Sovereignty in European Context: how the European Union Reinforces National Sovereignty

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Abstract

This paper aims to give a new perspective on the issue of sovereignty in the European context. In this context, we argue that the EU can contribute to increase Member States sovereignty. Many academic circles have advocated that the EU limits State's sovereignty. This is why we intend to present a new approach to sovereignty in the European context.

In order to present our argument we will discuss and debate the concept of sovereignty, both in the internal and external dimensions, which are associated with the concept of power. Then we will check if European states have the necessary means that enables them to project their power. We'll also argue that there are real limitations, in current capabilities, and in resources availability needed to develop them in the future. We'll also present the concept of politics of scale, arguing that we can apply this concept to develop state's capabilities, which allow the necessary power projection, which enhances state's sovereignty.

This found that pooling and sharing will increase EU member states sovereignty, since it will allow a greater ability to project power, which is essential to support the external dimension of sovereignty. Thus, through a process of sharing and pooling member states will have the ability to defend their interests on a global scale, a level of intervention that will be denied if they choose to pursue individually. We also conclude that the current economic crisis may be used has a catalyst to deepen these mechanisms.

Introduction

This paper addresses the dimensions of sovereignty in the European context. We argue that the European Union (EU) contributes to increase the sovereignty of its Member States.

In the literature there is the general idea that the EU restricts Member State (MS) sovereignty. In general, the argument presented is that the transfer of slices of state's sovereignty to a supranational structure limits MS freedom, thus limiting it's sovereignty. In this argument, sovereignty is linked to the concept of freedom of decision, which - in our point of view - suffers from two flaws of reasoning, (i) associate the concept of sovereignty to the concept of freedom of decision, and (ii) bypass the decision making process within the EU, not addressing the role of each MS in this decision process.

In order to present our argument we have conceived a multidimensional concept of sovereignty, using the tools provided by Collier, Laporte & Seawright [1]. We divided the concept of sovereignty in its multiple dimensions – both internal and external – and we focused our attention on the external dimension. Then, we assigned indicators to the dimensions, and observed the result. In order to measure our dimensions we used the tool provided by Goertz [2]. For proving the cause-effect that will lead us to conclusions, we followed the framework provided by Castro [3].

In the first chapter we will discuss the concept of sovereignty, analysing it in its internal and external dimensions. In fact, it is the existence of an external dimension – the pillar of independence - that gives meaning to sovereignty. Therefore we will focus on independence, and will associate it with notion of power, addressing the ways that a state can present and project its power in the international society.

Having presented the concept, in chapter two we will investigate if the European states have the means to project this power. One may also argue that European states do not have the full range of capabilities because there is no threat, and if it existed, they would have the necessary resources to develop the capabilities. However, in this chapter, we will conclude that there are serious limitations in the EU MS genetic strategy, relating to the availability of resources needed to develop capabilities in the future.

In the third chapter we will discuss the concept of politics of scale, and present - according to this concept – what Member States are currently doing regarding the development of capabilities that will allow the projection of power. Finally, and in the last chapter, we intend to present some conclusions.

The Concept of Sovereignty

We begin this paper with an approach to the concept of sovereignty, according to Jean Bodin. Sovereignty can be defined as the "supreme, absolute and perpetual power over citizens and subjects" [4, p. 1]. For Bodin, the essential function of the sovereign was the legislative capacity, which was applicable to the subjects, but not to the sovereign. According to Bodin, the word "Law" in Latin implies the command of who holds the sovereignty [4, p. 11]. Thus, the ability to enforce the law, even without the consent of the

subjects, is the ultimate goal of sovereignty [4, p. 23]. In Bodin's vision, sovereignty was only linked to independence indirectly. If the sovereign had no limits to impose the law, there was no superior in the internal dimension. But could that be the case if the sovereign was not independent?

This concept was later to be clarified in its external dimension when the system of Westphalia recognized sovereignty as the supreme, absolute and perpetual power, in the internal dimension, which is immune to interference from the external dimension. The principle of exclusion of outside interference - negotiated in Westphalia – leads to the recognition of "other" outside entity. In fact, the concept of sovereignty in its external dimension would be meaningless if the sovereign entity was isolated. We can only conceive of the concept of sovereignty if we are facing an international society, and the supremacy and independence in the domestic order are the two sides of the same coin. Thus, we can divide sovereignty in two main dimensions, internal and external [5, p. 288-290].

