

MULTI-LEVEL GOVERNANCE AND SOVEREIGNTY LOSS IN THE CONTEXT OF THE EUROPEAN TREATIES

Magda Simona SCUTARU*

ABSTRACT:

THE EUROPEAN GOVERNANCE IS AN EXTREMELY COMPLEX TYPE OF LEADERSHIP, WHICH INVOLVES MANY TYPES OF ACTORS AND LEVELS OF ACTION WITHIN A PROCESS THAT SIGNIFIES EVERYTHING RELATED TO THE ORGANIZATION OF POLITICIES. THE MAIN LEVELS OF ACTION ARE: THE SUPRANATIONAL LEVEL, THE NATIONAL LEVEL, THE REGIONAL LEVEL, THE LOCAL LEVEL.

THE MAIN CHARACTERISTICS OF MULTI-LEVEL GOVERNANCE, WHICH FORM ITS SPHERE AND OFFER IT A MEANING, ARE: THE LACK OF HIERARCHY WITHIN THE INSTITUTIONAL ARCHITECTURE AND WITHIN THE DECISION-MAKING PROCESS AND THE DYNAMIC DISPERSION OF AUTHORITY. TWO MAIN APPROACHES RELATED TO THE IMPORTANCE OF THE NATION-STATE IN THE EQUATION OF MULTI-LEVEL GOVERNANCE DOMINATE: THE STRATEGIC-RELATIONAL APPROACH AND THE STATE CENTRIC APPROACH.

THE TRANSFORMATION OF SOVEREIGNTY IS UNDERLINED IN RELATION TO THE EFFECTS THAT THE MAIN EUROPEAN TREATIES HAVE PRODUCED FOR THE EUROPEAN STATES AND ALSO IN RELATION TO MULTI-LEVEL GOVERNANCE.

THE PRESENT ARTICLE HAS THE PURPOSE TO PRESENT MULTI-LEVEL GOVERNANCE, TO REVEAL ITS MECHANISMS AND STRUCTURES. ALSO, THE ARTICLE FOCUSES ON THE SOVEREIGNTY TRANSFER. A LINK BETWEEN MULTI-LEVEL GOVERNANCE, EUROPEAN TREATIES AND SOVEREIGNTY LOSS IS BEING ESTABLISHED AND THE ACCENT FALLS ON A PROGRESSIVE SOVEREIGNTY TRANSFER FROM THE EUROPEAN STATES TO THE EUROPEAN UNION.

KEYWORDS: MULTI-LEVEL GOVERNANCE, DECISION-MAKING PROCESS, SOVEREIGNTY, EUROPEAN TREATIES

INTRODUCTION

Taking into consideration the desire to define the concept of “european multi-level governance” and the realities that it brings on the international arena, the decisional process within the European Union and, especially, the loss of sovereignty that every European member state has experienced since its adhesion, the present article is built around a fundamental question: “Which are the main transformations that state sovereignty has to suffer?” The purpose of the present study is to underline:

- the significance of multi level governance in the European Union,

* PhD Candidate in Political Science, “Alexandru Ioan Cuza” University, Iasi, e-mail: scutaru_simona@yahoo.com

- the part played by the main European treaties in the equation of governance,
- the aspects which lead to sovereignty loss among EU member states.

Also, the purpose of the article is to prove that there is an unbreakable connection between the existence of multi-level governance and sovereignty loss within the member states, on one side, and, on the other side, a connection between the deepening of the integration process throughout the signing of the European treaties and sovereignty.

Research questions:

- a. Which are the aspects that define multi-level governance?
- b. What is the role of the European treaties?
- c. Is there a connection between multi-level governance and sovereignty loss in the EU?
- d. For what reasons is state sovereignty being dissolved at the European Union level?

The research methodology used for the elaboration of the present article is the historical and structural analyses of the main European treaties, combined with personal considerations related to the connection between three elements: multi-level governance, European treaties and Sovereignty.

Also, the problem of European integration appears, on a secondary plan. The decision-making process has been carefully analysed and we could establish a connection between the European treaties – The Treaty of Maastricht, The Treaty of Amsterdam, The Treaty of Nice and The Treaty of Lisbon -, multi level-governance and the sovereignty transfer. Thus, the main research methods are based on:

- the analyses of processes that multi-level governance implies,
- the analyses of the progressive sovereignty loss of the EU member states in favour of supranational structures
- the complex analyses of the role that the EU treaties have played in the equation of sovereignty transfer.

