SOVEREIGNTY AND THE EUROPEAN UNION

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ABSTRACT: *As the title suggests, my paper focuses on the concept of sovereignty and the European Union. The title may seem negative, but what I want to states is that the decline of sovereignty is actually an adaptation imposed by the international environment in light of new concepts and processes. There are views that hail these changes as well as there are opponents, nonetheless the change has occurred, and may I add, willingly. Those agreeing to dividing sovereignty do so because of the many advantages deriving from it, most obvious of which being increased economic performance, better social policies and acceptance in the European new order. The opponents fear the disintegration of states, loss of identity and defend the old system which was based in individual states as man actors. Through its process of integration, the European Union does not attempt to replace the state, rather offer valuable aid in light of new challenges of globalization which states cannot handle themselves.*

KEYWORDS**:** *Sovereignity, European Union, Disintegration.*

I. INTRODUCTION

The partition of sovereignty is illustrated by the competences gathered by the European Union in imposing law, regulating the economic system, dismantling borders and imposing the euro, competences entailing the legislative power, territory and currency which were previously bel onging only to the state. These represent clear breaches of national sovereignty, but again, they were done willingly by those who initially designed the process as well as willingly accepted by those joining later, meaning that they were acceptable loses in view of greater gains. When discussing the new admissions, the Easter European countries formally under communism, there is the issue of their slower development, but also the advantage of being reintegrated into the continent, into the democratic world, gaining a spot in the decision making forums as well as benefiting from the experience and aid of the western European states in developing to a similar level. Odds are, that without the integration, these states would have taken a lot longer in reaching the level of economic prosperity of the West as well as being perceived as second class states. I am not focusing on the process of integration or going deeper in the functioning of the Union, because I am interested only in a restricted aspect, which makes it a unique construction, the sharing of sovereignty.

The rise of sovereign nation states is what constructed the modern world and now practically guarantees economic prosperity and political freedom making democracies the most desirable regimes. Sovereignty was first attributes as coming from God in the early times in hist ory, moving on to the Middle Ages the source of sovereignty came to be the monarch. With the development of a state system with a working bureaucracy, this system became the depositary of sovereignty until the Age of Lights transferred it to the people as concern for fundamental human rights and the rights of citizens remodeled the world of politics.

State sovereignty is limited to the territory of the state as it was enunciated in the 19th century. Along the end of the 20th century this sovereignty received a strike in the form of environmental policies which actually concern the entire world. In 1972 at Stockholm a declaration was issued which brought into attention the discrepancy between a sovereign state's right to exploit the resources of its territory and the internationally agreed responsibility to protect the environment. Moreover, the Hague Declaration on environmental issues signed by seventeen heads of states agreed on establishing more powerful institutions to regulate such affairs and implement sanctions.[1] In the years to come the international community has taken significant steps towards devising norms and regulations to force countries to look more carefully at protecting the environment.

II. FORMATION OF EUROPEAN UNION COMMUNITIES

Definitions of European Union:

1) "*The European Union is a geo-political entity covering a large portion of the European continent. It is founded upon numerous treaties and has undergone expansions that have taken it from 6 member states to 28, a majority of states in Europe"*[2].
2) More European countries operating under the same currency, the euro, and acting as one economic unit.
3) *"An economic and political union established in 1993 after the ratification of the Maastricht Treaty by members of the European Community and since expanded to include numerous Central and Eastern European nations. The establishment of the European Union expanded the political scope of the European Economic Community, especially in the area of foreign and security policy, and provided for the creation of a central European bank and the adoption of a common currency, the euro*"[3].

Today European Union is perceived as a supranational body with strong economy and well-organized mechanisms. But this is a result of a long process beginning with an idea that aspired to peace, unity and wealth, struggling for accomplishment with financial and human casualties especially after the World War II. All the periods of time mentioned below represent important phases in European Union's history and formation.