In order to express the independence in the external dimension, the concept of sovereignty is closely linked to the concept of power. Therefore, the means and instruments available to effectively exercise sovereignty define the power of a State. However, the concept of "power" is not absolute, like the external dimension of sovereignty, but relative to another entity. For this reason, the state needs a set of means available, which will enable the exercise of power both in the domestic side - which is supreme - as the external dimension, reinforcing the independence. Sovereignty requires power to act and, thus, to enforce sovereignty, both in internal and external dimensions, and without it, the concept no longer makes sense [6, p. 14-15].

Sovereignty also has physical limits. The supreme power over citizens is limited by the boundaries of the state. This supremacy in the internal dimension is only valid - by definition - within the limits of a territory. Thus, defining territorial boundaries assumes a capital importance for understanding the very concept of sovereignty. With a boundary we are dealing with a physical location criteria: being inside or outside a given territory, delimited by a boundary is what ultimately defines the scope of supreme power. This concept of physical boundary that limits and defines power, led states to define imaginary lines crossing mountains, rivers and plains, which later were called borders [7, p. 16-17]. This notion of border is both inclusive and exclusive, whether we are addressing the internal or external dimensions of sovereignty.

The evolution of the concept led the international society to impose itself other limitations. In fact, sovereignty does not assume only a right but rather as a status - to be sovereign - which uses a set of legitimate rights, duties and powers [5, p. 297]. This idea of duties of the sovereign was already described in Hobbes, who argues that the sovereign state exists to ensure the

security and defence of the Sovran's freedom and dignity, and that for these functions the State is provided with authority and power. Thus, the sovereign has the sword of war to and sword of justice [8, p. 93-103]. Based on this argument, Jackson argues that today there is also a duty to protect populations. For him, the "sword" of Hobbes has two edges, *i.e.*, the right and duty to protect [6, p. 121].

Keeping this in mind, a question should be asked regarding the exercise of power by the State. We know that the state has a monopoly over military power and justice. However, what are the existing mechanisms for accountability for in the exercise of its power [6, p. 18-19]? This debate is still inconclusive. However, one can argue that the (un)accountability of the state is what somehow legitimizes external intervention in internal affairs of the state, thus breaking the "supreme" power in the internal dimension. An example would be the so-called "Humanitarian Intervention". In this argument, if a state does not adequately protect its populations, it would loose the right of non-interference in its internal affairs.

For the sake of our argument, we will only stress that sovereignty, as supreme and independent power, only makes sense in an international context. Concurrently, the use of power needs instruments, which should be available to the state. Without the existence of instruments – providing the State with the ability to perform its right and duty to protect populations - the notion of sovereignty appears meaningless. Therefore, it is necessary to seek and develop tools that enable the state to effectively exercise its sovereignty.
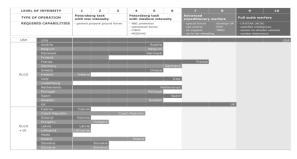
European State's Capabilities

On the previous chapter we have demonstrated that the concept of sovereignty is closely linked to the concept of power. Thus, the state must have necessary tools of power, in order to protect and safeguard its citizens. Particularly, regarding foreign action, the State holds - albeit nowadays limited - the "sword of war". This is why in this chapter we will address EU MS current capabilities, and we will also verify their ability to acquire and maintain new ones.

In an excellent analysis, Lindley-French and Franco Algieri debated - among others - the European capabilities. They identified the tasks that EU MS armed forces were not yet able to perform. A key component for this analysis is the capability of force projection. In the European setting, only 10% are deployable forces, and on these only about 50,000 to 60,000 staff can be employed in peacekeeping operations or medium and high intensity operations. This lack of personnel is particularly apparent if we compare the ratios used in other counter-subversion theatres. The report points out that there was a ratio of 10 British soldiers for every 1,000 inhabitants, in Northern Ireland at the highest intensity conflict date. Transferring this ratio - without affecting it of the

social factors such as cultural proximity, language, the existing infrastructure in Northern Ireland and the issues related to the standard of living - to Iraq, we found that we would need 250,000 men and that the ratio in Afghanistan is about 0.2 per 1,000 inhabitants, which raises serious questions about the viability of the mission in both territories [9, p. 33].

