophetic concept of sovereignty: the greening of sovereignty

In the book The Green State. Rethinking democracy and sovereignty, Robyn Eckersley explains why it might be necessary to create a green democratic state as an alternative to the classical liberal democratic state, the indiscriminate growth-dependent welfare state and the market-centric neoliberal state. In recent years, most environmental researchers and environmentalists have characterized the sovereign state as inefficient and criticized nations for perpetuating ecological destruction. Consciously going against the current line of thinking, this book argues that the state is still the preeminent political institution for addressing environmental issues. States remain the guardians of the global order, and greening the state is a necessary step, Eckersley argues, toward greening domestic and international policy and legislation. The green state seeks to connect the moral and practical concerns of the environmental movement with contemporary theories about the state, democracy and justice. Eckersley's proposed political ecology extends the boundaries of the moral community to include the natural environment in which the human community is embedded. This is the first book to explain the vision of a good green state, which explores obstacles to its achievement, and suggests practical constitutional and multilateral arrangements that could help transform the liberal-democratic state into a post-

liberal democratic green state. Rethinking the state in the light of the principles of ecological democracy finally throws him into a new role: that of ecological administrator and facilitator of cross-border democracy, rather than of a selfish actor who jealously protects his territory. Chapter VIII of the book introduces the term green sovereignty and, as a result, proposes significant changes in the understanding of global discourses on the environment, development, security and intervention, in order to highlight the extent to which legitimate state behavior must move in a greener direction. . (E, 2004)

Conclusions

Although the concept is still far from showing its full significance, the understanding of the controversial meanings it has generated prepares us for a dynamic construction of the idea of state and international cooperation. However, this concept must either be rethought and accepted in the new form, or other notions must be found that fully respect the new realities. The problem remains open, but solutions will be found sooner or later. Even if the concept of sovereignty is useful and functional and still corresponds to the explanations of ideologies accepted as paradigm, however, the indissoluble link between state and sovereignty, understood from the perspective of complex and sometimes unstable realities, lead us to reconsider fundamental concepts in public international law.
The present paper tried to capture precisely these expectations. Specifically, we presented the classic meanings of the concept of sovereignty that have been functional for centuries. We refer here, above all, to Westphalian sovereignty, the strictest and most rigid meaning of this notion. Although it meant a great gain in its emergence, this kind of sovereignty which presupposes independence in the strictest sense, today it can no longer accurately describe reality. Because, as we have seen, in the case of the Member States of the European Union, we have spoken of a shared or juxtaposed sovereignty. However, we must understand that this complex adaptation does not detract from the essence of the concept, insofar as it is the states themselves that consciously, voluntarily and supported by the public vote are those that delegate powers to a common structure for security and prosperity.

What we must keep in mind, however, is that sovereignty receives new connotations and conceptual additions in order to respond to new social and political requirements. The concept should not be completely removed, but only adapted, because it still remains fundamental and meets some still current requirements. The changes are only nuanced, but the conceptual core will continue to be used efficiently. It is difficult to imagine a paradoxical perspective in which states will give up this term. We refer in this scenario to all states. And we cannot expect that exhaustively, all the elements of the multitude of the states of the world will be understood to give up this concept simultaneously. Excusing this hypothesis, all we have to do is adapt and readjust this permissive and malleable concept.

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