Nine studies have been consulted for the elaboration of the present article. Among these studies, the most important contributions were the ones of Beate Kohler-Koch; Gary Marks; Lisbert Hooghe; Ian Bache; Matthew Flinders; Dusan Sidjanski; Adrian Liviu Ivan; Oana-Andreea Ion.

The main theme of the study is multi-level governance. Beate Kohler-Koch, Ian Bache, Matthew Flinders, Lisbert Hooghe and Gary Marks have brought irreplaceable contributions to the study of this phenomenon. Beate Kohler-Koch is the one who signs his name on a book that contains a series of works, which is an original approach of the issue of european governance. The study called *Linking EU and national governance* emphasizes the importance and the role of multi-level governance in many contexts such as:

- the functioning of the European Institutions,
- The European public sphere or national systems` adaptation to the European Union system.

The complex and wide study *Multi-level governance*, edited by Ian Bache and Matthew Flinders has been published at Oxford University Press in 2004. Among the authors who have brought their contributions to the study we can identify: Gary Marks; Lisbert Hooghe; James N. Rosenau; Bob Jessop; Guy Peters; Jan Bache; Matthew Flinders. The authors reveal that multi-level governance is both the oldest and the newest concept in the study of politics. Contrasting visions on multi-level governance mix with multi-level meta-governance and with democracy related issues. Even more, the authors present the role of multi-level governance in British politics, in the European Union, with a special accent on the influences it has had over the environmental policy, the economic policy and the regional policy. The book is extremely well structured and the concept is presented from various points of view, which makes us think that multi-level governance is a puzzle with many colours and many pieces, waiting to be resolved. Lisbert Hooghe and Gary Marks are the authors of *Multi-level governance and European integration*, a study which reveals the importance of multi-level governance: *A historical perspective*, *Multiple identities*, *Channels to Europe*, are just three of the main titles in the book. We are confronting a unique approach of the connection between multi-level governance and European integration, which follows the road to integration in Europe, in parallel with the development of multi-level governance.

Another theme of the study is the European Treaties. Francisco Aldecoa Luzarraga and Mercedes Guinea Llorente are the authors of *Europe of the future. The Lisbon Treaty*. Francisco Aldecoa Luzarraga is professor, PhD in international relations and international law, in Madrid. Mercedes Guinea Llorente teaches international relations at the Complutense University, in Madrid. The study signed by the two authors is formed of eight parts and it presents the process that led to the signing of the Lisbon Treaty and the main challenges related to the treaty. The study is impressive because it brings to the readers' attention multiple aspects related to the Lisbon Treaty, analysed from various points of view.

The third axis of the study focuses on the European integration process and the sovereignty transfer. Adrian Liviu Ivan is the author of a complex study called *The United States of Europe*. It is a book that was born out of a belief of the author according to which the European unity is a project we always have to remember, mainly because we must respect the purpose of the founders to create an European federation. The book has 16 chapters, each one presenting an important aspect of the European integration process.

Another study that was taken into account for the article is *The federalist future of Europe* by Dusan Sidjanski, a study published in 2010. The book is formed of 3 parts and 9 sections. Part I presents the European Community from its origins to the Single European Act. Part II is called *Integration and political innovation* and it contains information related to the European society and the decisional process within the Union. The last part is dedicated to the federalist future of Europe and is a picture of the European Community laid under the sign of federalism.

1. EUROPEAN MULTI-LEVEL GOVERNANCE AND POLICY CONTROL RELATED MATTERS

It is true that national governments sacrifice a part of their independent control over the internal policies by taking part at the collective decision-making process¹. Gary Marks and Lisbert Hooghe present the arguments of Andrew Moravcsik related to the collective decision-making process. The author underlines that this process brings a great contribution to the establishment of

¹ Hooghe Lisbert and Marks Gary, *Multi-level governance and European integration* (New York: Rowman and Littlefield, 2001), 2

a high degree of control of the state over its internal policy, because national governments only agree to take part to the “game” when a political coordination leads to an increased degree of control over the final results².