This structural weakness of European forces appears more obvious if you analyse the level of conflict. Lindley-French and Franco Algieri present a model that quantifies the intensity of the conflict from 1 to 10, dividing it into four types of operations: Petersberg tasks with low intensity, Petersberg tasks with medium intensity; advanced expeditionary warfare, and the full scale warfare. According to this analysis, only the United States has the capability to engage across all spectrums of conflict, and within the European countries, only Britain and France can engage in an "advanced expeditionary warfare." Other EU MS can only aspire to Petersberg tasks of low and medium intensity [9, p. 28-35].

Picture 1 - Conflict Intensity Scale [9, p. 89].

With this data we conclude that there is limited capacity of the EU MS Armed Forces to engage in external military intervention, something that is certainly not new. One can also see what is currently going on in other theatres, like Libya. However, one can argue that the EU MS have not developed their military apparatus as the result of the lack of direct threat, and that - should this exist – would have the ability to develop the military instrument. We do agree with the first argument - the absence of a direct threat - but we do not agree with the second. This is why we will check EU MS military development capabilities.

We begin by analysing the population, and the greatest challenge for all EU MS is its ageing population. In the past years EU MS have observed a decrease in birth and death rate. The decreases of theses rates do not lead to a decrease in population, but leads to ageing. This ageing could partly be solved by an emigration increase, which would bring the issue of integrating new minorities. One can easily see the problems that *i.e.* Libyan and Tunisian emigration has brought to the relations between Italy and France. However, an ageing population has a direct impact in the available revenue distribution, with an inevitable increase in health bills and social security, increasing the already high public sector deficits. These deficits will lead - as one can

observe today – to spending cuts, particularly in areas that do not provide immediate income, like the military. Simultaneously, aging will have an impact on recruitment by decreasing the available workforce. By doing so, the military will have to compete with other professions for labour, and will have to come up with better offerings, that will – in its own turn – lead to a spending increase… This scenario would be possible if we were having a big economic growth… In fact, we do not expect to be a double-digit growth, and therefore will reject such a scenario.

To conclude, we observe that (i) EU MS have currently limited military intervention capabilities, and (ii) that European aging population will have an impact on the available resources, with a greater pressure on health spending and social security. If at the same time, there is no room for an economy growth, we are led to conclude that EU MS do not have the ability to develop - autonomously - the means of defence which will guarantee the application of force. This, therefore, will have an impact on its external sovereignty.

Pooling and sharing: the new EU MS sovereignty enhancer?

Several authors have extensively discussed pooling and sharing, while analysing its impact on the concept of sovereignty. The first question one must immediately ask is if sovereignty can be pooled. Jackson argues that sovereignty can - in fact - be shared, presenting the case of the European Union. However, this exchange occurs without actual loss of states' territorial sovereignty, where they are ultimately responsible for matters of security and defence [6, p. 8-9]. Philpott also agrees with this approach. For him, the creation of the EU represents the first occurrence of a significant amount of transfer of political authority from States toward a non-state entity. Thus, the EU does not replace MS sovereignty which still rely on the state entity, while receiving the authority provided by the portion of each MS sovereignty [7, p. 39].

Of course, States do not intend to make this transfer just to have a lower threshold for intervention. States, which consist of people, deliberate on these issues - in theory - in a rational way. Then, one can ask why States carry out such transfer. Ginsberg, who argues for the principle of "Politics of Scale", provides the answer to this question. MS realize they have a bigger weight in the international arena acting together as a block, than if they acted alone. In fact, the author argues that the result of this action is even bigger than the arithmetic sum of each states' capabilities put together, leading joint operations at a lower cost and with fewer risk [10, p. 27].

This principle is also applicable to capability development, the external guarantor of independence, which is an unquestionable mark of sovereignty. So the first observation we would like to make is that pooling and sharing do not diminish but rather increase state's

sovereignty. As we have seen, many EU MS do not have the ability to - autonomously - undertake an operation to defend their interests. Therefore, the Sovereignty issue is already somewhat illusory. However, by pooling and sharing, EU MS may develop capabilities, increasing the efficiency of its defence budget.

