

However, the rapid evolution of AI continues to challenge legal frameworks, requiring ongoing adaptation.

Brazil's experience shows that democratic resilience depends on both effective regulation and inclusive policies that promote digital literacy, transparency, and accountability.

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RETHINKING SOVEREIGNTY IN AN INTERDEPENDENT WORLD: THE EUROPEAN UNION MODEL¹

Abstract

This article examines the transformation of sovereignty in the context of increasing global interdependence, with particular focus on the European Union as

¹ The present analysis builds on and develops the findings of a broader study coordinated and published in M Safta (coord), *Curierul Judiciar*, no 2/2025 (C H Beck 2025), where the topic is examined in detail https://www.ujmag.ro/reviste/periodice/curierul-judiciar-nr-2-2025?srsId=AfmBOoo9euZ_vS2GH_0sNvy26VgM3MIIBEGFsaSxHzOWr-aMH3I4RSK

a distinctive legal and constitutional model. Moving beyond the classical conception of sovereignty as absolute and indivisible authority, the study argues that contemporary sovereignty is best understood as a dynamic and relational construct, shaped by both internal constitutional frameworks and external legal commitments. The European Union illustrates this transformation through a system in which Member States voluntarily transfer and jointly exercise competences within an autonomous supranational legal order. This process does not entail a loss of sovereignty, but rather a reconfiguration of its exercise, often conceptualised as shared sovereignty. The analysis explores the constitutional implications of EU membership, including its character as a “constitutional moment”, the interaction between national constitutional identity and EU law, and the role of institutions in managing multilevel governance. Particular attention is given to emerging dimensions of sovereignty, including digital sovereignty and the regulation of artificial intelligence. The article concludes that the EU offers a relevant framework for understanding how sovereignty adapts in contemporary legal systems and provides useful insights for states engaged in processes of European integration.

Keywords: sovereignty, European Union, constitutional identity, shared sovereignty, EU law, digital sovereignty

1. Introduction

Sovereignty has long occupied a central place in constitutional and political theory, traditionally understood as the supreme and indivisible authority of the state within a defined territory. This classical conception, associated with the works of Jean Bodin and later developed in modern state theory, presupposes autonomy, exclusivity, and the absence of external constraints. Yet such an understanding has become increasingly difficult to sustain in the contemporary legal and political environment.

The evolution of international law, the proliferation of international organisations, and, more decisively, the development of regional integration projects have profoundly reshaped the conditions under which sovereignty is exercised. In this context, sovereignty is no longer adequately described as an absolute attribute of statehood, but rather as a flexible and relational concept, operating within a dense network of legal obligations and institutional interactions¹.

The European Union (EU) represents the most advanced and complex expression of this transformation. It challenges traditional categories by combining elements of international organisation and constitutional order, giving rise to a system in which Member States retain sovereignty while exercising significant powers in common. This article explores the nature of this transformation, examining how sovereignty is reconfigured within the EU legal order and what implications arise for constitutional theory and practice.

2. From Absolute Sovereignty to a Relational Concept

The classical doctrine of sovereignty, rooted in the Westphalian model,

¹ See Onwe SO and Nwogbaga DME, ‘Conceptual Issues and Theoretical Analysis of Sovereignty’ (2015) 5(3) *Research on Humanities and Social Sciences* (ISSN 2224-5766; ISSN 2225-0484); Hoffman J and Graham P, *Introduction to Political Concepts* (Pearson Education Limited 2006); Karen M, *Essentials of International Relations* (W W Norton and Company 1999); Ardant P and Mathieu B, *Droit constitutionnel et institutions politiques* (29th edn, LGDJ 2017) 32

conceived of the state as the ultimate source of authority, free from external interference. However, even within this framework, sovereignty was never entirely unconstrained. Internal limitations, such as constitutional norms, and external commitments, such as treaties, have long shaped its exercise.

Modern developments have intensified these constraints. The expansion of international law has introduced binding obligations that operate independently of unilateral state consent, while globalisation has generated interdependencies that limit the effectiveness of purely national decision-making. As a result, sovereignty increasingly manifests itself through participation in cooperative frameworks rather than isolation.

In this context, legal scholarship has proposed alternative conceptualisations, including “limited sovereignty”, “pooled sovereignty”, and “shared sovereignty”¹. These approaches converge in recognising that sovereignty is not diminished by cooperation, but rather transformed through it. Authority is no longer exclusively national, but distributed across multiple levels of governance.

3. The European Union and the Autonomy of a New Legal Order

The EU provides a paradigmatic example of this transformation. From its early development, the Court of Justice of the European Union (CJEU) articulated principles that distinguish EU law from traditional international law.

In *Van Gend en Loos*, the Court established that EU law creates rights for individuals, enforceable before national courts, thereby introducing the principle of direct effect.¹ Shortly thereafter, in *Costa v ENEL*, it affirmed the primacy of EU law over conflicting national law, emphasising the autonomy of the Community legal order.² These foundational judgments were further developed in *Simmenthal*³, where the Court clarified that national courts must disapply conflicting domestic provisions.

