THE IMPACT OF EUROPEAN INTEGRATION PROCESS ON THE NATURE OF SOVEREIGNTY

Zerrin SAVAŞAN[*]

Abstract

This article aims to question how the European integration process has affected the nature of sovereignty and what its implications are for the EU and member states. For this purpose, firstly, it clarifies what the sovereignty and sovereign state implies in the traditional understanding of sovereignty. Secondly, it examines the historical experience of the sovereign state in Europe and the emergence of European integration in 1950s as a challenge to the traditional view. Thirdly, it evaluates the reinterpretation of the sovereignty with a new concept, the concept of "Shared" sovereignty, emerged in the European integration process. In the fourth part, it scrutinizes the EU with its both supranational and intergovernmental characteristics discussing the question of sovereignty between the EU and the member states. Afterwards, based on its examination on the EU and shared sovereignty, it makes an overall analysis on the change of the sovereignty through the impact of integration process. Finally, summarizing the main points of its analysis, it underlines that, within the EU, consisting of combination of both supranational and intergovernmental elements, it is no longer possible to remain as a traditional sovereign state and to exercise its absolute powers.

Key Words: Sovereignty, Sovereign State, European Integration Process, Shared Sovereignty, EU.

Özet

Bu makale, Avrupa Bütünleşme sürecinin, egemenliğin doğasını nasıl etkilediğini ve bunun sonuçlarının AB ve üye devletler için ne olduğunu sorgulamayı amaçlamaktadır. Bu amaçla, ilk olarak, geleneksel anlamda egemenlik ve egemen devletin ne olduğu açıklanmaktadır. İkinci olarak, Avrupa'da egemen devlet

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[*] Research Asistant, CES/METÜ&Selçuk University and Ph.D. Student, Department of International Relations/METU

tecrübesinin ve Avrupa Bütünleşme sürecinin 1950'lerde geleneksel görüşe meydan okuma olarak ortaya çıkışını incelemektedir. Üçüncü olarak, egemenliğin, Avrupa Bütünleşme süreci içinde ortaya çıkan yeni bir kavramla, "Paylaşılan" egemenlik kavramıyla yeniden yorumlanmasını değerlendirmektedir. Dördüncü bölümde, AB ile üye ülkeler arasındaki egemenlik meselesini tartışarak, AB'yi hem ulusüstü hem devletlerarası özellikleri ile incelemektedir. Daha sonra, AB ve paylaşılan egemenlik üzerindeki incelemesini temel alarak, egemenliğin, bütünleşme sürecinin etkisi ile değişmesi üzerine genel bir analiz yapmaktadır. Son olarak, analizin ana noktalarını özetleyerek, hem ulusüstü ve hem devletlerarası unsurların birleşiminden oluşan AB içinde, artık geleneksel bir egemen devlet olarak kalmanın ve onun kesin yetkilerini yerine getirmenin mümkün olmadığının altını çizmektedir.

Anahtar Kelimeler: Egemenlik, Egemen Devlet, Avrupa Bütünleşme Süreci, Paylaşılan Egemenlik, AB.

Introduction

The sovereign state and the sovereignty still continues to be core dimensions of the international order, as the international order is still predominantly designed by relations between sovereign states. However, through recent developments, particularly with the emergence of consequences of globalization, there seems a limitation in the powers of sovereign states. This is because, in the new order, the states have to share their powers with international organizations and the enforcement mechanisms of the global economy.

The European integration process has facilitated the restrictions directed towards sovereign states powers. The process, just at the beginning of its establishment, through both the ECSC, including a High Authority and the EEC, including a supranational Commission, presented a challenge to traditional view of sovereignty. Then, in the period of its development as the European Union, as common policies advanced further, it has produced further fundamental shifts in the traditional sovereignty. Through the change emerged and developed in the state and sovereignty by the process, the state and sovereignty in Europe has been reshaped. Thus, the nature of sovereignty has been altered from its traditonal origins.

This article aims to examine how the European integration process has altered the nature of sovereignty and what its implications has been for the EU and member states. In order to examine the issue, it firstly begins with clarifying the concepts, "sovereignty" and "sovereign state" in the traditional understanding. Yet, before identifying the traditional principles of "sovereign state," it focuses on the terms "state" and "sovereignty" seperately to understand their meanings perfectly. After this clarification on the meanings of the sovereignty and sovereign state, it scrutinizes the historical experience of the sovereign state in Europe and the emergence of European integration in 1950s as a challenge to the traditional understanding. In the third part, it will evaluate the reinterpretation of the traditional sovereignty with a new concept emerged in the European integration process i.e. "Shared" sovereignty. As the question

of sovereignty between the EU and states arises from this new concept of sovereignty, in the fourth part, it will elaborately scrutinize the EU with its both supranational and intergovernmental characteristics in which its relationship to the question of sovereignty is addressed. Then, based on its examination on the EU and shared sovereignty, it will reveal the impact of European integration process on the change of the sovereignty. Finally, it will summarize the main points of its analysis and emphasize that it is no longer possible to remain as a traditional sovereign state and to exercise its absolute powers within the EU, as there is a distribution of authority between the EU and the states.

The Traditional Understanding of Sovereignty

In order to question how the European integration process has made the sovereignty different from its traditional origins, it is firstly essential to clarify what "sovereignty" and "sovereign state" means in their traditional understandings. Yet, before identifying the traditional principles of "sovereign state," it is better to focus on the terms "state" and "sovereignty" seperately to understand their meanings perfectly.