Idea of United Europe

Relevant community projects tried over time:

- ✓ Unity by Force

"*Large areas of Europe had previously been united by empires built on force, such as the Roman Empire, Byzantine Empire, Frankish Empire, Holy Roman Empire, Ottoman Empire, the First French Empire and Greater German Reich. A peaceful means of some consolidation of European territories used to be provided by dynastic unions; less common were country-level unions, such as the Polish–Lithuanian Commonwealth and Austro-Hungarian Empire*."[4]

[1] Karen T. Liftin „Sovereignty in World Ecopolitics", *Mershon International Studies Review*, vol.41, no.2, 1997 ,P.30

[2] http://europa.eu/about-eu/basic-information/about/index_en.htm

[3] Idem

[4] Anand Menon and Stephen Weatherill *Legitimacy, Accountability and Delegation in the European Union*, "Accountability and Legitimacy in the European Union" edited by Anthony Arnull and Daniel Wincott, Oxford University Press, 2002

- ✓ Unity by a Principle

Example: Christianity, which along with the Edict of Milan became a religio licita, also along with the Edict of Thessaloniki became the state religion mandatory for all subjects of the Roman Empire, thus realizing a synthesis of European spirituality that evolved under the idea of unity, it continued to be supported and promoted even after the Great Schism in 1054, the church functioned as the first pan-European structure.

- ✓ Unity in Diversity

In the context of affirmation of national states appeared the necessity for a bond, stronger than the religious one, to unite European countries. So, since the eighteenth century began to take shape the idea of formulating new projects to ensure peace and unity in Europe through its radical reorganization.

Example: "The project for permanent peace in Europe", dated 1713, of Abbot Charles Saint-Pierre; "The plan for eternal and universal peace" of Jeremy Bentham; the idea of "European Republic" of J.J. Rousseau; "The philosophical project of permanent peace" formulated in 1795 by Emanuel Kant. "Manifest to Europe" released by Alphonse de Lamartine, as well as "Appeal for United States of Europe" from 1851 written by Victor Hugo.

- ✓ Unity by Mutual Agreement

At the end of World War II, European states had considered necessary the beginning of a new era, an era of structured organization of West Europe, based on common interests and founded upon treaties that would guarantee the rule of law and equality between all member states. From this point and till the effective realization of the idea of European unity several preliminary steps were taken:

- Hague Congress held from 7-11 May 1948 (Netherlands), which aimed to discuss all the ways to unify Europe and constituted the first step in this process.
- Appearance of "West Union" by adopting on 17 March 1948, in Brussels, of the «Treaty of cooperation in economic, social and cultural terms and collective lawful self-defense» which obliges the signatory states to make their commitment to defend each other in case one of them would be the victim of armed aggression, also taking into account the strengthening of economic, social and cultural bonds between member states.
- Creation of European Organization for Economic Cooperation (EOEC) by the Treaty of Paris signed on 16 April 1948, whose objectives were: management of financial aid granted to European countries by the United States, objectified in the Marshall Plan; coordination of national economic policies; compensation for the lack of convertibility of currencies and suppression of quantitative restrictions in trade between concerned states, and achieving a customs union and a free trade area.
- Signing on 5 May 1949 the Statute of Council of Europe, organization that completed previous political organizations, bringing together European states that received democratic regime and promoted compliance of human rights[5].

The European Steel and Coal Community was established by the 1951 Paris Treaty for a 50 year period. By the treaties signed in Rome in 1957 established the European Economic

[5] Vataman Dan Institutiile Uniunii Europene. Caiet de seminar. Bucuresti : Universul Juridic, 2011, p.5

Community and the European Community for Atomic Energy, all three unifying in 1965 under the name of the European Communities ran by a single Council and a single Commission. The EC gained more competences in 1986 through the Single European Act followed by the Maastricht Treaty in 1992 which created the European Union. This collection of treaties represents the primary source of law for the EU, with all their revisions and amendments, and gives the Union judicial personality.[6] The Treaty of Rome brought "new and revolutionary ideas"[7] that reshaped the Community: the supremacy of the directly applicable Community law that created a new powerful legislative authority of the member states.

As a precursor, The European Steel and Coal Community was designed based on the principle of the single market and asserted the fact that it could only be functional is the states involved are willing to surrender sovereignty in order to model together the future of this enterprise. The provisions of the treaty make clear this willingness of the signatories to entrust a new entity with the power to implement decisions that individual states could not have done on their one, due to lack of power or due the fact that by doing so would be perceived as attempting to become a hegemonic power. These states gave up the power to impose limitations and tariffs on the imports of steel and coal among themselves and restrain from any acts of controlling the exploitation and movement of the two which from now on were to be regulated jointly.