Together, these principles construct an autonomous legal system⁴, integrated into national legal orders yet maintaining its own normative authority. This autonomy does not eliminate state sovereignty, but conditions its exercise. Member States remain the “masters of the Treaties”, yet operate within a framework that they have collectively established and continue to shape.

4. EU Membership as a Constitutional Transformation

Accession to the EU entails more than the acceptance of international obligations; it represents a profound constitutional transformation. The process requires candidate states to align their legal systems with the fundamental values of the Union, as articulated in Article 2 TEU, including democracy, the rule of law, and respect for fundamental rights.

This transformation has been described as a “constitutional moment”⁵,

¹ Mamudu HM, Studlar DT. Multilevel Governance and Shared Sovereignty: European Union, Member States, and the FCTC. *Governance* (Oxf). 2009 Jan;22(1):73-97. doi: 10.1111/j.1468-0491.2008.01422.x. PMID: 20622934; PMCID: PMC2900849.

² *Case 26/62 Van Gend en Loos v Nederlandse Administratie der Belastingen*

³ *Case 106/77 Amministrazione delle Finanze dello Stato v Simmenthal SpA*

⁴ K Lenaerts, JA Gutiérrez-Fons and S Adam, ‘Exploring the Autonomy of the European Union Legal Order’ (2021) 81(1) *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (Heidelberg Journal of International Law)* 47

⁵ Lenaerts K., și Gutiérrez-Fons J.A- Epilogue. High Hopes: Autonomy and the Identity of the EU, *European Papers*, Vol. 8, 2023, No 3, pp. 1495-1511, ISSN 2499-8249 - doi: 10.15166/2499-8249/726

reflecting the depth and permanence of the changes involved. Constitutional provisions must be adapted to accommodate the primacy of EU law, the transfer of competences, and participation in supranational institutions.

The Romanian experience offers a particularly relevant illustration. The revision of the Constitution in 2003 introduced provisions enabling EU membership and recognising the priority of EU law. The Constitutional Court characterised this development as involving the joint exercise of sovereign powers, rather than their abandonment.¹ This interpretation highlights a crucial aspect of EU integration: sovereignty is not transferred in a definitive sense, but exercised in common, within a structured legal framework.

5. Constitutional Identity and the Limits of Integration

Despite the integrative force of EU law, Member States retain a core of constitutional identity. Article 4(2) TEU obliges the Union to respect national identities², including fundamental political and constitutional structures.

This provision has become a focal point for tensions between national courts and the CJEU. The German Federal Constitutional Court, in its Lisbon judgment³, emphasised that the EU remains a union of sovereign states and cannot evolve into a federal state without explicit democratic authorisation. At the same time, the CJEU has developed a strong conception of the autonomy and primacy of EU law, particularly in cases concerning the rule of law.

These interactions are best understood not as hierarchical conflicts, but as elements of a constitutional dialogue⁴. Sovereignty, in this context, is negotiated through judicial interpretation and institutional practice, reflecting the specific of the EU legal order.

6. Protection of Fundamental Rights within the EU

The complexity of sovereignty within the EU is further illustrated by the coexistence of multiple systems of fundamental rights protection. The CJEU, the European Court of Human Rights (ECtHR), and national constitutional courts each contribute to this framework.

While generally convergent, these systems may produce differing standards. The ECtHR's jurisprudence, for example, has expanded the scope of rights under the European Convention, including in areas such as environmental protection, as demonstrated in *Verein Klimaseniorinnen Schweiz v Switzerland*.⁵

This pluralism enhances the protection of individuals, but also generates legal uncertainty and challenges for national courts. Sovereignty is thus exercised within a dense normative environment, where multiple sources of authority must be reconciled.

¹ Decision no.148/2003

² T.Toader, Safta M., *Constitutional Identity and Relations Between EU Law and Romanian Law*. In: Common Values and Constitutional Identities. Studies of the Central European Professors' Network (9). CEA Publishing, Miskolc, Budapest, 2023, pp. 271-352. ISBN 9786156474308; 9786156474315; 9786156474322

³ Lisbon Judgment (German Federal Constitutional Court)

https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2009/06/es20090630_2bve000208en.html

⁴ Brack, N., Coman, R. et Crespy, A. (2019) . Sovereignty conflicts in the European Union. Les Cahiers du Cevipol, N° 4(4), 3-30. <https://doi.org/10.3917/lcdc.194.0003>; Peterson, John (1997) 'The European Union: Pooled Sovereignty, Divided Accountability', *Political Studies*, 45 (3), 559–578.

⁵ *Verein Klimaseniorinnen Schweiz and Others v Switzerland* App no 53600/20 (ECtHR, 9 April 2024)

7. The Exercise of Sovereignty: Institutions and Competences

The practical operation of sovereignty in the EU depends on the allocation and exercise of competences. The principle of conferral ensures that the Union acts only within the limits established by the Treaties, while subsidiarity and proportionality guide the exercise of those competences. However, the interpretation of competences, particularly through judicial decisions and soft law instruments, allows for a degree of flexibility that can lead to gradual expansion. This phenomenon raised questions about the balance between national and supranational authority.