As regards the term "state," first of all, it should be made clear which usage is more probable, "the concept of nation-state" or "the concept of state" to explain the European state. There seems two different perspectives about this issue. On the one hand, there is a perspective which appears to accept a close relationship between the two terms, "state" and the "nation-state." To illustrate, Held explicitly argues that "Modern states developed as nation states."[1] However, on the other hand, another view notes that to use the term "nation-state" to explain the European state is problematic. For example, Tilly clearly explains what makes it problematic in his book, titled as *European Revolutions.*[2] For Tilly, in practice, many so-called nation-states have consisted of different nations reflecting different identities.[3] Due to this fact, no European state has ever actually became a nation-state. Indeed, Spain retained its Basques and Catalans, the United Kingdom its Scots and Irish, France its Bretons, Italy its French- and German- speaking regions, Sweden its Lapland.[4] For him, the nation - state has been heavily based on the historical experience of two Western European's states: Britain and France. Yet, they have also developed very different traditions on the role of the nation-state and its basic functions, so they also "have never met the test."[5] Accordingly, the nation-state has remained an artificial concept which only states such

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[1] David Held, **Democracy and the Global Order: From the Modern State to Cosmopolitan Governance**, Cambridge, Polity Press, 1995, p.48.
[2] Charles Tilly, **European Revolutions (1492-1992)***,* Oxford, Blackwell Publishing, 1993, pp.21-51.
[3] Here, it is necessary to remind the definition of 'nation.' Smith defines it as "a named human population which shares myths and memories, a mass public culture, a designated homeland, economic unity and equal rights and duties for all members." Anthony D. Smith, **Nations and Nationalism in a Global Era**, Cambridge, Polity Press, 1995, pp.56-57.
[4] Charles Tilly, "Futures of European States," Andrew Linklater (ed.), **International Relations, Critical Concepts in Political Science**, London and Newyork, Routledge, 2000, p.1460.
[5] Tilly, Charles, **Coercion, Capital and European States, AD 990-1992**, Cambridge, Blackwell Publishing, 1992, p.3.

as Sweden and Ireland could come only "closer" to the definition of a nation state.[6] Based on these reasons, Tilly prefers to use the term 'national-state' (or "the consolidated state") instead of 'nation-state' to explain the European state. Indeed, it seems more probable to use "the concept of state or national state" rather than using "the concept of nation-state," following Held's definition to explain the European state.

As regards the term "state" or "national state," it is quite possible to find different definitions, as terms state and sovereignty are always controversial because of various perceptions. To illustrate, while defining the state, Davies stresses its internal aspect, but not its international aspect. He defines it as a centralised administration imposing unitary system on its citizens over its territory.[7] However, Wallece addresses also its international aspect involving external defence and the diplomacy.[8] Habermas, on the other hand, emphasizes the individual freedoms granted on the citizens by the state, while determining two defining characteristics of the state.[9] Despite these different perceptions, the concept of state in the traditional understanding can be briefly defined as a political entity which has a territory, government, people and a legitimate authority or sovereignty over that territory and in the international order.[10]

According to this definition, the state has four main components: territory, government, people and sovereignty. So, it has a linkage to the question of sovereignty. In other words, to define a political entity as a state, it is essential for this state to have the ability to exercise authority over its demarcated territorial area and its people, but also having legitimacy and independence internationally.[11] The concept of sovereignty then asserts not only having the sole right to make decisions and enforce authority with regard to a particular territory and population (internal sovereignty), but also being subject to no other supreme authority in its international relations (external sovereignty-

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[6] *Ibid.*, Tilly, Charles, p.3.

[7] Norman Davies, **Europe: A History**, Oxford, Oxford University Press, 1996, p.715.

[8] William Wallece, "Rescue or Retreat? The Nation State in Western Europe, 1945-93," P. Gowan and P. Anderson (ed.), **The Question of Europe**, London, New York, Verso, 1997, p.32.

[9] Jürgen Habermas, "The European Nation-State: On the Past and Future of Sovereignty and Citizenship," Andrew Linklater (ed.), **International Relations, Critical Concepts in Political Science**, London and Newyork, Routledge, 2000, pp. 2061-2078.

[10] Simon Sweney, **Europe, the State and Globalization**, Essex, Pearson, 2005, p.38.

[11] William Wallece, "Rescue or Retreat? The Nation State in Western Europe, 1945-93," P. Gowan and P. Anderson (ed.), **The Question of Europe**, London, New York, Verso, 1997, p.32. Wallece also seperates the concepts of 'sovereignty and autonomy,' as while he reveals autonomy "as an informal and relative concept which should be assessed in comparative terms with reference to external constraints and domestic vulnerabilities to outside developments," he reveals sovereignty "as a formal and absolute concept which should be assessed by economic, social and security factors," pp.22-23.

which Krasner calls "Westphalian sovereignty").[12, 13] Its external aspect then implies that states have to avoid intervening in each other's internal affairs.[14]

In short, to the traditional understanding, 'sovereign state' has both internal and external aspects. As regards internal aspect, it has the right to apply common rules uniformly to enforce authority in its internal matters. Regarding external aspect, to do something, for example, to declare war to another state, it does not require the approval of the other states and under no circumstances, it accepts interference to its internal affairs. However, here, it is necessary to remember Mann's view on this issue. For him, a state has never had entirely the characteristics of the sovereignty in both internal and also external fields. It has always constraints determined by economic and political structures of both national and international systems.[15]

Emergence of European Integration: A Challenge to the Traditional Understanding

The sovereign state in Europe can be traced to the Peace of Westphalia of 1648 which provided the development of an international order consisting of sovereign states.[16] It gains full expression after the French Revolution in which the movements of nationalism became stronger throughout Europe. In the nineteenth century, states become strongest political entities in the international order. This is because, relative stability in trade, benefiting from the framework of the international gold standard, allows the self-regulating market to transcend national borders and work at the international level.[17] Stability helps to maintain both growth and low inflation. Moreover, during the course of the nineteenth century, balance of power prevents the occurence of any long and devastating war between the great powers for a century.[18] However, in the twentieth century, nationalism increases further and it produces an increase in attempts to strengthen military facilities among the great powers, such as France, Germany, Austria-Hungary, Russia, and Britain. Thus, "Hundred Years' Peace" begins to collapse and its collapse gradually leads to the World War I.[19]

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[12] Stephen D. Krasner, "Sharing Sovereignty- New Institutions for Collapsed and Failing States," **International Security**, Vol. 29, No. 2, 2004, p. 87.

