

# DANGER OF DILUTION?

## EU INTEGRATION, MULTI-LEVEL GOVERNANCE AND THE CONCEPT OF SOVEREIGNTY

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### INTRODUCTION

In recent years, a raw nerve of the epistemic community in the field of International Relations (IR) was hit when different scholars touched upon the holy grail of the field – the concept of sovereignty. Although there had been earlier, and recurring, deliberations on the “contested” nature of the concept, these had been of limited effect as regards everyday epistemic business; despite diverging views on the concept of sovereignty, there seemed to be a general, if implicit, consensus on both its basic features as well as its function as the “the *grundnorm* of international society” (Reus-Smit 2001: 519) as such.

In the last decade, however, sovereignty scholars of the “new breed”, such as Janice E. Thomson or Cynthia Weber, re-opened sovereignty’s closet and inspected it more radically than their colleagues before them. In addition, they did so with a completely different mindset. Instead of expecting to be able to identify sovereignty’s true and very essence, they were far more interested to learn how a certain view of sovereignty had emerged from processes of social construction and/or discursive struggle; a quest for essentialist features thus made way for the attempt to trace sovereignty’s context-boundedness, to depict how what is usually connoted to sovereignty has been continuously changing over time and place.

Despite of the eminent position IR accords to sovereignty, it is not the only subfield of political science that does so. Rather deliberations linked to this concept rank among the top of EU studies as well – and do so since the very outset of this neighbouring field of IR. Here the question so notorious especially in the

governance “branch” of IR – what becomes of the state? – got an additional sting due to the fact that the “prime rival” of state sovereignty were not the usual suspects identified by IR. It was not Non-Governmental Organisations (NGOs) or Transnational Corporations (TNCs), coming from the allegedly different realms of civil society or (market) economy. Neither was it International Organisations (IOs) as they are conventionally seen: bare of the very competences that usually lie in the bosom of the state, (and thus) basically living on the states that constitute them.

The state’s prime rival in an EU Studies reading was different. “The EU”, as the EU institutions such as the European Commission and the European Parliament are often and widely referred to, both emerged from the state’s own and original sphere and have gradually taken over competences that conventional IOs have so far been denied. Whether this has been enough for the verdict of loss of state sovereignty to be valid, has been one of the defining lines in the field, roughly dividing it into the camps of those that deemed that states had retained if not even extended their sovereign powers, and those who perceived state sovereignty to be irreversibly diluted.

In the light of the preponderant role the concept of sovereignty has come to play in EU studies as well, it is remarkable that the above-mentioned new approaches of IR provenience so far have hardly ever been absorbed by and left their trace in this field. It is the intention of the paper to make a first step in this direction. Taking the Multi-level Governance approach as one example of how sovereignty has hitherto been thought in EU Studies more generally, it aims to answer three questions: How has the existing orthodoxy on sovereignty shaped and/or restricted our thinking about the relation(s) between “Brussels”, the member states, and the process of integration? Could new approaches as depicted above provide us with an added value on that matter? And to which conclusion does it lead us when evaluating the “EU project”: has setting up the European Union really inaugurated a post-sovereign agenda?

An attempt to answer these questions shall be made by juxtaposing conventional and “new” approaches to sovereignty in both fields and infusing the debate in EU studies with some fresh blood from their IR counterpart.

## **1 SOVEREIGNTY – A (NOT SO) CONTESTED CONCEPT?**

For a long time, how the concept of sovereignty was dealt with in IR – as well as in the wider Political Science community – bore several distinct, yet intertwined features. To start with, sovereignty was basically never thought without the notion of state; nor was statehood thinkable without sovereignty as its fundamental part, if not its very essence. In fact, state and sovereignty almost appear to form a „tandem concept“, whose sheer inseparability may be attributed to their common context of origin. In this respect, it has been pointed out that state and sovereignty are two concepts which, in their historical development and their judicial correlation/assignment, refer to each other (Koselleck 1990: 1). Both are linked to the same constituting myth (revolving around “1648” and “Westphalian Peace” as cornerstones), and a more material correspondent (“territoriality”).

Secondly, deliberations on sovereignty were mostly dominated by the intention to establish an essentialist meaning of sovereignty. They generally departed from the assumption that sovereignty had an “objective” counterpart, that there was something corresponding to the term as such in the real world.