Moreover, the people working in the coal and steel industry were allowed to seek employment in any of the six countries benefiting from the same opportunities.[8] This arrangement of such a surrender of sovereignty was obviously applicable only among the signatories, in the relations with outside countries, each signatory could enforce its rights as before and meddle with the imports and exports of steel and coal. The situation created did not sit well with the rest of states which began demanding similar treatment in accordance with the nation-most-favored principle leading to the signing of a new act along with 28 other countries, called The General Agreement on Tariffs and Trade.[9]

The agreement between the six states entailed also support in case one state's industry was in trouble, as it would lead to instability to the others' industry, thus making possible outside economic int ervention. Moreover, "the High Authority (of the Community) may, if it wishes, consult not only governments but also the various interested parties, enterprises, workers, consumers and dealers; it may impose fines and penalties, may make loans directly to enterprises, may levy taxes on produces, may require the dissolution of specific restrictive contracts among enterprises"[10], so the Community can take action without going through the usual channel, the government.

III. THE MAIN STAGES OF ECONOMIC INTEGRATION

The processes of economic integration are both bilaterally and on a regional or global basis. As a characteristic feature of integrations can now be called their development at the regional level:

[6]Ion M. Anghel, "Personalitatea juridical si competentele Comunitatilor Europene/Uniunii Europene", ed. Lumina Lex, 2006, Bucuresti, pp.24-25

[7]Geoffrey Howe, "Sovereignty and Interdependence: Britain's Place in the world", *International Affairs (Royal Institute of International Affairs),*vol.66, no.4, 1990, pp. 675-695 ,P.686

[8] Treaty of the European Coal and Steel Community, Art.69

[9]Raymond Vernon, "The Schuman Plan: Sovereign Powers of the European Coal and Steel Community", *The American Journal of International Law,* vol.47, no.2, 1953, pp.183-202 ,P.193

[10] idem , p. 197

create a holistic regional economic complex with common supranational and intergovernmental authorities.

Economic integration at the international level has its own logic of development, assuming passing through certain stages - from lowest to highest, as well as their own place and the system prevailing at the date of the international ties of another kind - political, culture and even cultural. B. Balassa first introduced the dual consideration of the phenomenon of integration - both the process (implementation of measures to eliminate discrimination in the integration space), and also highlighted the forms of integration (free trade area, customs union, common market, economic union, a full economic integration)[11].

The concept of market integration involves the destruction of obstacles to free movement of goods and factors of production. At first, in the course of integration is required integration of markets of partner countries on the basis of full liberalization trade relations and not allowed state intervention in this process. Implementation of the integration depends only on the political decision of combined markets[12]. Neo-liberal concept allows the government intervention to level of operation for integrating national economies. Representatives of institutional market-direction suport the optimum ratio of state regulatory intervention and market forces. The state's role is to level the playing field of competition and harmonization of policies integrating countries[13]. Without having the state intervention, let us say the state help in directing the policies and supervising economic activity of the country, the national economy could transform in a uncontrolled chaos.

A major prerequisite for the origin and dynamic development of economic integration is the existence of a definite political consensus of the participants on the main issues, first of all bilateral and multilateral relations in general and its main feature is the isolation of specific regional interests, which are the driving force for regional policy and economy.

World experience shows that the original idea of integration of developing countries was brought to life the need for joint efforts to overcome economic backwardness and inefficient colonial structure of national economies, to strengthen state sovereignty. Later appear the prerequisites of qualitative changes in the nature of economic relations as a result of the rapid rise of the productive forces (or the purposeful intent to modernize them).

As concerning the types of economic integration Tinbergen (1954) distinguish 2 main types:

– *positive integration*: transfer to common institution or joint exercise of at least some powers;

– *negative integration*: removal of discrimination in national economic rules and policies under joint surveillance;

In practice both positive and negative integration go together;

According to B. Balassa the degree of economic integration can be categorized into seven stages[14]:

1. *Preferential trading area*
2. *Free trade area,*
3. *Customs union,*
4. *Common market*
5. *Economic union,*
6. *Economic and monetary union*
7. *Complete economic integration*

These stages differ in the degree of unification of economic policies, with the

[11] Mussa M. Factors driving global economic integration, Boston: Edwille, 2001, p. 7.

[12] Crafts N. Globalization and Growth in the Twentieth Century. IMF Working Paper, WP/00/44. Washington, D.C.: International Monetary Fund, March 2000, p. 80.

[13] Odagiu G. Integrarea economică europeană. Chişinău:Tacis, 2009, p. 20.