[13] Stephen D. Krasner, "The Case For Shared Sovereignty," **Journal of Democracy**, Vol. 16, No. 1, 2005, p.70.

[14] *Ibid.*, p.71.

[15] To Mann, state can never has entirely the characteristics of the sovereignty assumed by political theory in both internal and also external fields, it has always limitations determined by economic and political structures of both national and international systems. See Michael Mann, **The Sources of Social Power**, Cambridge, Cambridge University Press, 1989.

[16] David Held, **Democracy and the Global Order: From the Modern State to Cosmopolitan Governance**, Cambridge, Polity Press, 1995, pp.77-78.

[17] Karl Polanyi, **The Great Transformation**, Boston, Beacon Press, 2001, pp.141-157.

[18] *Ibid.*, Karl Polanyi, pp.3-20 and Eric J. Hobsbawm, 1994, **The Age of Extremes: The Short Twentieth Century: 1914-1991**, London, Michael Joseph, 1994, pp. 21-53.

[19] Karl Polanyi, **The Great Transformation**, Boston, Beacon Press, 2001.

At the end of the World War I, it is realized that the war does not solve any problems, but results in further problems. Nevertheless, first of all, establishing a peaceful world under a League of Nations is disappointed. In addition, Europe finds itself in a period of economic instability and under the dominance of dictatorships. Then, it faces with the collapse of democratic states, so the "fall of liberalism."[20] Indeed, in the period from 1918s to1920s, legislative assemblies are dissolved or become ineffective in European states. This retreat of political liberalism accelerates sharply after Adolf Hitler became Germany's chancellor in 1933.[21] After the European war of 1939-41 came out and growed into the WW II, Europe is exposed by destruction of fascism and the war.[22] Because of the disasters which this "age of total war, 1914-45," caused, just a few European states, the UK, Switzerland, Sweden and Iceland, does not experience dictatorships or military occupations in this period.[23] After this disasters' decade, Europe enters into the period of repairing the destruction of wars in all aspects of life.

In this period, the international order is based on "respect of sovereignty of states" which is proclaimed in the UN Charter.[24] However, at the same time, beginning with 1945s, the proper role of the sovereign state begins to be questioned. The European states focuse on the ways of integration and cooperation instead of conflict and war. Thus, European integration process appears as "a response to the conflict."[25] Indeed, the states that formed the European Economic Community (EEC) in 1958 chose "to limit (but not to eliminate) their own sovereignty[..]in favor of collective peace," besides economic integration and supranational governance.[26] However, one of the important European states, Britain, defending and asserting its sovereign independence, refuses to contribute or take part in this new community.[27] This path taken by Britain originates

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[20] Eric J. Hobsbawm, **The Age of Extremes: The Short Twentieth Century: 1914-1991**, London, Michael Joseph, 1994.
[21] **Ibid.,** Eric J. Hobsbawm, pp.109-141.From 1933, when the USA recognized the USSR officially, until 1947, when the two ideological camps confronted each other as enemies in the cold war, there had been a sympathy in the USA towards the USSR. Between these years, also, all other major players in the international area treated Germany similarly. To Hobsbawm, what bonded all these national civil divisions into a single global war, both international and civil, was the rise of Hitler Germany.
[22] Norman Davies, **Europe: A History**, Oxford, Oxford University Press, 1996, pp.943-1122.
[23] **Ibid.,** Eric J. Hobsbawm, pp.109-141.
[24] According to UN Charter Paragraph 1, the Organization is based on 'the principle of the sovereign equality of all its members.'
[25] Simon Sweney, **Europe, the State and Globalization**, Essex, Pearson Education Limited, 2005, p.27.
[26] Desmond Dinan, **Europe Recast, A History of European Union**, London, Lynne Rienner Publishers, 2004, p.1.
[27] A few years after the ECSC and the EEC, Britain set up the European Free Trade Assciation (EFTA) with Austria, Denmark, Norway, Portugal, Sweden and Switzerland. EFTA involved no loss of sovereignty. Once the British government saw that the EEC was actually working and its economic performance was more than that of Britain, it applied to join the EEC in 1961, then, five of the original seven members of EFTA joined the EC/EU. After De Gaulle's departure from

from the fact that the ECSC including a High Authority and the EEC establishing a supranational Commission present challenges to traditional sovereignty understanding. Britain does not want challenges to its sovereignty as the "winner"of the WW II. [28] So, it does not want to take part in the integration initiatives.

Overall, European integration, just at the begining of its establishment, commences discussion on 'sovereignty' presenting challenges to traditional view of sovereignty. Then, in the period of its development as the European Union, with the development of common policies, the fundamental shifts begins to occur in the traditional sovereignty. This entails reinterpretation and reassessment on the traditional principles of sovereignty. The European Union has achieved to lead to a revision on traditional interpretation of sovereignty through exchanging the traditional sovereignty by shared sovereignty. Thus, "shared or pooled sovereignty," comes to the agenda and commences to be discussed within the Union.

A New Concept of Sovereignty: Shared Sovereignty

According to the notion of shared or pooled sovereignty, the European states pool their resources and their decision-making in EU institutions. This implies that the EU compromises the sovereignty of its member states through its supranational institutions. It should be underlined that in this case, sovereignty has actually "not been tranferred," but has increasingly been "held in common."[29] That is, it has been pooled among states and compromised by regulations and court decisions operating on "the principle of mutual interference in each other's internal affairs."[30]

While it is commonly accepted that the EU has compromised the sovereignty of its member states through the notion of pooled sovereignty, there are also different views in the literature about this issue. To illustrate, both Milward and Moravcsik accept that the states have limited their sovereignty through the EU. But, they also claim that it is just for the states' interests and controlled-directed by states through intergovernmental mechanism. Milward in his major work *The European Rescue of the Nation State* argues that states have always sought to defend their interests.[31] [32] So, they have accepted integrating initiatives as long as they have supported beneficial social and economic policies for the states. That is, they have accepted the limitation of their sovereignty to acquire benefits to themselves. Milward gives the example of the CAP and also refers to the Single European Market(SEM), ultimately leading to European Monetary Union(EMU) and the single currency. His view is similar to that expressed by

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politics (he vetoed its application for two times, in 1961 and in 1967), Britain became an EC member in 1973.