In this respect, it is possible to spot different “topoi” which tend to recur in the discussion. To start with, sovereignty is commonly bisected in its external resp. its internal dimension. These, in turn, are linked up to different features, varying in their explicitness from scholar to scholar. Where Daniel Philpott, for instance, depicts sovereignty over a territory coarsely as implying “both undisputed supremacy over the land’s inhabitants and independence from unwanted intervention by an outside authority – a church, an empire, another state or a United

Nations” (Philpott 1995: 357), James Caporaso’s “catalogue” for the sovereign (or, as he calls it, the “Westphalian”) state is far more extensive.

“Within the state, rulers can make laws, implement them, and punish infractions by relying on police powers. (...) The sovereign has the authority to make and execute laws. In domestic politics, laws are binding in the end because they can be enforced (...). In contrast to the domestic order, the international system is organized horizontally. In legal terms, states are equal. (...) Despite occasional extra-territorial attempts to enforce national policies, states do not pass laws that they expect citizens of other states to obey” (Caporaso 1997: 581).

As becomes visible, what has been attempted was to make the rather abstract concept more feasible for scientific-analytic purposes, by pinpointing the possible dimensions within and categories linked to it. The most serious drawback this attempt had to face, however, was that, since efforts to grasp the essence of sovereignty became numerous, a definition encompassing every usage of the term was gradually regarded as a “pipe dream” (Philpott 1995: 354). In turn, sovereignty was consigned to the ranks of Political Science’s elusive concepts (Ruggie 1998: 875), joining other infamous key terms of the field, such as power, authority and the likes. However, these theoretical deliberations did not keep more pragmatic-minded scholars from using the concept as a yardstick in their empirical analyses. Consequently, features commonly associated with the concept (or respectively the institutional competences linked to them) were raised to the status of criteria, which, in the aggregate, made up something like a sovereignty template. In turn, states could be evaluated against this standard and adjudged “sovereign” or not.

Nonetheless, this “carry on regardless” approach was still overshadowed by the numerous assumed paradoxes and inconsistencies that surround the concept when treated as “physically real”: its changing criteria, the observations that there has hardly been a moment in history when these criteria were actually met<sup>1</sup>, or the

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<sup>1</sup> D. Philpott, e.g., cuts a long discussion about sovereignty short by stating that “(i)t is not that sovereignty no longer is; it is that it never quite was” (Philpott 2001: 298). Similarly, Werner and De Wilde ask and answer the question “When was Europe’s structure ‘sovereign’? (...) Those who believed in the usefulness of measuring sovereignty by operationalizing it in empirical terms of levels of political and legal independence and economic autarchy will have a hard time to point out periods in

tension between them. The fact, for instance, that sovereignty “implies that states have the right to make any agreements that they please, there is nothing to prevent them from entering into treaties that might subject them to external authority structures” (Krasner 2001) confronts us with a classical dilemma. Another tricky question is what precisely happens to sovereignty when states freely transfer *some* of the tasks or rights that are commonly linked to sovereignty to another polity. Does this mean that one part of sovereignty stays with the former “owner” and the other part is now in different hands? In this case, “(h)ow does a state with two-thirds of its sovereignty look? How sovereign has the E.U. become, one-fifth? One quarter?” (Waeber 1995: 417). And, even more fundamentally, how can we explain the fact that sovereignty as a concept has not been dropped with the rise of “globalization” (Werner/De Wilde 2001: 284)? Or that there is a “discrepancy between, on the one hand, the choir of academics claiming that the concept of sovereignty as applied to states is obsolete and factually inaccurate and, on the other hand, the continued frequent use of the very same concept in international political and legal practice” (Werner/De Wilde 2001: 283)?

## 2 IR'S NEW CONTESTANTS

In the face of these nagging questions, scholars of primarily IR provenience pondered over possible solutions. One attempt to head on with research was by circumventing the seemingly futile “meaning/definition of” problem by concentrating on one of its derivatives. The way out of the sovereignty impasse was sought in “examining more how the concept functions in international relations than precisely what sovereignty means” (Weber 1995: 1). Insofar, what sovereignty meant or how it was defined became less important than what it did; and with

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modern history where sovereignty was as real as the myths about the state system have it. It was not there in 1648, it is not there today, it has never been there in between” (Werner/De Wilde 2001: 303).

regard to the latter, sovereignty was seen/ascribed to have a structuring and regulating effect in international politics.

