

BUILDING EUROPEAN SOVEREIGNTY

A CONDITION FOR EFFECTIVE POLITICAL AGENCY

ARTICLE BY
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The project of developing a more integrated European Union faces an important obstacle in the form of the ‘mainstreaming’ of populist Euroscepticism. This can be seen in the rise of anti-system and populist parties, but also in the increase in anti-EU discourses among the centre-left and centre-right. In order to regain momentum, a vision of European integration infused with bold notions of European sovereignty should be put forward.

The EU faces many threats to its integrity, as shown by the rise of anti-European movements in numerous countries and the recent referendum on UK membership. Euroscepticism has ceased to be marginal and instead become an entrenched reality¹. An accurate analysis of these trends is indispensable to counter them and renew European integration.

Apart from strategic and tactical factors, ideological elements have to be taken into account in order to explain this phenomenon. Taking ideas seriously is also useful to highlight the differences between left-wing and right-wing forms of Euroscepticism. However, if there are obviously differences between various branches of Eurosceptics, some points of convergence also exist that can only be explained by long-term, structural evolutions. Most Eurosceptic movements tend to adopt a populist discourse which is precisely the result of this broader context².

1 N. Brack and N. Startin, ‘Introduction: Euroscepticism, from the margins to the mainstream’. *International Political Science Review*, June 2015.

2 For a definition of that term, see: M. Canovan, ‘Trust the People! Populism and the Two Faces of Democracy’. *Political Studies*, Volume 47, Issue 1, March 1999, 2-16.

This populism can be briefly defined by the following factors: granting a superior value to a people perceived as virtuous and embodied by a charismatic leader set against a minority of corrupted elites; seeing this charismatic leader as the embodiment of this pure people; giving priority to identity over interests and defending democracy above (and even sometimes against) individual rights, minority rights and the rule of law. In other words, despite their important differences, all populist Eurosceptics share the same demand to rehabilitate sovereignty in order to save democracy and political agency. And this can only be explained by very structural developments.

THE DEMISE OF SOVEREIGNTY

If the merely symbolic aspect of classic state sovereignty – national identity – seems more prosperous than ever, the capacity of nation states to adequately exercise their sovereign powers has been seriously undermined by supranational evolutions in general, and by European integration in particular. This is due to the fact that only partial rather than fully-fledged Europeanisation has taken place in a number of fields³. This evolution has substantially diminished the capacity of political actors to present clear and convincing projects.

In the socioeconomic field, for example, the creation of a common currency and financial institution was not accompanied by a proper budget able to offset the enormous internal economic divergences or fund demand-friendly investments. By the same token, the liberalisation of goods, services, capital and labour has not gone hand in hand with a fully-fledged social, fiscal and environmental harmonisation that would prevent the ‘race to the bottom’ in terms of standards. Partial Europeanisation also concerns immigration, asylum and border policies. Schengen was not completed by the creation of a common border management or by a common asylum and migration policy. In the current state of affairs, the external borders policy still very much requires the coordination of Member States and lacks adequate resources. This situation also limits the capacity of political institutions to guarantee security, since this requires control of exits and entries. This partial Europeanisation undermining national sovereignty without creating a genuine European sovereignty also concerns the strictly coercive dimension of sovereign powers⁴.

This partial Europeanisation not only applies to policies but also decision-making processes. The EU is currently only partly

3 S. Heine, ‘A federalist rescue of sovereignty as a response to populism and Euroscepticism’ in S. Heine (Ed.) *Various Shades of Federalism: Which Responses to the Rise of Populism and Euroscepticism?*, *Studia Diplomatica* 2014/4.

4 S. Heine, ‘For a Progressive and European Response to Security Challenges’, *Heinrich Böll Stiftung*, April 2016.

democratic and does not respect some of the basic criteria of representative democracy. The European Parliament is not entitled to propose new legislation, nor is the Commission fully accountable to it. The argument that national governments, which are involved in all the decisions taken at the EU level, have a clear democratic legitimacy is not sufficient to counteract this lacuna. Indeed, in the ordinary decision-making procedure, the Council of Ministers does not decide alone but in conjunction with the Commission and the Parliament. Moreover, the voting rules within the Council make it possible for governments to have some decisions imposed on them against their will when majority rule prevails. And even when decisions are taken unanimously within the Council of the EU and European Council, the ultimate power held by a state that disagrees with the rest of the Member States is only to block decisions.