[28] **Ibid.,** p.24.

[29] William Wallece, "The Sharing of Sovereignty: The European Paradox," **Political Studies**, Vol.47, 1999, p.506.

[30] **Ibid,** William Wallece, p.506.

[31] Alan S. Milward, **The European Rescue of the Nation-State**, London, Routledge, 1992.

[32] Alan S. Milward, "The Springs of Integration," P. Gowan and Anderson, P. (ed.), **The Question of Europe,** London, New York, Verso, 1997.

Moravcsik in his work *The Choice for Europe*.[33] In this work, Moravcsik also sees these developments as major impulses towards greater integration. However, at the same time, he claims that domestic economic interests mainly shaped states' policies towards them. Like Milward and Moravcsik, Simonis also stresses the continuing power and control of the states on the EU.[34] For Simonis, the opt-outs of the states clearly express that there is a diversity in social, economic and political interests within the EU and that each state aims to defend its own interests in order to influence European decision making. So, for him, this diversity expresses that there is no movement towards the transfer of national sovereignty within the EU, but towards the application of "differentiated integration."[35]

These views actually reveal that this new concept of sovereignty brings out the question of sovereignty between the EU and member states. In order to discuss to what extent sovereignty has shifted from member states towards the EU, it is essential here to examine the EU with its both supranational and intergovernmental characteristics in which its relationship to the question of sovereignty is addressed in more details.[36]

The Question of Sovereignty Between the EU and Member States

Before and immediately after World War II, the intergovernmental method is dominated in Europe. This method gives rise to the establishment of some organisations such as the Organisation for European Economic   Co-operation (OEES) and the Council of Europe. Yet, these organisations does not include the transfer of sovereignty from states.[37] The European Union, on the other hand, has been based on the "Community Method."[38] Through the Community method, it is founded on a

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[33] Andrew Moravcsik, **The Choice for Europe, Social Purpose and State Power From Messina to Maastricht**, London, UCL Press, 1998.

[34] J.B.D. Simonis, "European Integration and the Erosion of the Nation-State," **International Journal of Social Economics**, Vol. 22, No. 7, 1995, pp. 50-58.

[35] The 'technique of differentiated integration' (or 'flexible integration') has always been and still is widely applied within Europe and it has been reinforced through safeguard mechanisms, particularly as regards defence and foreign policy. See the details of it on CFSP, K. Blanck-Putz, "Flexible Integration in the Common Foreign and Security Policy," **EU Constitutionalisation: From the Convention to the Constitutional Treaty 2002–2005, Anatomy, Analysis, Assessment**, Lenka Rovná and Wolfgang Wessels (ed.), Prague, Europeum Institute for European Policy, 2006.

[36] Peter Lang, **The European Union Transformed, Community Method and Institutional Evolution from the Schuman Plan to the Constitution for Europe**, Bruxells, P.I.E, 2005. Simon Sweney, **Europe, the State and Globalization**, Essex, Pearson Education Limited, 2005, p.27.

[37] J.B.D. Simonis, "European Integration and the Erosion of the Nation-State," **International Journal of Social Economics**, Vol. 22, No. 7, 1995, pp. 50-53.

[38] Peter Lang, **The European Union Transformed, Community Method and Institutional Evolution from the Schuman Plan to the Constitution for Europe**, Bruxells, P.I.E, 2005. J.B.D. Simonis, "European Integration and the Erosion of the Nation-State," **International Journal of Social Economics**, Vol. 22, No. 7, 1995. William Wallece, "Rescue or Retreat? The Nation State in Western Europe, 1945-93," P. Gowan and P. Anderson (ed.), **The Question of Europe**, London, New York, Verso, 1997.

supranational base in which states transfer their sovereignty partly, but not entirely to an international organization.[39] Thus, it has combined traditional elements of intergovernmental cooperation with a supranational dimension that makes it distinctive from the traditional international organisations.

The Supranational Characteristics of the EU

As regards the supranational characteristics of the EU, first of all, the transfer of some competences from the EU member states to the EU (exclusive-shared competence) should be emphasized.[40] Before 1990s, the EU's supranational powers are largely confined to create a well-functioning common market. However, especially, beginning with 1980s, particularly in 1990s, the EU's competences are expanded well beyond the boundaries of the common market via the Single European Act (SEA) and the Treaty of European Union(TEU). Even in the external relations field, the member states' powers have been restricted to act on their own, because the "implied powers doctrine," formulated by the ECJ during the 1970s, has taken the form of a "parallelism" between internal and external Community competences.[41]

The EU has also its own institutions which are able to create, implement and enforce law.[42] Of these, the European Commission is at the heart of the supranational dimension of the EU, together with the ECJ. It has to act in the interest of the whole Union and not promote any state agenda. In other words, it "represents a Union, not just a set of sovereign member states."[43] It is involved in virtually all EU policy processes, as it has several roles in the EU (art.211-219 TEC). In fact, it has an external representation role and also a legislative role in that it starts and draws up policy

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[39] J.B.D. Simonis, "European Integration and the Erosion of the Nation-State," **International Journal of Social Economics**, Vol. 22, No. 7, 1995, p.51.

[40] Before some areas such as consumer or enviromental protection were explicitly listed in the Treaty as Community competences, article 235, EEC Treaty effectively served as a basis for action. For details see Peter Lang, **The European Union Transformed, Community Method and Institutional Evolution from the Schuman Plan to the Constitution for Europe**, Bruxells, P.I.E, 2005, pp.42-43.