Function-focused approaches differed from conventional ones only with regard to their object; what they shared, however, were the common metatheoretical assumptions from which they departed. In the last decade, however, scientific deliberations emerged from IR scholars which followed a more radical approach. Looking at sovereignty from a different, more social constructivist angle, they rejected conceiving of sovereignty as a concept whose very essence was somewhere out there and waiting to be grasped; rather, the concept which was behind the mere label "sovereignty" was something that emerged from a process of social construction. Thus, attempts to look for a universal, essentialist meaning were regarded to be doomed to failure from the start – for there was none. Rather, what became crucial was to trace the "relationship between the very term sovereignty, the concept of sovereignty and the reality of sovereignty, which, however, was not stable, but "historically open, contingent and unstable" (Bartelson 1995: 2).

This had far-reaching consequences for their research agenda. To start with, research was far more context-adjusted in nature. After all, with the idea of one universal meaning of sovereignty having disappeared, what was needed was an approach that could allow (and account) for different constructions of sovereignty in different places and, especially, at different times. The neglect of this, it was felt, was at the very heart of the confusion in conventional sovereignty literature:

"spatial and temporal dimensions of sovereignty, account in part for how competing descriptions claiming to capture the essential nature of sovereignty and thus statehood can co-exist in modern global political discourse. They do so by taking a particular historically and spatially specific example as their empirical referent (...) and universalizing this form of sovereignty to the entire history of sovereignty (or to the entire history of authority relations more generally) in every locale" (Weber 1995: 2).

This, however, could hardly be a point of departure for the more social constructivist branch of sovereignty scholars, but rather object of their research. Jens

Bartelson suggested to “avoid the direct question of what sovereignty is, and instead ask *how* it has been spoken of and known throughout a period of time” (Bartelson 1995: 4).

Equally, with the lense sharply directed towards the processes which made for the social construction of sovereignty, the latter’s contested nature disclosed more radically than ever before. Sovereignty meant more than “a set of institutionalized authority claims” (Thomson 1994: 14) that some political unit – historically: the state – might have. Rather, the latter always had to ensure that these claims were judged to be acceptable by the addressees:

“the idea of sovereignty did not emerge in a moral vacuum; it had to be justified, and that justification has always taken the form of an appeal to higher-order values that define the identity or *raison d’être* of the state, whether they entail the pursuit of justice, the achievement of civic glory, the protection of a divinely ordained social order, or the advancement of individuals’ rights and celebration of the nation” (Reus-Smit 2001: 528).

However, drawing on seemingly superior legitimacy myths alone was not sufficient to allow for perpetually substantiating these claims. Equally, anything that endangered the ideal and its plausibility had to be marginalized; therefore attempts had to be made

“on the part of states persons, diplomats, and intellectuals (...) to delegitimize and quash challenges or threats; and to paper over persistent anomalies to make them appear to be consistent with the ideal or temporary divergences from the diachronic trajectory towards a pristine Westphalian ideal” (Biersteker/Weber 1996b: 3).

In sum, then, with their basic assumptions rooting in a social constructivist rather than a positivist metatheory, this new breed of (IR) sovereignty scholars, re-problematized a concept that, in the course of the attempt to make it scientifically manageable, had been bereft of its very contested nature. Far from conceiving of this “contest of concepts” as an obstacle that had to be eliminated, authors such as Thomas Biersteker, Cynthia Weber, Janice E. Thomson or Jens Bartelson made it the very object of their research, and combined it with a research agenda which put

forward both the significance of context and the question of legitimacy in the process of its social construction. Taking also into consideration the fact that this asks for a renewal of research methods (more history and discourse oriented), such an agenda meant a radical new orientation of scientific research on sovereignty on both the ontological and epistemological as well as on the methodological level.

### 3 SOVEREIGNTY AS A TOTEMIC ISSUE OF EU STUDIES

In EU Studies, the question whether (member) states still hold sovereignty has become at least as eminent as in IR; however, the connotations that go with it are slightly different. Although, just as in IR, actors as NGOs and TNCs are widely regarded to have increased their influence in policy making in recent years, the prime threat for state sovereignty is conceived to emanate from EU institutions, i.e. the Commission, the Parliament, and the Court of Justice.