Gary Marks and Edgar Grande have demonstrated that multi-level governance has three important characteristics, three fundamental traits:

- ✓ The first characteristic of this type of governance is the lack of hierarchy within the institutional architecture. For Beate Kohler-Koch, the term “governance” refers to certain patterns within the equation of leadership, which vary from one state to another. The author also underlines that, in essence, governance refers to modalities in which different preferences of the citizens are being translated into political choices, to the manner in which a plurality of interests is transformed into unitary action. The essence of governance is to reach mandatory decisions, based on an authority which is constitutionally defined³.
- ✓ The second important characteristic that Marks and Grande have observed is the dynamic dispersion of authority. Situated at different levels, from territorial point of view, the actors share the decision-making competencies. It seems that multi-level governance has a dynamic character. What is the resort of this character and what is its significance? Its dynamism is given by the fact that the functions and competencies on different levels have not being and, probably, will never be precisely fixed⁴.

Two main approaches related to the part played by the nation state within the European Union exist: the state-centric approach and the strategic-relational approach.

A: The strategic-relational approach - is an approach which is mainly concerned with “the structure and strategy in different areas of the social life and, being applied to a state, it does not consider it neither an unitary political subject nor a passive instrument”⁵ but a representation of complex social relationships, multiple and interconnected.

B: The state-centric approach. There is a central assumption of the state-centric approach, according to which european integration is not a challenge for the autonomy of the member states. The ones who sustain the state-centric approach believe that state sovereignty is well preserved and even reinforced throughout the status of European Union member state. Supranational actors exist in order to help the member states facilitate the agreements between them.

2. THE TRANSFORMATION OF SOVEREIGNTY

Given the type of governance established at the European Union level, which is supranational and which reconfigures the form of expression of state sovereignty, it can be said that this reality, the transformation of the sovereignty concept is shocking: states progressively lose their identity, committing to forms of cooperation with noble purposes. Identity loss is the central element if, from one point of view, states are heading towards superior forms of cooperation, which will probably transcend the federation of states, from another point of view, a negative fact exists, related to the historical differences between states, which can endanger any

² Hooghe and Marks, *Multi-level governance*, 2

³ Kohler Koch Beate, *Linking EU and National Governance*, (New York: Oxford University Press, 2003), 13

⁴ Prisecaru Petre, *Guvernanta Uniunii Europene*, (Bucuresti: Editura Economica, 2005), 58-65

⁵ Prisecaru Petre, *Guvernanta*, 58-65

form of cooperation that seems to be functioning. There is also the matter of state interest: the interests of the European states can become radically different and the balance on the European scene can become fragile, even if the 19th century realism is not valid. The new realism that has emerged is one of the 21st century: national interest comes first and cooperation is just a mask of this interest.

Only one principle exists: national interest - even if, at the discourse level, at policy level and at the level of expression of political desires in different forms, the impression of a strong will to cooperate appears, a will which transcends any type of selfishness. Why the 21st century realism? Because the national interest is defined in terms of power. There is nothing stronger than the desire for power. In fact, things are not radically different from the realities of the 19th century, only their form of expression is different. The mask of power is a different one. Cooperation reduces autonomy and cuts the peaks of sovereignty, but it also brings peace and stability within the system.

What is the mysterious connection between governance, sovereignty and the first European treaties? The European treaties bring a drop of originality to the European Union design, to a structure that is already unique and complex.

The European Coal and Steel Community Treaty is the one which has put the basis of an extraordinary cooperation at systemic level. A dream came true: this could be a synthesis. Each state had its own point of view, but the purpose of the states was a common one, to rebuild Europe, which was devastated by wars and economically destroyed. It could not be spoken about peace neither in an absurd nor in a paradoxical manner, because it had become an essential and absolutely necessary reality after the experience of war. It is well known that the Economic Coal and Steel Community Treaty is at the origin of the existing European institutions.

The Euratom Treaty had a great importance in the period it was created. The Single European Act is a great step on the road of cooperation and the beginning of sovereignty loss within the member states. The powers of the European institutions have grown and this fact reveals one more time the sovereignty loss. A third aspect referring to uniformization and sovereignty loss is The Single Market.

The structure of the European Union, established throughout the Treaty of Maastricht, underlines the unique character of it: The European Communities, Common Foreign and Security Policy, Justice and Home Affairs. Increasing efficiency of the institutions is one of the objectives of the Maastricht Treaty. The institutions are signs of high level cooperation and a raise of their powers can only mean fragile state sovereignty, which is being abandoned in different manners.