National institutions play a crucial role in this process. Parliaments monitor subsidiarity, governments participate in decision-making within the Council, and courts engage in dialogue with the CJEU. The effectiveness of this system depends not only on formal competences, but also on institutional capacity and constitutional culture¹.

8. Emerging Dimensions: Digital Sovereignty and Artificial Intelligence

Recent developments highlight the emergence of new dimensions of sovereignty, particularly in the digital domain. The EU has increasingly sought to assert “digital sovereignty”, understood as the capacity to regulate digital infrastructures, data, and technological development.

The regulation of artificial intelligence exemplifies this trend. The EU’s approach aims to balance innovation with the protection of fundamental rights, establishing a comprehensive regulatory framework. This reflects a broader shift in the understanding of sovereignty, extending beyond territorial control to encompass technological and informational domains.

Such developments illustrate the adaptability of sovereignty as a concept. Rather than diminishing, sovereignty evolves to address new challenges, reinforcing the role of law in structuring complex societal transformations.

9. Conclusions

The evolution of sovereignty within the EU demonstrates that the classical model of absolute and indivisible authority is no longer adequate to describe contemporary legal realities. Sovereignty persists, but in a transformed form, characterised by shared competences, institutional interdependence, and normative pluralism.

The EU model² illustrates how sovereignty can be reconfigured without being negated, enabling states to participate in a supranational system while preserving their constitutional identity. This transformation requires not only legal adaptation, but also institutional maturity and a commitment to shared values³.

¹ Azoulai, L. (eds) (2014) *The Question of Competence in the European Union*, Oxford University Press, Oxford
38 see Enache, M., and Deaconu, S., (2024), ‘Aplicarea principiilor subsidiarității și proporționalității în dialogul dintre Parlamentul național și Parlamentul European’, în Stoica A., Niță A., Murphy A. (eds), *In honorem Marin Voicu, Forța și fragilitatea dreptului în fața provocărilor lumii contemporane*, Editura Solomon, pp.102-129

² Piattoni S. The European Union between Intergovernmentalism and ‘Shared and Responsible Sovereignty’: The Haptic Potential of EMU’s Institutional Architecture (The Government and Opposition/Leonard Schapiro Lecture, 2016). *Government and Opposition*. 2017;52(3):385-411. doi:10.1017/gov.2016.48

³ The concept of sovereignty in the EU – past, present and the future, RECONNECT – Reconciling Europe with its Citizens through Democracy and Rule of Law 770142 H2020-SC6-CULT-COOP-2017-two-stage Collaboration Project, Available at https://iris.luiss.it/retrieve/2fe2ef9e-4cb0-4964-b480-2380ef5c9c4a/reconnect_def.pdf

From this perspective, the EU offers a relevant framework for understanding the dynamics of sovereignty in an interconnected world and provides meaningful insights for states engaged in processes of European integration, where the central challenge is not the preservation of sovereignty in its classical form, but its effective exercise within a complex and more integrated legal order.

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II. Case Law

ECJ Amministrazione delle Finanze dello Stato v Simmenthal SpA
ECJ Van Gend en Loos v Nederlandse Administratie der Belastingen

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ЕКОЛОГІЧНІ НАСЛІДКИ ЗБРОЙНОЇ АГРЕСІЇ ТА ЇХ ПРАВОВА ОЦІНКА

Сучасні умови стану довкілля, життя і здоров'я населення України набувають ознак системної й багатовимірної кризи, що пояснюється збройною агресією РФ проти України. Екологічна ситуація в державі далеко виходить за допустиму межі порушень природного балансу й трансформується в глибоку екологічну кризу, що є загрозою національній безпеці України. Одночасно її масштаби і наслідки сигналізують про небезпеку не лише для нашої держави, а й для глобальної екологічної безпеки та, загалом, сталого розвитку людства.

Ст.50 Конституції України гарантує право кожному на безпечне для життя та здоров'я довкілля. Військові дії, що супроводжуються масштабними руйнуваннями природних екосистем, знищенням природно-ресурсного потенціалу, забрудненням довкілля створюють небезпечні та неможливі умови для проживання населення на окремих територіях. Забруднення атмосферного повітря, водних ресурсів і ґрунтів, знищення біорізноманіття, руйнування екосистем, а також пошкодження або знищення об'єктів підвищеної екологічної безпеки, зростання масштабів лісових пожеж, ушкодження природоохоронних територій, руйнування інфраструктури створюють передумови для довготривалих негативних екологічних наслідків [1, с. 914]. У такому контексті має місце правовий індикатор порушення базових екологічних прав людини (ст. 9 ЗУ «Про охорону навколишнього природного середовища») [3], що спричинює екологічну міграцію і уже не є соціальним явищем. Дана проблема висвітлюється не лише у національному вимірі, а містить можливі транскордонні та глобальні наслідки, що підсилює її значущість на міжнародному рівні.

Існує й системний характер заподіяної шкоди довкіллю. Значна кількість випадків знищення екосистем, пошкодження об'єктів критичної інфраструктури, а також загрози для функціонування потенційно небезпечних об'єктів формують високий рівень екологічних ризиків. У