[14] Charles W.L. Global Business Today, Fourth Edition. Washington: Barkley, 2009, p. 24.

highest one being the completed economic integration union of the states, which would most likely involve political integration as well.

1. A **preferential trade area** (also **preferential trade agreement**, **PTA**) is a trading bloc that gives preferential access to certain products from the participating countries. This is done by reducing tariffs but not by abolishing them completely. A PTA can be established through a trade pact. The line between a PTA and a free trade area (FTA) may be blurred, as almost any PTA has a main goal of becoming a FTA in accordance with the General Agreement on Tariffs and Trade. These tariff preferences have created numerous departures from the normal trade relations principle, namely that World Trade Organization (WTO) members should apply the same tariff to imports from other WTO members.

Main characteristics of PTA are:

- Tariffs are not eliminated but lower than countries non members of the agreement.
- Differentiation between bilateral and multilateral PTAs

A free trade area is basically a preferential trade area with increased depth and scope of tariffs reduction. All FTA, customs unions, common markets, economic unions, customs and monetary unions and economic and monetary unions are considered advanced forms of a PTA. (Multilateral: Asia-Pacific Trade Agreement (1976), Economic Cooperation Organization (ECO) (1992), Generalized System of Preferences, Global System of Trade Preferences among Developing Countries (GSTP) (1989), Latin American Integration Association (LAIA/ALADI) (1981), Melanesian Spearhead Group (MSG) (1994), South Asian Preferential Trade Arrangement (SAPTA) (1999), South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA) (1981).

1) Bilateral: European Union – ACP countries, India – Afghanistan (2003), ASEAN – PR China (2005), Laos – Thailand (1991))

2. A **free-trade area** is a trade bloc whose member countries have signed a *free-trade agreement (FTA)*, which eliminates tariffs, import quotas, and preferences on most (if not all) goods and services traded between them. If people are also free to move between the countries, in addition to FTA, it would also be considered an open border.

As mentioned previously members of a free-trade area do not have a common external tariff, which means they have different quotas and customs, as well as other policies with respect to non-members. To avoid tariff evasion (through re-exportation) the countries use the system of certification of origin.

3. A **customs union** Agreement between two or more (usually neighboring) countries to remove trade barriers, and reduce or eliminate customs duty on mutual trade. A customs union (unlike a free trade area) generally imposes a common external-tariff (CTF) on imports from non-member countries and (unlike a common market) generally does not allow free movement of capital and labor among member countries.

The main characteristics of a CU are:

- negative integration:
- Common external tariff to non-members
- suppressing discrimination for CU members in product markets;
- equalization of tariffs and no or common quotas with non members
- briefly: CU=FTA+common external trade policy;

Purposes for establishing a customs union normally include increasing economic efficiency and establishing closer political and cultural ties between the member countries.

4. A **common market** is a group formed by countries within a geographical area to promote *duty free trade and free movement of labor and capital* among its members. Common markets impose common external tariff (CET) on imports from non-member countries.It is considered the first stage towards a single market, and may be limited initially to a free trade area with relatively free movement of capital and of services, but not so advanced in reduction of the rest of the trade barriers.

The main characteristics CM are:

- No positive integration and is beyond GATT/WTO .
- Free movement of goods
- Free movement of labor
- Free movement of services
- Free movement of capital
- No border controls
- briefly: CM=CU+factors and goods mobility;

A **single market** is a type of trade bloc which is composed of a free trade area (for goods) with common policies on product regulation, and freedom of movement of the factors of production (capital and labour) and of enterprise and services. The goal is that the movement of capital, labour, goods, and services between the members is as easy as within them. The physical (borders), technical (standards) and fiscal (taxes) barriers among the member states are removed to the maximum extent possible. The European Economic Community was the first example of a both common and single market, but it was an economic union since it had additionally a customs union.

5. Economic union - an arrangement between nations that involves the free flow of goods and factors of production among member countries and the adaptation of a common foreign trade policy, but it also requires a common currency, harmonization of tariff rates of members, and the common monetary and fiscal policies.The countries often share a common currency.

The main characteristics of Economic Union are :

- positive integration but remains extremely formless:
- a CM with some degree of harmonization of national economic policies (for instance: standards) in order to remove discrimination;

– **Weak version**

- Fixed bilateral exchange rates (rigidly or within a band)
- Each member undertakes monetary policies to defend the rate

– **Strong version**

- Individual currencies are replaced by a common currency
- Individual monetary authorities are replaced by a single authority
- Harmonization of tax rates.