Looking at lessons from the past, we found that the EU was able to transform its weakness of not having a military structure to strengths by developing a series of civilian capabilities for crisis management, which can be seen essential in the world that emerged from the Cold War. Regarding this structural weakness, and among the most promising mechanisms introduced by the Lisbon Treaty, we may highlight the Permanent Structured Cooperation, which may allow the further and faster development of EU capabilities [11, p. 150-52]. This mechanism, in conjunction with the existing Battlegoups, will enable the EU to increase the number of units on standby. This increase - such as increasing participation in operations - will lead to increased costs. In order to deal with these costs, the Union must find a way for dedicating fundings for enabling MS to participate in operations and – at the same time – keep investing in the restructuring of its armed forces [12, p. 66]. This financial constraint, alongside with the current financial crisis, will constitute a leverage and further contribute to a greater pooling and sharing of military resources in Europe [13, p. 40].

Some MS have already adopted this approach. On November 2, 2010, the United Kingdom and France signed a 50 years an agreement for the creation of a joint expeditionary force of 10,000, and sharing their aircraft carriers, and as for the unprecedented deepening of cooperation among nuclear submarines in both countries. In their joint statement at Lancaster House, British Prime Minister argued that this agreement would enable both countries to reduce defence spending, increasing their capacities [14]. The training has already started in 2011. We are aware that this is not an EU treaty, but a bilateral one. Still, it is setting an example.

In an EU framework, this concept of pooling and sharing could be achieved with the integration of command and control and logistical support, keeping combat units purely national. With this approach, a significant slice of the costs would be reduced without losing the effectiveness of combat units, where is required a strong sense of unity, commitment and discipline. This pooling and sharing in operations could be gradually transferred to a more permanent structure in the EU [15, p. 198-99].

Regarding the EU structures, the European Defence Agency (EDA) is already developing this pooling and sharing concept through a variety of projects. The Agency launched a series of programs, which were prioritized through a connection made between the lack of current capabilities and future shortages. Among the various projects, we may highlight the project of the European helicopters fleet. Currently the EU has about 1,700 helicopters, which are not available for crisis management missions mainly due to two reasons: (i) the preparation of the crews, who are not trained to operate in demanding environments such as deserts and extremely mountainous terrain ; and (ii) the fact that some helicopters are not technologically prepared to fly in these environments.

The Agency has developed programs to deal with both this issues, by providing, crew training. For this purpose, EDA started in 2010 the program "Helicopter Tactics Training Programme", which will train crews to fly in Europe most demanding operating environments. On the other hand, EDA is also developing a program of updating existing aircraft - through simple technological solutions - in order to operate in theatres where European forces are being employed today. As for future developments, EDA is starting a Helicopter Transport of the Future program, initiated by France and Germany, and currently open to participation of other MS. This helicopter is not expected to be operational before 2020.

Regarding air transport, twelve European countries, including Portugal, have already agreed on the creation of a European Air Transport Fleet (EATF), which operate the current C130 and the new A400M. This fleet will carry out different types of pooling and sharing, providing, flight aircraft hours, joint training, logistics and maintenance, and is expected to become operational between 2014 and 2017. This same concept of pooling and sharing is being used in the establishment of a multinational unit for the new A400M, which will be a part of the EATF.

In the naval dimension, EU is also developing some new projects, including the replacement of the existing anti-shipping mines, between 2018 and 2020, as well as the development of a UAV capable of being launched and land from and on a deck of a ship, thereby increasing the ability to be used at sea. Also in the UAV department, EDA is developing technologies that will allow the UAV flight in European airspace, including the integration of sense and avoid technology. Finally, and in space, we should also mention MUSIS project, which allow - through the use of a dual-use technology, military and civilian - the monitoring and surveillance of the globe, and is expecting to be operational by 2015 [16, p. 167-69]. These initiatives are synchronized with the development of the interoperability of the Battlegroup concept, and an aircraft carriers fleet [17, p. 149-50]. in particular, for the Battlegroup concept, is noted for some time the need to include air and sea components, allowing naval support, close air support and air interdiction, essential to any military intervention. For that purpose, joint training is currently a priority [18, p. 62].