[41] 'Implied powers doctrine' extends the external competences of the EU beyond those established in the Treaty and it allows the EU institutions to act externally in matters which they may regulate internally. See Peter Lang, **The European Union Transformed, Community Method and Institutional Evolution from the Schuman Plan to the Constitution for Europe**, Bruxells, P.I.E, 2005. Simon Sweney, **Europe, the State and Globalization**, Essex, Pearson Education Limited, 2005, pp.42-43. Paul Magnette, **What is the European Union? Nature and Prospects,** New York, Palgrave, Macmillan, 2005, p.51. M. Cremona, "External Relations and External Competence: The Emergence of an Integrated Policy," G. Búrca and P. Craig (ed.), **The Evolution of EU Law**, Newyork, Oxford University Press, 1999, pp.152-155 for details on implied powers doctrine.

[42] The institutions of the EU are evolving along with the evolution of European integration. Besides the old ones, such as the European Economic and Social Committee, the Court of Auditors, also new institutions and bodies have been created to cover new needs, such as the Committee of the Regions and the European Central Bank.

[43] Göran Therborn, "Europe in the Twenty-first Century: The World's Scandinavia?" P. Gowan and P. Anderson (ed.), **The Question of Europe***, London, New York, Verso, 1997, p.369.

proposals. Its right to take the initiative in the EU's legislative process is designed "to protect the smaller member states against the dominance of the larger member states."[44] Therefore, whenever the Council wants to deviate from the Commission's proposal, it needs unanimity. It also has a monitoring role to ensure that the treaties of the EU are respected, which enables it to be called as the "guardian of the treaties." [45] It also issues directives, regulations and opinions. Hence, it has a crucial role in determining the direction of policy and the overall ambitions of the whole Union.

However, despite its scope for issuing regulations that are binding on all member states, it is in narrow areas related to the existing treaties or directives. In addition, the member states are able to attempt to undermine the Commission's powers. To illustrate, the Commission is competent to monitor aid that is granted by the member states to economic activities on their territory, it can decide whether a proposed aid measure is compatible with the rules or not. In 2000 and 2001, it adopted two decisions in which it decided that aid meassures granted by Portugal to its pig framers were incompatible with the common market. The member states tried to find ways of escaping from the Commission's enforcement actions. However, on June 29, 2004, declaring that the Council of Ministers can not authorise an aid measure which the Commission has already declared incompatible with the common market, the ECJ effectively protected the Commission's powers and annulled the member state's attempt to disregard the rules.[46] This case illustrates not only that the member states try to find ways of escaping from the Commission's enforcement actions, also demonstrates that the EU has a strong legal foundation.[47]

The European Court of Justice (ECJ) (with the Court of Instance) is in fact "the most unequivocally supranational" of all EU institutions.[48] It is responsible for investigating possible breaches of the Treaties and of the EU law by the EU institutions themselves (art.220- 245 TEC). So, it has to act impartial where national interests are concerned. Since the first half of the 1960s, the Court has used the system of preliminary rulings to establish a EU legal order. The two "building blocks" of the Court's legal order, the principles of direct effect and primacy of EU law, have been created in the framework of preliminary questions.[49] One of these principles, primacy of

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[44] Peter Lang, **The European Union Transformed, Community Method and Institutional Evolution from the Schuman Plan to the Constitution for Europe**, Bruxells, P.I.E, 2005, p.59.
[45] **Ibid.,** p.59 and Nicholas Moussis, **Guide to European Policies**, Rixensart, European Study Service, 2005, p.42, Simon Sweney, **Europe, the State and Globalization**, Essex, Pearson Education Limited, p.124.
[46] Case C-110/02, 2004, Commission v. Council, ECR 2004.
[47] Peter Lang, **The European Union Transformed, Community Method and Institutional Evolution from the Schuman Plan to the Constitution for Europe**, Bruxells, P.I.E, 2005, pp.60- 61.
[48] Simon Sweney, **Europe, the State and Globalization**, Essex, Pearson Education Limited, 2005, p.127.
[49] Peter Lang, **The European Union Transformed, Community Method and Institutional Evolution from the Schuman Plan to the Constitution for Europe**, Bruxells, P.I.E, 2005, pp.102,106.

EU law implies that EU law has precedence over every form of national law, so it can be assessed as "the most radical infringement of the accepted concept of sovereignty."[50] Direct effect, on the other hand, means that individuals can rely on EU law before national courts to challenge the law of their member state.[51] So, like primacy principle, this principle also involves the signs of shifts from traditional sovereignty.

The European Parliament is also worthnoting as one of the main institutions of the EU, since it is "The only real multinational legislative assembly in the world," composing of elected representatives from the EU member states.[52] Under the EU Treaty framework, it has no formal powers to introduce legislation, its role is only advisory (art.189-201 TEC). Nevertheless, it should be noted that it has gradually increased its influence over the years through amendments of the treaties. In fact, particularly the TEU's creation of the co-decison procedure have joined the Parliament in the decision-making process. Thus, through the co-decision procedure, in the creation of secondary law in the form of regulations and directives, while the Commission has the exclusive right to take the legislative initiative and the Council of the EU adopts the legislative texts either by unanimity or by qualified majority voting, the European Parliament is increasingly involved in the decision making-process.

The Intergovernmental Characteristics of the EU

The most important intergovernmental characteristic of the EU is about treaty reform and enlargement with new member states.[53] The formalisation of agreements in these issues requires unanimity between the states and the ratification of the results by all the member states in accordance with their respective constitutional requirements (art. 236 TEC and art.49 TEU).