And yet, the resolution of the multiple crises currently facing European societies requires not *less* but *more* sovereignty. This reconstruction of sovereignty needs to be carried out at the European level because of the already substantial integration of European societies, economies and territories.

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At the political level, therefore, the best answer to populists would be to build a convincing project including the implementation of a genuine European sovereignty. And, for that purpose, the tradition of European federalism should be drastically overhauled.

AWAY FROM CONVENTIONAL FEDERALISM

An overwhelming majority of pro-European analysts, lobbyists or policy-makers have supported a biased interpretation of European federalism almost since the birth of the European communities. Many of the first thinkers who contributed to the intellectual justification of European integration were strongly opposed to the creation of a supra-national state that would make last-resort deci-

sions. They promoted instead a more hybrid conception of European institutions. And many contemporary Europeanists still defend the EU's 'sui generis' character: its hybrid dimension, lying somewhere between a supra-national entity and an inter-governmental organisation. This set of institutions, working along the lines of 'multi-level governance', is also supposed to represent a new form of democracy, a horizontal and post-modern rather than modern and vertical one.

A majority of Europeanists thus welcome the absence of hierarchical authority and pyramidal norms in the EU and the prevalence of more ‘relational’ processes of interaction. From this perspective, division of sovereignty is not perceived as a contradiction to the essence of political power.

When adapting federalism to fit the European reality, Europeanists have therefore transformed its meaning: it has become a sort of justification of the status quo rather than a way of critically assessing the latter and of making new and bold propositions to reform it. In this movement, because of a very entrenched scepticism towards state power – and its potential totalitarian or nationalistic trends – many Europeanists have, more or less consciously, pushed the notion of sovereignty aside. This sort of vision leads to a justification of the attempt to share or divide sovereignty created by European integration. In this perspective, sharing sovereignty becomes progress, since it is supposed to lead to a new form of political organisation that tames the dangers inherent in state power⁵.

In practice, these visions have constituted a legitimisation of the slow undermining of sovereignty generated by the partial Europeanisation of an increasing number of fields.

FOR A GENUINE EUROPEAN SOVEREIGNTY

Contrary to what is still the prevalent drift of Europeanist mainstream thinking, a credible response to the weakening of effective political agency would be to propose a clear rehabilitation of sovereignty at the European level. Indeed, what decades of partial Europeanisation in an increasing number of fields has shown us is that sovereignty cannot be shared or divided without losing its essence and becoming ineffective. Thus, European federalism should not be about dividing sovereign powers but merely sharing competences. In functional federal states, the central government is the only sovereign ruler, while federated entities exert particular competences without possessing sovereign powers as such.

It might be useful here to remember some of the warnings expressed by Jean Bodin, one of the first authors to clarify this concept. Bodin argued that sovereignty is intrinsically indivisible: when it is divided it ceases to exist and tends to engender reactions, sometimes violent ones, aiming to restore the unity of sovereignty at another level. This is exactly what has been happening with the upsurge of regionalist and nationalist movements within the EU. At a different level, this should also be the objective of a renewed form of federalism built around the idea of European sovereignty.

⁵ This line of arguments takes various shapes. See, for instance, Kalypso Nicoláidis, Olivier Béaud, ou encore Koen Lenaerts.



In order to become sovereign, the EU should exit its hybrid constitution and get rid of its intergovernmental features. A refurbished federalist project should thus propose the creation of sovereignty at the EU level with a mere division of competences between the European central level of government and national levels. What would be the concrete consequences of such a proposition? First of all, if Europe is to become sovereign, it must be provided with a monopoly of the use of force. The fragments of internal and external security policies that already exist at the EU level need to be more integrated, led by a central authority and to receive adequate funding. This means that the EU needs a common police force, army and

intelligence service. Secondly, a sovereign EU needs to be given some genuine macroeconomic tools. As already mentioned, the partial harmonisation of macroeconomic policies leads to a lack of efficiency. The Eurozone should be provided with a proper budget (at least 15% of the Eurozone GDP) able to offset the huge economic divergences that still exist within it.