Purposes for establishing an economic union normally include increasing economic efficiency and establishing closer political and cultural ties between the member countries.

6. An **economic and monetary union** is a type of trade bloc which is composed of an economic union (common market and customs union) with a monetary union. It is to be distinguished from a mere monetary union (e.g. the Latin Monetary Union in the 19th century), which does not involve a common market. This is the fifth stage of economic integration. EMU is established through a currency-related trade pact. An intermediate step between pure EMU and

a complete economic integration is the fiscal union. Economic & monetary union is a common market with a common currency. The best example of economic and monetary union is the Eurozone, which includes the member countries of the EU that have adopted the EU as their currency.

7. Complete economic integration is the final stage of economic integration. After complete economic integration, the integrated units have no or negligible control of economic policy, including full monetary union and complete or near-complete fiscal policy harmonization.

The main ccharacteristics of complete economic integration:

- Free movement of goods, services, labor and capital
- Common economic, monetary and fiscal policy
- Common foreign policy and policy of defense
- Setting up a supranational authority where decisions are binding for the Member States

Among the requirements for successful development of economic integration are "permanency" in its evolution (a gradual expansion and over time a higher degree of economic/political unification); "a formula for sharing joint revenues" (customs duties, licensing etc.) between member states (e.g., per capita); "a process for adopting decisions" both economically and politically; and "a will to make concessions" between developed and developing states of the union.

A "coherence" policy is a must for the permanent development of economic unions, being also a property of the economic integration process. Historically the success of the European Coal and Steel Community opened a way for the formation of the European Economic Community (EEC), which involved much more than just the two sectors in the ECSC. So a coherence policy was implemented to use a different speed of economic unification (coherence) applied both to economic sectors and economic policies. Implementation of the coherence principle in adjusting economic policies in the member states of economic block causes economic integration effects.

Obstacles standing as barriers for the development of economic integration include the desire for preservation of the control of tax revenues and licensing by local powers, sometimes requiring decades to pass under the control of supranational bodies. The experience of 1990-2010 has shown radical change in this pattern, as the world has observed the economic success of the European Union. So now no state disputes the benefits of economic integration: the only question is when and how it happens, what exact benefits it may bring to a state, and what kind of negative effects may take place.

IV. CONCLUSIONS

Liberal interdependence theorists argued that the concept of state sovereignty has lost meaning due to the development of economic interdependence, rise of non state actor and the process of globalization, thus making a tight control of the borders futile. States could no longer ensure economic or military security .[15] But states could ensure these issues hence the many conflicts that rose among and within states along various historical ages. The latest step was the willing delegation of state attributes to non state organization, such as the European

[15]Janice Thomson „State sovereignty in international relations: bridging the gap between theory and empirical research" *International Studies Quarterly* vol.39, no.2, 1995, pp 213-233, p217

Union, to regulate and implement policies at a much larger scale.

J. Thomson clear the fact that sovereignty is not really about the control a state had, but it refers to the state's ability to make authoritative decisions and the erosion of this ability better describes the crisis of sovereignty. In exercising this authority and reach the best decisions interdependence developed at an international scale, which brought up the question of whether or not is this interdependence that erodes state sovereignty. Since states choose to cooperate and reap the fruits of interdependence, can be proof that this was the right choice to make by exercising the authority to choose it.[16]Since states gain sovereignty from the recognition of other states, sovereignty is what makes a territorial entity eligible to participate in international relations.[17]

Thus, the concept of sovereignty changes as prevailing political ideas change. There was a time when authoritative monarchies were the only game in town and legitimized one another, when democracy became the only game in town, non-democracies lost international recognition and so allowing other states to breach their sovereignty, as was the case of the American invasion of Iraq. Moreover, candidates for the membership of the European Union need to be recognized as working democracies and follow the rules put together by the international political community, this recognition guaranteeing their sovereignty. Moreover, the recognition of a state as sovereign doesn't imply only the recognitions of its borders but also of goes on within those borders, the way in which society operates and the rules it operates by, meaning, the respect for human rights and a dedication to follow democratic values and promote them.

J. Thomson offers a number of criteria according to which sovereignty can be measured:

"1. A change in the authority empowered to recognize sovereignty

2. The diffusion of political authority to alternative institutions, whose membership would be exclusively non-state actors

3. The state's loss of its monopoly on coercion

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