Moreover, the European Council is accepted as an intergovernmental institution and a defender of the national interests, as its members, heads of member state (or government), as contrary to the Commission, negotiate as representatives of their own states.[54] The Council creates ultimately new laws and deals with important issues which can produce significant outcomes in terms of the direction of EU policy, such as treaty reform, the accession of new member states, the principles of the CFSP, framing of a common defence policy, the necessary conditions for the adoption of the single

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[50] William Wallece, "The Sharing of Sovereignty: The European Paradox," **Political Studies**, Vol.47, 1999, p.510. See also Case 6/64, 1964, Costa versus Enel, ECR 585.

[51] Case 26/62, 1963, Van Gend en Loos, ECR 1.

[52] Nicholas Moussis, **Guide to European Policies**, Rixensart, European Study Service, 2005, p.44.

[53] Peter Lang, **The European Union Transformed, Community Method and Institutional Evolution from the Schuman Plan to the Constitution for Europe**, Bruxells, P.I.E, 2005, pp.30-31.

[54] The executive authorities of the members states are under an obligation to inform the Commission of the way in which they have interpreted European standards, and more generally of the measures they have adopted to fulfil their obligations. For the steps of this detailed procedure, see Paul Magnette, **What is the European Union? Nature and Prospects**, New York, Palgrave, Macmillan, 2005, pp.58-61.

currency..etc. So, it can be birefly called as "the architect of European construction."[55] The deliberations in its meetings (known as summits) have been published as declarations, these documents have "undeniable political value, but no legal binding force."[56] In the sphere of the CFSP, in addition to adopting common strategies, it can also decide on joint actions, common positions, which bind politically, if not legally, the EU member states.

The Council of the EU is also admitted as an intergovermental body like the European Council (art.202-210 TEC). It consists of many councils, each responsible for different set of responsibilities or different policy areas like the General Affairs Council, Council of Agriculture.. etc. Between meetings of these Councils, there are permanent representations working as a kind of continual representation of state interests.[57] It is also the primary law-making institution, laws are created as directives or regulations. Whereas directives are passed into national law by national parliaments within an determined time frame, regulations are immediately binding and do not need to be transposed by national parliaments. It adopts the legislative texts either by unanimity or by qualified majority voting(QMV) of which scope has been expanded by EU Treaties beginning by the TEU, in 1992. Here, it is necessary to mention the "Empty Chair" crisis and "Luxembourg Compromise" which shifted decision-making toward intergovernmentalism in late 1960s. Qualified majority voting should have entered into force in 1966. However, in this year, the "Empty Chair" crisis occured when De Gaulle objected to restrictions on the use of veto by EU Member States in the Council. He withdrawed French representation in the Council, hoping to force other member states to prevent the use of qualified majority voting. Thus, he brought the Community to a halt by practising a seven-month "empty chair" policy starting in June 1965. The crisis was resolved by the so-called "Luxembourg Compromise of January 1966" where right of veto where national interests prevailed was confirmed.[58] Then, the SEA of 1986 explicitly allowed QMV for the adoption of the Internal Market directives. The scope of QMV was further expanded by the TEU. Yet, several important fields of Union action remained under the unanimity rule. In many sensitive areas, EU Member States have blocked the move to QMV in order to protect what they considered as their national interests. The Treaty of Lisbon (art.9c) (before its creation, Constitutional Treaty (art. I-23-25)) finally extended QMV as well. Consequently, more decisions in the Council would be made by QMV. Yet, there are still exceptions including subjects that are sensitive for sovereignty of states, such as tax, social security, foreign policy and

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[55] Nicholas Moussis, **Guide to European Policies**, Rixensart, European Study Service, 2005, p.42, Simon Sweney, **Europe, the State and Globalization**, Essex, Pearson Education Limited, p.39.
[56] **Ibid.,** Nicholas Moussis, p.39.
[57] The heads of each delegation are members of the powerful Committee of Permanent Representatives (COREPER) which acts as a permanent link betweeen Brussels and the member states.
[58] Desmond Dinan, **Europe Recast, A History of European Union**, London, Lynne Rienner Publishers, 2004, p.104.

defence which will continue to require unanimity. So, it did not generalise decision-making by QMV to all aspects of ordinary legislative work.

Through these intergovernmental characteristics of the EU, the states continue to be effective in every field of the EU, and thus they restrict the loss of their sovereignty. The loss of sovereignty seems to be restricted also by the subsidiarity principle. According to the Treaties (art.2 TEU and art.5 TEC), as clarified by the Edinburgh Council of 1992,[59] the subsidiarity principle, in the broad sense, covers three distinct legal concepts. First one is "the principle of conferral (or the principle of attribution of powers)." To this principle, the EU can act within the limits of the competences conferred on it by the member states in the Treaties. Competences not conferred on the EU in the Treaties remain with the member states, implying that "national powers are the rule and those of the EU the exception." The principle of subsidiarity,[60] on the other hand, means that in areas that do not fall within the EU's exclusive competence, the EU can take action only if it can be better achieved at EU level than at state level. The final principle is "the principle of proportionality." According to this, the content and form of any action by the EU must not go beyond what is necessary to achieve the objectives of the Treaties. So, the content and form of any action by the EU should be further examined to determine precisely whether this is really required or whether other sufficiently effective means can be used to attain the objectives of the Treaty. Consequently, by means of these principles, the states continue to be quite effective in the development of policies through the common institutions in which they participate, as they have the possibility to choose the means that suit them best.[61] In addition, through the Treaty of Amsterdam (1999) and particularly the Treaty of Nice (2000), in some areas, such as the CFSP and JHA, state authorities have had the opportunity to intervene at all stages to defend their interests in the decision-making procedures.[62]

Change in the Nature of Sovereignty by the European Integration Process

The analysis on the intergovernmental characteristics of the EU demonstrates that the states still continue to be effective in the EU policies through the subsidiarity principle, unanimity vote and through intergovernmental institutions, the European Council and the Council of the EU. Indeed, the EU states negotiate intergovernmentally to pursue their policy objectives and they determine the EU policies according to their policy choices. So, the SMP had the full support of the UK (Margaret Thatcher government), despite the widespread impression that the UK has been usually obstructive in any effort implying shift of sovereignty towards the Union. In addition,