Interestingly, this discussion was initiated by scholars that were of IR provenience, and who, so to speak, moved a debate they had led in their field of origin to the new discursive battleground called EU studies – with one side tending “to focus (...) on a description of the ‘erosion of state sovereignty, often confusing it with a reduction in state capabilities for independence and autonomy” (Biersteker/Weber 1996b: 7) whereas others countered “that transnational phenomena expanded under the aegis of a hegemonic state with an interest in allowing and promoting them” (Biersteker/Weber 1996b: 7).

Interestingly, the “dilution of sovereignty” claim has managed to gather broad and diverse support, with its disciples ranging from soft rationalists via social constructivists to critical realists. In doing so, all of them draw upon classical argumentation lines emerging from the alleged schism between formal and material sovereignty, with for instance Tanja Börzel and Thomas Risse emphasizing that

“we need to distinguish between formal and material sovereignty, the latter being defined in degrees of the capacity for autonomous action. As

to the former, sovereignty is already divided, as well as shared, to a large extent between EU authorities and the Member States. As to material sovereignty, neither the EU nor the modern welfare states enjoy the capacity for autonomous action of a 19th Century nation-state (...) material sovereignty no longer resides in the nation-state, but is divided and shared between multiple levels of governance” (Boerzel/Risse 2000: 5).

In the same vein, Bob Jessop speaks of a “gradual loss of the *de jure* sovereignty of national states in certain respects as rule- and/or decision-making powers are transferred upward to supranational bodies and the resulting rules and decisions are held to bind national states” (Jessop 2004: 64), and Ben Rosamond sees the EU as emblematic for a wider trend: “in *de facto* terms, there appear to be multiple challenges to states’ authority – of which the EU is but one instance. The discrepancy between *de jure* sovereignty and *de facto* authority has led some students of the EU to deploy the concept of autonomy rather than sovereignty” (Rosamond 2000: 155).

The most prominent advocates of “dilution of sovereignty” in EU studies, however, are Gary Marks and Liesbet Hooghe, who have gradually turned this claim into one of the central pillars of their Multi-level Governance approach, and have defended it against what they called state centrism (Hooghe/Marks 2001, Marks et al. 1996). Due to the importance and, therefore, analytic regard the “dilution of sovereignty” claim has received in these works, the latter lend themselves quite well to study the metatheoretical assumptions that lie behind this claim, that has become so widely spread in our field.

Looking at the MLG texts, sovereignty, in the first instance, seems to be something that has to do with possessing key competencies and controlling the appendant processes. Although “(d)irectly binding legal authority and supremacy” are also named as “core attributes of sovereignty” (Hooghe/Marks 2001: 26), to MLG-authors, sovereignty actually seems to stand or fall by the competencies in decision-making. In fact, it is mostly in combination with decision-making that sovereignty is mentioned (Hooghe/Marks 2001: 2, 4, 12, 17) respectively in combination with an alleged “loss of control” that the member states have had to suffer in this area

(Hooghe/Marks 2001: 2, 4, 6, 10, 17). This loss basically refers to the fact that decision-making in the Council is now dominated by the majority voting modus, and that EU institutions have competencies of their own.

On a more abstract level, then, sovereignty is seen and treated more or less as a commodity that one does have in higher or lower quantities, rather than an attribute one does either enjoy or not. It depends on the distribution of formal-legal competencies, and, at best, the resources to fulfil them. In the seminal texts, sovereignty is therefore not depicted as something that is accorded, something that is dependent on the “graciousness” of others; legitimacy does not play a crucial role, whether now from the inside (the population) or the outside (the international society).

Marks and Hooghe’s account of sovereignty can be said to be emblematic for that of wider parts of the field of EU studies. It clings to the conviction that, first of all, there is such a thing as an essentialist, universal meaning of sovereignty (without only once making the effort to capture it), and, secondly, that it is possible to derive criteria that allow to “measure” the sovereign-ness of political actors. Interestingly enough, these criteria boil down to the possession of formal-institutional competences, which both show the underlying positivist-materialist assumptions and the influence of the current institutionalist mainstream in EU studies. Behind the statement of a dilution of the member states therefore stands, in the very first instance, the finding that “European institutions have obtained (...) attributions which, in the rest of the world, are the domain of national governments” (Alesina/Wacziarg 1999: 1) or that “something that the E.U. does was the domain of states at another time” (Waever 1995: 417).