We propose the rise of a new concept, the appearance of a new type of sovereignty, of the European states: a weak type of eroded sovereignty, called "in esentiam sovereignty". The connection between state sovereignty and European governance is a strong one. The European treaties are only pillars on which the European governance is being built. Multi-level governance refers to a modality of political evolution within the European Union, in which the state does not have complete control over the decision-making process. Multi-level governance is a model in which competencies related to the decision-making process are being shared. Thus, the national executive loses a part of the control over the appliance of legislation.

CONCLUSIONS

The conclusions of the present study focus on two main sets of ideas: the first set of ideas is related to the European treaties, the other one to multi-level governance in the European Union. They are both connected to state sovereignty. The sets of conclusions are new elements brought by the study, because they underline the most important changes brought by the treaties and the

modality in which state sovereignty has been progressively transferred to supranational structures, in the context of multi-level governance game. Also, the study focuses on multi-level governance as a modality to redefine state sovereignty and it emphasizes the role of the strategic-relational approach, regarded as the main approach in the European Union, as the state-centric theory has lost its influence and importance. Thus, the conclusions of the study focus on the following important aspects:

- The provisions contained by the European treaties implicitly “talk” about a loss of national state sovereignty in the context of major changes that took place progressively within the European Union. The Treaty of Maastricht marked the beginning of political integration and, in the same time, brought a number of important changes in the architecture of the Union. The advancement of integration on the stage of political integration is a doubling of the process, political integration and economic integration are joined, the national state losing ground in favor of a closer relation with other states. The reality is that the state - centric approach has little compatibility with the reality of multi-level governance in the EU; but everything is done for the interest of the states, cooperation and even the very existence of the Union as a whole are only a reflection of the wishes and aspirations that state entities possess.
- As the integration progresses, the transfer of sovereignty to the Community is obvious; by the Maastricht Treaty, the following came true: European citizenship, the three pillars of cooperation in the EU; the unique currency. Thus, The Maastricht Treaty is the first step towards a stronger national sovereignty loss, although once with the treaty, the principle of subsidiarity has become fundamental and this principle takes the potency of the Community.

Very true is what Sidjanski Dusan said: (The) "Maastricht Treaty starts the irreversible process, in principle, of sharing one of the essential attributes of national sovereignty, the euro, a symbol of the sovereign"⁶The Euro-system of Central Banks and the European Central Bank were created and the single currency was established. These realities have led to a truly new phase of European integration," the pooling of monetary sovereignty of the 12 Member States"⁷These states wanted and have managed to attract on their side other European countries, considered ready to join the newly formed structure.

- The Amsterdam and Nice Treaties have particular relevance in terms of sovereignty loss, but the Lisbon Treaty is telling in this respect: eliminating EU legitimacy by citizens and states reveals the transfer of powers and responsibilities; state is no longer a reference pawn in the EU.

The influence of multi-level governance over state control is a visible one; we are talking more about a transfer of sovereignty than about a total loss. It can be said that many branches of multi-level governance do not take a lot, however, of state sovereignty: it is dispersed between different levels of authority. Because among these levels are the national governments which are fulfilling an important role, redefining sovereignty can be brought into question, and also a reconfiguration by other patterns, more permissive patterns, in order to leave place of action for more important actors in the context in which sovereignty no longer belongs exclusively to the

⁶ Sidjanski Dusan, *Viitorul federalist al Europei. Comunitatea Europeana de la origini la Tratatul de la Lisabona* (Iasi: Polirom, 2010), 237-350

⁷ Sidjanski Dusan, *Viitorul federalist*, 237-350

nation-state, national governments and parliaments. The strategic-relational approach is the approach that best folds on the real situation in the European Union, where decision-making is influenced by a variety of actors.

REFERENCES

1. **Hooghe, Lisbert and Marks, Gary**, *Multi level governance and European integration*, New York: Rowman and Littlefield, 2001
2. **Kohler Koch, Beate**, *Linking EU and National Governance*, New York: Oxford University Press, 2003
3. **Prisecaru, Petre**, *Governanta Uniunii Europene*, Bucuresti: Editura Economică, 2005.
4. **Sidjanski, Dusan**, *Viitorul federalist al Europei. Comunitatea Europeana de la origini la Tratatul de la Lisabona*. Iasi: Polirom, 2010