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[59] Edinburgh European Council, "Presidency Conclusions," 1992, <http://europa.eu/european_council/conclusions/index_en.htm> (February 22, 2009).
[60] An interinstitutional agreement sets out the procedures for implementing the principle of subsidiarity, namely, Interinstitutional Agreement, OJ 329, 06.12.1993.
[61] Peter Lang, **The European Union Transformed, Community Method and Institutional Evolution from the Schuman Plan to the Constitution for Europe**, Bruxells, P.I.E, 2005, pp.46-47. Paul Magnette, **What is the European Union? Nature and Prospects**, New York, Palgrave, Macmillan, 2005, pp.53-58.
[62] Peter Lang, **op. cit.,** pp.12-14.

the opt-outs of the states clearly express that each state aims to defend its own interests to influence European decision making. In fact, in very recent period, the TEU's inclusion of the "opt-out" device allowed the UK to stand outside some of the provisions of the Treaty. The UK (and also Denmark) were given opt-outs on the final stage of EMU which involved adopting the single currency. The UK also opted out of the Social Chapter, which contained provisions relating to employment and worker's rights. When, the Schengen Agreement was incorporated into the structures of the EU by the Treaty of Amsterdam in 1997, the UK (and also Ireland) again remained outside the agreement, thus benefited from a further opt-out, an "avant-garde" of European states.[63] The UK, particularly, argued that its right to control its boundries is a fundamental necessity and a mark of its sovereignty against integration. The European states still (also in the Treaty of Lisbon) have resisted to relinquish their sovereign rights especially in some areas, such as JHA and Common Foreign Security Policy (CFSP).[64] They are apperantly not willing to constraint their sovereignty in these fields to the EU, even if it is of a limited dimension. To illustrate, in the field of CFSP, maintaining the principle of unanimity, they prefer to protect only their national interests, not an autonomous "European interest."[65] Moreover, the exercise of activities in this field inevitably relies on "progressive groups of a few," so, according to their political will and their financial and operational capacities.[66] [67]

Despite all these providing an appearance like the states still maintain their traditional sovereignty within the EU, the examination on the supranational elements of the EU explicitly shows that the member states have, to a certain degree, lost their traditional sovereignty in several respects. Indeed, they have lost it through the transfer of several competences (even if limited in number) on a permanent basis to the EU, through the supranational institutions, the Commission and the ECJ, the principles of direct effect and primacy of EU law and decision-making processes at levels of the creation of secondary law. Indeed, European sovereign states now are not only subject to their national law, but also to European Union law. European Union law, through a supranational institution's decision, the decision of the ECJ, has precedence over every form of national law (primacy of EU law) and can be relied on by states' citizens before national courts to challenge the law of their states. Moreover, the European Commission, another supranational institution, issues regulations that are binding on all

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[63] J.B.D. Simonis, "European Integration and the Erosion of the Nation-State," **International Journal of Social Economics,** Vol. 22, No. 7, 1995, p.52.

[64] The Treaty of Lisbon includes also a specific exemption that it does not apply to the domestic law of the UK.

[65] J.C. Qhrgaard, "International Relations or European Integration: Is the CFSP Sui Generis?," **Rethinking European Union Foreign Policy**, B. Torna and T. Christiansen (ed.), Manchester and New York, Manchester University Press, 2004, pp.32-34.

[66] K. Blanck-Putz, "Flexible Integration in the Common Foreign and Security Policy," **EU Constitutionalisation: From the Convention to the Constitutional Treaty 2002–2005, Anatomy, Analysis, Assessment,** Lenka Rovná and Wolfgang Wessels (ed.), Prague, Europeum Institute for European Policy, 2006, pp.240-256.

[67] F. Cameron, "The Future of the Common Foreign and Security Policy," 2003, <http://www.watsoninstitute.org/bjwa/archive/9.2/EU/Cameron.pdf> (February 22, 2009), p.124.

member states, even if its legislative role is "secondary" to the European Council does not have any legislative powers only decision-making powers and the Council of the European Union. Particularly, EU Treaties beginning with TEU has extended the use of majority voting in the Council and strengthened the Commission and the supranational aspects of the EU. The member states thus no longer have the legal powers to act independently in the fields covered by these limitations on sovereignty, even in the external relations field due to the "implied powers doctrine." Indeed, common policies and common institutions have established high levels of interdependence among themselves, so even in intergovernmental issues, they can not exercise the absolute powers of a sovereign state, as interdependence requires a "more sustained co-operation."[68] Furthermore, in several fields, they require the approval of the other member states and they have to accept their interference to their internal affairs.[69]

To sum up, the EU includes not only intergovernmental elements but also supranational ones. Moreover, it operates not only as an economic union, a "common market," but also it goes towards a political union. So, it is governed by an extensive body of rules, including both economic and political aspects, which is protected by an effective judiciary mechanism, to which even national states are held liable.[70] Within this system, it is no longer possible to remain as a traditional sovereign state and to exercise its absolute powers. Indeed, the European sovereign states no longer have absolute authority over its demarcated territorial area and people and they are no longer independent in their international affairs. This briefly means, they no longer protect their traditional sovereignty. Nevertheless, this should not be understood as the states are non-sovereign or the sovereignty merely belongs to the EU, not to the states.[71] As the examination on pooled sovereignty shows, both the EU and states have exclusive competences in some fields. Yet, in areas in which the EU is endowed with exclusive power, the exercise of sovereignty of the member states is transferred to the former. That is, the member states delegate some of their decision-making powers on specific matters of common interest to shared EU institutions.

In brief, there is a distribution of authority between the EU and the states and so an explicit change in the nature of sovereignty.[72] This change is "an inevitable and logical response to changes" in the international sphere.[73] Indeed, when it comes at the end of

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[68] Robert O. Keohane, "Ironies of Sovereignty: The European Union and the United States," **Journal of Common Market Studies**, Vol.40, No.4, 2002, p.749.