Apart from the more theoretical inconsistencies this draws along, and which have been presented in the second paragraph, this view on sovereignty in the EU also meets with rather empirical puzzles. First of all, the statement of a dilution of member states sovereignty begs the question, of where this sovereignty goes to. In the line of reasoning that is given by EU scholars, the answer is far from obvious. If

sovereignty is a question of possessing certain competences, and a part of these competences is now in the hands of EU institutions, than EU institutions should be sovereign as well – at least a tiny bit. To be a bit sovereign, however, equals being a little bit pregnant, and contradicts the whole basic association of sovereignty with there being one ultimate authority. What is more is the observation that the EU and its institutions have hardly ever been associated with the notion of sovereignty. This holds true for everyday life, Marks and Hooghe’s account as well as wider literature on that subject. What they mainly focus on is that the sovereignty of the state diminishes; however, they all refrain from ascribing this lost sovereignty to EU institutions in turn. Insofar, it might be more than a mere coincidence that Marks and Hooghe talk of an increase of “authority” (and *not* sovereignty) when pointing out to the competences the EU institutions have “gained” in recent years.

#### **4 THE BASICS OF AN IR INSPIRED SOVEREIGNTY DEBATE IN EU STUDIES**

As becomes visible, the “new” sovereignty breed of IR thinkers has so far only had limited influence on the field of EU studies, with scholars of most diverse provenience being deep-seated in the rather traditional stream. However, although alternative views have not met the same high profile they gained in IR, they do exist – if, again, they do not make up for a framework as coherent as that of their IR counterparts. In the following, an effort shall be made to draw on these approaches as well as their IR counterparts in order to lay the groundwork for a renewed discussion of sovereignty in the field of EU Studies.

From an ontological standpoint inspired by social constructivism, rather than a priori reality, sovereignty is “what people make of it”. It emerges from a process of construction, whereby, ultimately sovereignty is ascribed to, accorded to a political unit by others. This it shares with the related concept of authority. Authority, however, revolves around and stands still at the question whether somebody’s demand to be followed in his thoughts or deeds is seen as legitimate and accepted;

in this respect, it can be conferred to more than one person or “unit” at a time, be they as diverse as your parents, an elderly friend, the church, the police etc.. Sovereignty goes further in that it suggests a “when push comes to shove” question, whereby somebody or something claims superior authority and this meets with the acceptance of others. Currently, this claim is raised by states, and, most interestingly it is directed at two different audiences, with a different intention. Addressed to the state’s population, it is linked indeed primarily to the notion of its decisions and rules being binding and being there to be followed (instead of some other’s decisions and rules). Addressed to the what is commonly called the international society of states, the content of the claim is somewhat different, and, it appears, a derivative of the first one: because it enjoys highest authority within, the state expects other states to heed both its autonomy in this regard as well as its demand to “rightly” represent the community in question on the international level (see also Werner/De Wilde 2001: 290). This opens up the very possibility of mismatches between the two claims, with circumstances appearing in which states whose superior authority might be heavily disputed internally are nonetheless internationally acknowledged to be sovereign.

Seen from a social constructivist point of view, again, it is of no prior importance to meet the formal demands made on sovereignty in seminal literature so far in order for a state to maintain its sovereignty.<sup>2</sup> Moreover, the mere fact that a unit has transferred rights or tasks that have so far usually been considered to be “typically sovereign”, does not necessarily mean that the unit has lost its sovereignty as such<sup>3</sup> or that, with these tasks or rights, sovereignty has been transferred<sup>4</sup>. Sovereignty, as such, as a status, “is something that cannot be partly handed over or pooled; it is an

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<sup>2</sup> Interestingly enough, Wouter G. Werner and Jaap H. de Wilde argue that it is precisely in this case – when states have complete control internally and impermeability vis-à-vis other sovereigns – that a claim to sovereignty is useless and dispensable (Werner/De Wilde 2001: 290).

<sup>3</sup> Again: This would only be the case if it would destroy the basis for population or international society to accord this status to a certain state.

<sup>4</sup> In principle, a simple transfer of sovereignty is not even possible, since, again the population’s or the international society’s stance on this issue is crucial. What is possible, then, is the transfer of tasks that are deemed to be linked to sovereignty.

indivisible quality. The rights and powers linked to that status, however, can be handed over to other states or international organizations” (Werner/De Wilde 2001: 297).