Regarding joint training, Pöttering suggests a

completely new approach, arguing for a Synchronized Armed Forces Europe (SAFE). His model of integration emphasizes the need for standardization of procedures and rules of engagement. He argues that EU armed forces should perform joint and combined training. According to Pöttering, joint training would increase the level of trust and interdependence. He also argues that it is necessary to eliminate differences - in terms of medical and social support for the military and their families in case of death or disability - between soldiers of different nationalities integrated in EU operations. To this aim, he proposes to create a "Statute of the European military in joint operations".

Pöttering's ideas are innovative and go even further. According to the author, military careers should be open to any national of any EU MS, and the only criteria should be the mastering of an operational language. Following his idea would again be possible to see a Dutchman to fly a fighter of the Royal Air Force. Looking like a futuristic vision of Europe, one should remember that this was the case during World War II. A more recent example of this idea is provided by Belgium. Currently any EU citizen can apply and serve in the Belgian Armed Forces.

This approach can be supported through the European Initiative for the exchange of young officers, inspired by Erasmus, known as the "Military Erasmus" [19], which should be extended to all ranks and grades, promoting cross-training module. Any military designed for international operations must have a clear idea of the European institutions and their mode of operation [20, p. 37-39].

Conclusions

Through this paper we presented an innovative approach to the concept of sovereignty in the European context. To this end, we began our work by analysing the concept of sovereignty, noting the existence of two conditions, (i) the supremacy at home, and (ii) independence externally. As such, this concept only makes sense if seen in the light of a society of equal entities, which together represent and recognize the existence of independence. However, for the declaration to be effective, it is necessary that each entity have the sufficient means (power). The absence of this power, and the inability of its projection, will lead to the existence of an illusory view of sovereignty.

We also found that - despite being in a world where the traditional logic of power changed - the EU still coexists with the modern world and pre-modern, thus necessitating a means for power projection. Noting the need for mechanisms of power in the external order, we then checked whether EU MS held this capability independently. From the analysis we found significant limitations to the projection of force, regarding the intensity and duration of operation. However, this lack of capacity could be justified by the absence of real threat, which could be built when needed. However, we found that there is a clear trend of an aging European population, which will bring greater pressure on health expenditure and social security. Concurrently, we argue that it's not expected a strong economic growth in the EU, which could accommodate an increase in spending and on health and education simultaneously. In fact, the current scenario is actually the reverse. The current deficit crisis, associated with the containment measures announced by several countries, come to show us that (i) is not expected strong economic growth, the fruit of their own austerity measures and (ii) expenditure with defence will actually be reduced. Thus, we find that there is no room to develop means of force projection, independently, by EU MS.

Naturally, EU MS have long observed this reality, which is why they started a movement that set the *politics of scale*, *i.e.* to find a form of association where the sum of all is greater than the sum of each individual. One must remember that European states still represent a significant share of world defence spending. However, it is through the process of pooling and sharing, that states want to be more effective regarding the spending on defence, and gave several examples of current processes and future possibilities of deepening this movement. An example of practical and pragmatic is the Franco-British line of defence signed in November 2010, where countries wish to share resources, achieving a reduction in spending and - simultaneously - an increase in capacity. We recall that it was the Paris – London duet, from St-Malo, that gave birth to the European Security and Defence Policy.

Now we will test our argument. During this work we found that pooling and sharing will increase the sovereignty of European states, since it will allow a greater ability to project power, which is essential to support the external dimension of sovereignty. Thus, through a process of pooling and sharing, European states can defend their interests on a global scale, a level they will be denied if they choose to pursue policies and logical individual power.

Finally, we would also argue that the current financial crisis can serve as a catalyst for further development of these mechanisms. Given the need for financial restraint, governments may come to deepen a process of pooling and sharing resources - even reducing costs - and increasing its effectiveness. This is the logic of the Franco-British agreement. For those who do not agree with our argument, we leave some open questions. Does any EU MS has power - today - to act independently? Can any EU MS control the entire territory, not only continental, but also at sea? Can this be expected in the near future? Can the EU act as enhancer of sovereignty? What is the best option: maintain the *status quo* with the current illusion of sovereignty, or invest in a deepening of European defence?

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