[69] William Wallece, "The Sharing of Sovereignty: The European Paradox," **Political Studies**, Vol.47, 1999, p.506.

[70] Göran Therborn, "Europe in the Twenty-first Century: The World's Scandinavia?" P. Gowan and P. Anderson (ed.), **The Question of Europe**, London, New York, Verso, 1997.

[71] Evgeni Tanchev, "Sovereignty and Distribution of Authority in the Federations and in the Constitution of the European Union," **International Seminar on The Impact of the Accession to the EU on the New Member States' and Candidates' Domestic Law Orders**, Ankara, 2004, p.85.

[72] **Ibid.,** Evgeni Tanchev, p.87.

[73] Simon Sweney, **Europe, the State and Globalization**, Essex, Pearson Education Limited, 2005, p.116.

the 1960s, the European sovereign state lived its highest point, "its (final) achievement."[74] From the end of 1960s, the economic and social developments facilitated the constraints on the sovereign state. That is, the processes of globalization taking place with regard to financial services, industry, the growth in the number and size of multinational companies and technological revolution seriously limited the state and its sovereign rights. Particularly "in the years between 1972 and 1984-85, "The European sovereign state witnessed progressive limitations due to influences of some major pressures like economic crises of 1974 and 1979, major change in the dominant macro-economic paradigm from Keynesianism to monetarism and neo-liberalism, from fiscal expansionism to restraint, from mercantilism to free trade throughout the 1980s, the upheavals in Germany in 1989-90, the implosion of the old political order in Italy after 1991..etc.[75] All these pressures have combined and resulted in the retreat of sovereign state in the international sphere.[76] Among these pressures, the impact of European integration which is "not fully appreciated" has been in fact the most remarkable pressure, as it provided a new shape to the state and sovereignty in Europe "redefining existing political arrangements, altering traditional policy networks, triggerring institutional change [and] reshaping the opportunity structures of member states and their major interests."[77] Through the change emerged and developed in the state and sovereignty by European integration process, Europe, "the cradle of external and unitary sovereignty," now being as a Union, serves as "the model of co-operative mutual interference."[78]

Conclusion

This article aimed to question how European integration process has affected the nature of sovereignty and what its implications are for the EU and states. For this purpose, firstly, it examined what "sovereignty" and "sovereign state" means in the traditional understanding. It began its examination focusing on the terms "state" and "sovereignty" seperately to understand their meanings perfectly. Based on its examination, it found that the concept of state has a linkage to the question of sovereignty. In fact, for a state to be sovereign means having absolute authority over its territory and people, but also having legitimacy in the eyes of other states and being independent in international sphere.

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[74] Alan S. Milward, **The European Rescue of the Nation-State**, London, Routledge, 1992, p.28.

[75] For similar reasons of the limitations on sovereignty in European states, see William Wallece, "The Sharing of Sovereignty: The European Paradox," **Political Studies**, Vol.47, 1999, pp.511-513 and William Wallece, "Rescue or Retreat? The Nation State in Western Europe, 1945-93," P. Gowan and P. Anderson (ed.), **The Question of Europe**, London, New York, Verso, 1997, pp.33-45.

[76] W. Müler and V. Wright(ed.), **The State in Western Europe, Retreat or Redefinition**, Essex, Portland, Or., Frank Cass, Ilford, 1994, pp.1-11.

[77] **Ibid.,** p.6.

[78] Robert O. Keohane, "Ironies of Sovereignty: The European Union and the United States," **Journal of Common Market Studies**, Vol.40, No.4, 2002, p.749. To Keohane, this is quietly important as its success on this new model can be an example for troubled regions in which the traditional understanding of state sovereignty emerges as a "source of conflict."

After this clarification on the meanings of the sovereignty and sovereign state in the traditional understanding, it focused on the emergence of European integration in 1950s as a challenge to the traditional understanding. In this part, it identified that European integration, just at the beginning of its establishment, through both the ECSC, including a High Authority and the EEC, including a supranational Commission, presented a challenge to traditional view of sovereignty. Then, in the period of its development as the European Union, because of the fundamental shifts in the traditional notion of sovereignty, the traditional principles of sovereignty required reinterpretation and reassessment.

In the third part, the article evaluated the reinterpretation of the traditional sovereignty with a new concept emerged in the European integration process, "Shared" or "Pooled" sovereignty. Through this evaluation on "Shared" or "Pooled" sovereignty, it led to the fact that there are views in the literature claiming that the pooled sovereignty has enabled the states an opportunity to defend and to serve better their various national interests. These views showed the existence of the sovereignty question between the EU and states.

In the subsequent part, it scrutinized the EU with its both supranational and intergovernmental characteristics and addressed the question of sovereignty between the EU and member states. In this part, it explored that through the intergovernmental characteristics of the EU, that is to say, through the subsidiarity principle, unanimity vote and through intergovernmental institutions, the European Council and the Council of the EU, the states continue to be impressive in every field of the EU, and thus they restrict the loss of their sovereignty. The examination on the supranational elements of the EU, on the other hand, revealed that the member states have to a certain degree lost their traditional sovereignty in several respects. Indeed, they have lost it through the transfer of several competences to the EU, through the supranational institutions, the Commission and the ECJ, the principles of direct effect and primacy of EU law and decision-making processes at levels of the creation of secondary law.

Finally, based on its findings, it higlighted that there has been a clear change in the nature of sovereignty by the European integration process and the "pooled or shared" sovereignty has emerged as a characteristic feature of involvement with the EU. This should not be understood as the states are non-sovereign or the sovereignty merely belongs to the EU, not to the states. In only some areas, the member states delegate some of their decision-making powers on specific matters of common interest to shared EU institutions. However, this is enough to argue that within the EU, consisting of a combination of both supranational and intergovernmental elements, the European states no longer protect their traditional sovereignty and its absolute powers.

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