Rather than keeping a tight grip on its “sovereign” rights, then, it is crucial for a unit to maintain positive feedback for his sovereignty claim, since “the reality of sovereignty consists in its use and acceptance” (Werner/De Wilde 2001: 304). Consequently, if we want to know whether a unit is still sovereign, we should basically ask ourselves whether it still relies on its sovereign status and whether relevant audiences accept its claims to sovereignty (Werner/De Wilde 2001: 304). Therefore, it is conceivable that, even if a unit does not fulfill one of the formal criteria mentioned, it may be attributed sovereignty – and with it, the possibility to act accordingly.

Social constructivists, thus, do not share the claim that, in our time, (state) sovereignty is dead – a claim relying on the very failure of states to meet demands made in a fictional sovereignty catalogue. Rather, they argue that since sovereignty exists “only within a framework of shared meaning that recognizes it to be valid – that is, by virtue of collective intentionality (...) in the final analysis, so, too, is its future” (Ruggie 1998: 870).

## **5 EU SOVEREIGNTY REVISITED**

If we heed the advice to look closer at the practice of sovereignty in the EU, several findings are striking. To start with, EU member states can still be sure to find their sovereignty claims accepted by both their national and their international “audience”. Secondly, and even more interesting, however, is the fact that this sovereignty has not had to be defended against competing sovereignty claims from “the EU”, resp. its institutions. As Werner and De Wilde point out, “the EU does not claim a sovereignty status” (Werner/De Wilde 2001: 304), nor could it currently expect potential claims to be accepted. Furthermore, what we seem to witness is that

EU institutions, and especially the Commission, have internalized the imperative not to touch on the member states' sovereignty, and act accordingly. In interviews taken within the framework of our research on the interaction between EU institutions and member states in EU environmental politics, both traits have become rather obvious: The matter-of-courseness with which member states expect the Commission to accommodate for their wishes and the matter-of-courseness with which the Commission does so. The crucial thing, then, is not, as Ole Waever states, that "it is quite clear that the EU is not allowed to equip itself as a sovereign state" (Waever 1995: 428). Rather, the EU resp. its institutions do not even venture to claim sovereignty, also knowing that, at least in the current setting, their own legitimacy of existence relies partly on that of the member states – and, arguably, on the latter's sovereignty.

Waever, however, convincingly states that "(t)he EU emerges as something more than a pure instrument of states" (Waever 1995: 431). "The EU", over the years, has come to find a very own story line which it can add to its "legitimacy myth" (Badie 2001), which, in the beginning, had in fact only been a derivative of that of sovereign states.<sup>5</sup> This line basically draws on efficacy/efficiency considerations and puts forward that problems of today are very often dealt with in a better (more efficient/efficacious) way in the EU collective.<sup>6</sup> But again, the interesting thing is that this boldened EU (Institutions') legitimacy without contesting state sovereignty (Waever 1995: 431). In the light of the increasingly commonsensical view that singular states are increasingly overstrained by the yoke of globalization, it can even/rather be argued that this re-feeds into the legitimation process of EU member

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<sup>5</sup> Seen from an discursive angle, this is reflected in the disproportionate use of legal arguments. Where (member) states could rely on lines of argumentation that directly referred to their democratically legitimated status, the Commission had to do with the surrogate of EU law or "the treaties".

<sup>6</sup> As can be seen from the Eurobarometer "The attitudes of European citizens towards environment", this storyline has been successful at least in the field of environmental politics; the number of respondents that deem the EU level as being the most suitable level for taking action is on the rise and, in the meantime, has equaled the number of people that regards the national level as the most appropriate (33 percent) (European Commission 2005: 15).

states (associated, as parts of the EU, with the efficacy/efficiency of the whole) and can reinforce the likelihood of their sovereignty claim to be accepted in the future. This interplay, however, has never been that of an unconditionally harmonious symbiosis. For, since the EU was a novelty in a world in which a certain story plot around statehood, autonomy and sovereignty had “sunk” to become commonsensical and uncontested lore, it did clash with what traditional views on sovereignty so much emphasize: what a sovereign state ought to look like, what competences it ought to have etc.. To shake these foundations (which the birth of the EU did) meant to open up the possibility that the wider sovereignty construction might be destabilized, by further exposing inherent inconsistencies and anomalies (see page 7). Another problem was for states to cope with the repercussions the existence of the EU had for the reproduction of their identity. As Biersteker and Weber point out,

“constructing the identity of a territorial state entails the construction and reconstruction of a stabilized *inside* (a population organized into a nation) that is clearly delineated from the *outside* (alternative organizations of this population and other populations)” (Biersteker/Weber 1996a).