This being said, any European sovereignty should depart from the pre-existing oligarchic tendencies characterising European integration. Since the deepening of European integration is already happening in many fields and the creation of genuine sovereign powers at this level is likely, the issue of democratisation



is a fundamental one. A European democracy could be built in various ways, the most realistic one probably being the transposition of the principles of representative democracy to the European level. This is absolutely essential since sovereignty, in its most basic sense, has little to do with democracy. In this perspective, the European Parliament should become the only institution to hold a right of legislative initiative as well as politically control the executive power. As for the Commission, it would have to derive completely from a political majority resulting from European elections. In that respect, the ‘Spitzenkandidat’ process is a step in the right direction. On the other hand, the inter-governmental features still characterising the European decision-making process should subside. In the long run, the Council of the EU and the European Council should be replaced by a

second chamber composed of elected representatives of the Member States. Another interesting option would be to have a president of the European executive elected by all European citizens. Such reforms would put an end to the current discrepancy between ‘politics’ – which are still deployed mainly at the national level – and ‘policies’ – which are, for the most part, the direct or indirect consequences of European laws.

Finally, besides the oligarchic risk, there is another danger that could result from the creation of a sovereign EU: namely, the totalitarian trends that can appear when political powers are reinforced. Historically, a way to curtail such a risk was to implement the principles of the rule of law. In that respect, the EU itself – and not only its Member States – should be

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clearly submitted to the rule of law. To that end, an independent judicial authority – which could be the European Court of Justice – should be entitled to ensure that the EU respects these principles. But ideally the content of the basic rights that the EU should implement and respect as well as its institutional architecture should be the result of a democratic deliberation and vote leading to a shared constitution.

LEGITIMACY BASED ON INTEREST

Far removed from the communitarian postulates shared by most populist Eurosceptics, the federalism I appeal to is not an identity- or value-based one, but an instrumental or functional one. A deeper European integration could indeed be legitimised more efficiently with the fulfilment of interests than with a common identity or set of particular values. Because what triggers political involvement in the broad sense is the belief that it corresponds to our individual and collective interests⁶, much more so than the support of particular values or a specific identity. This conception relies on a nuanced and differentiated approach to sovereignty and, in the end, to liberalism. It rests on the postulate that it is both possible and indispensable to advocate the re-establishment of some dimensions of sovereignty – the political, coercive and economic ones – while getting rid of its symbolic dimension and guaranteeing that it serves the citizens' interests. This means that a strong political and philosophical liberalism has to be combined with an interventionist assertiveness on the economic front.

This politically and philosophically liberal approach to politics derives from a deeper realistic anthropological stance: individuals do not generally follow values or identities when they act at a macro-level, they follow their interests – or, since this is always a subjective construction, what they perceive to be so. This approach

6 S. Heine, *Pour un individualisme de gauche*, Lattès, Paris, 2013.

does not exclude an appeal to emotions: following your interest means following your selfish instincts as much as your cold and rational reason. Not only can political legitimacy do without cultural or axiological references, but such references are also potentially harmful. All forms of communitarianism – postulating that political legitimacy should be grounded in identity, and idealism – seeing reality as the results of ideas, whether those are values or principles – indeed entail numerous dangers for individual freedoms.⁷

It would be at the same time more desirable and more efficient to provide a renewed and reinforced EU with an instrumental form of legitimacy. An alternative European project can only be legitimate and counter populist arguments if it is convincing in its promise to serve the individual interests of a majority of citizens. This could be done by linking this European project to a broader realistic utopia. Here, the failure of political parties is unfortunately blatant. The key question that progressive political actors need to answer is the following: what is the long-term alternative society for which they are willing to fight? On which principles should it be based? And how can an effective sovereignty best serve this project?

A federalist defence of sovereignty – rather than an end in itself – should only be the means to the establishment of genuine freedom for all individuals, which, of course, presupposes the fulfilment of civilian, social, political and cultural rights. Other answers could be given to these urgent questions. Yet it is only by answering them in an appealing, simple and convincing way that progressives will be able to mobilise a significant part of the population. A reformed EU should, in that respect, only be one of the means to a longer-term alternative project of society. The Greens undoubtedly have the human and intellectual resources to contribute to this strategic and ideological enterprise.



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⁷ Idem; see also: S. Heine, 'The Dangers and Inanity of (euro-)Nationalism: From Communitarianism to Cosmopolitanism', *Egmont Paper*, April 2015.