However, with the EU, the borders between inside and outside blurred to one big zone of grey.

The task of “delegitimizing threats” and “papering over anomalies”, then, became increasingly burdensome for states. This can also be assumed when considering the sometimes disproportionate attempts the EU member states have periodically made to keep the alleged foreign object of “the EU” at bay, when they feared that it might indeed strongly interfere with their sovereignty, i.e. the acceptance of their sovereignty claim. The exploitation of the democratic deficit argument has, in this regard, been but one instance of how states sought to reassure themselves and their population that the status quo in principle had not changed, by juxtaposing the EU’s alleged shortage of democratic legitimation to the, again allegedly, natural and original bond between state and population.

That having re-conjured the ghosts of the past is increasingly frightening the very ones who called in the first place can be seen from the shocked reactions of state leaders when confronted with the turnout of both the French and the Dutch referendum on an EU constitution; from the agony this evoked in the first months after these events; and from the hectic activism that followed.

In spite of these rejection reactions, however, it can be argued that the insertion of the EU into the member states processes of reproduction and renewal (of legitimacy, of identity) is generally on its way. The main conclusion this paper puts forward, then, is that member states and EU institutions have, in principle, found a *modus vivendi* of how states can renounce to certain competences and play to EU rules, *and* are still deemed sovereign at the same time. Pseudo-legalistic auxiliary constructions, such as the principle of subsidiarity, are one instance of how this has become embodied in (formal) institutional arrangements that have been established in the EU in the last decades; on a more profane level, one finds practices such as the issuing of green or white papers by the Commission in order to be able to timely accommodate the member states' sensitivities.

This view, however, challenges the claim that the EU has heralded a postsovereign era (Waeber 1995: 431), the crux being that its birth and development have changed the filling of sovereignty *without* altering its outer form (that of *state* sovereignty). Rather, at a first glance, the conclusion of this paper reads as if emanating from the quill of Alan Milward or other 'state centrics', putting forward that state sovereignty has ensured its future by living ON the existence of the EU rather than surviving despite of it (although, of course, the way by which it was reached is a rather different one). For the time being, then, state sovereignty is here to stay, and it is for the future to answer the oh so interesting question of what the circumstances will be under which it finally falters.

## CONCLUSION

Departing of a review of how the concept of sovereignty is conceived of in the neighbouring fields of IR and EU studies, this paper has made an effort to transfer and apply new approaches of IR sovereignty thinking to nagging questions in the EU domain. Despite the latter's increasing popularity in IR, large parts of EU studies have so far remained to cling to traditional views on the concept. In this respect, their repeated claim that, in the EU, the sovereignty of the member states is diluted, relies on the basic (essentialist) assumption that sovereignty has one universal meaning and, as such, is linked to several established competences a unit ought to dispose of if it is to be called sovereign. By trying to combine the foundations of new IR sovereignty thinking with the still somewhat tentative outsets of this in EU studies, this paper tried to give the EU debate a new impetus for thinking the story further. In this respect, several claims are put forward. On a more theoretical level, it is argued that sovereignty is rather a question of claim and acceptance, of practice and use, than of the possession of certain competences. Emerging from a process of social construction, moreover, it is intrinsically context-bound. Throwing a glance at the more empirical side of sovereignty in the EU, then, what we see is that states, despite of their renunciation of seemingly crucial competences, have remained to be seen and accepted as sovereign; and that the struggle to keep it that way has not primarily been one against EU institutions snatching away competences, but rather that of integrating the existence of "the EU" and its institutions in the basic mode of the states' reproduction, of tinkering it together with the established view of what a sovereign state should look like, and of overcoating misfits in order to give it a coherent look. This process has known significant throwbacks, but, it is argued, the EU (institutions) and the member states are well on their way to find a long-term *modus vivendi*.

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