

How does the EU in its documents use the concept and language of sovereignty?

A discourse analysis of EUFOR documents

Dorothee von Parpart

s0138207

BSc – European Studies

Supervisor: M.R.R. Ossewaarde

22.11.2010

[Geben Sie hier das Exposee für das Dokument ein. Das Exposee ist meist eine Kurzbeschreibung des Dokumentinhalts. Geben Sie hier das Exposee für das Dokument ein. Das Exposee ist meist eine Kurzbeschreibung des Dokumentinhalts.]

Content

- Abbreviations 3
- 1. Introduction 4
- 2. Conceptual Framework 6
 - 2.1 Sovereignty 6
 - 2.1.1 Jean Bodin..... 6
 - 2.1.2 Thomas Hobbes 7
 - 2.1.3. Jean-Jacques Rousseau 8
 - 2.1.4 Immanuel Kant..... 9
 - 2.2 Outdated Concepts? – Sovereignty in the Face of Globalization and European Integration..... 11
 - 2.3 Alternatives to Sovereignty 11
 - 2.3.1 Post-Sovereignty 12
 - 2.3.2 Subsidiarity 12
- 3. Research Approach 13
 - 3.1 Policy Documents..... 14
 - 3.2 Discourse Analysis 15
 - 3.3 Sovereignty as a Discourse..... 16
 - 3.3.1 Operationalisation-Scheme 18
- 4. Discourse Analysis..... 19
 - 4.1 Vision I – Traditional Conception of Sovereignty 19
 - 4.2 Vision II – Alternative Conceptions of Sovereignty 25
 - 4.3 Different Actors – Different Conceptions? 29
- 5. Conclusion..... 31
- Bibliography..... 33
- List of Policy Documents 35

Abbreviations

CCP- Council Common Position
CEUMC – Chairman of the EUMC
CFSP – Common Foreign and Security Policy
CoC – Committee of Contributors
Commission – European Commission
Council – Council of the European Union
DRC – Democratic Republic of Congo
EC – European Community
EP – European Parliament
ESDP – European Security and Defence Policy
EU – European Union
EUMC – European Union Military Committee
HR – High Representative/ General Secretary
JA – Joint Action
MONUC – United Nations Organisation Mission in the DRC
MS – Member State(s)
OJ – Official Journal of the European Union
PSC – Political and Security Committee
TEC – Treaty on the European Community
TEU – Treaty on the European Union

1. Introduction

The idea of sovereignty is commonly associated with the Peace of Westphalia in 1648. After the turmoil of the Thirty Years' War, the treaty readjusted the religious and political order in Europe and established the modern nation-state. The Westphalian order can be basically described as a system of territorial states operating in an anarchic international environment. Each state is independent and equal externally, and is internally ruled by a sovereign with absolute and exclusive authority¹. In other words, the concept of sovereignty in its hour of birth was intrinsically tied to the idea of the absolutist state. But the idea of sovereignty is hardly a static concept. Over the centuries different philosophers advocated divergent concepts of sovereignty. Though the basic idea of ultimate authority is common to all, the idea has been adapted to fit the circumstances and opinions of each era. I will introduce four definitions of sovereignty with their respective presumptions and condition in this paper, representing some of the main thinkers on the topic of sovereignty. First of all, Bodin, who was the first to create a coherent concept of sovereignty, then Hobbes, famous for his 'Leviathan', then Rousseau as the first to think in the direction of popular sovereignty and thus being important for the government system of the modern Western world, and finally Immanuel Kant, who tried to accommodate sovereignty with a cosmopolitan order, thus being important for the contemporary international order and the role of the nation-state in the globalized world, and also especially important for the topic of this paper. If sovereignty still exists in today's world where state increasingly have to take the opinions of foreign states into account, have to cope with outside influence especially in the context of the globalized economy², and in face of the emergence of diverse types of international, transnational, and supra-national bodies and institutions, largely depends on the interpretation of the idea of sovereignty.

¹ Caporaso, J.A. (2000), p. 2

² Caporaso, J.A. (2000), p. 2

Furthermore I will discuss how the idea of sovereignty relates to the globalized world and the supra-national order emerging from the European integration. I will also present the alternative concepts of subsidiarity and post-sovereignty.

Numerous scholars have tried to present concepts of sovereignty that have been combined with international, supra-national or cosmopolitan order. But even if sovereignty no longer exists, the concept and the language of sovereignty is still used by policy-makers, both on the national level (the traditional locus of sovereignty) as well as on the higher levels, for this paper namely the EU level. This issue, the gap between the language in policy documents and the reality of world affairs and state capabilities is the topic of this paper.

The topic of how the EU still uses the concept of sovereignty in its policy documents leads to the question of what visions and views on sovereignty are portrayed in these documents. From this result three sub-questions. First of all, is the traditional concept of sovereignty represented in the documents? For this I will construct an ideal type of sovereignty in Chapter 2. Secondly, are alternative visions of sovereignty that is the alternatives to sovereignty developed in recent years, portrayed in the documents? And finally, do different actors have different visions on sovereignty in the EU? In a multi-actor and multi-level system of governance, it is interesting to see if there is a “game-of-tag” about power and sovereignty between the different institutions.

To answer these questions I will conduct a Discourse Analysis of a selection of EUFOR documents. I do expect both visions of sovereignty to be represented and that the Council documents mostly or even exclusively portray the traditional view, while in the documents of the Commission and the EP more references to the alternative view should be found.

2. Conceptual Framework

2.1 Sovereignty

What does sovereignty mean and how was the idea understood? I will introduce four interpretations mirroring the developments and reinterpretations based on historical context.

In all definitions sovereignty implies some territorial limitation, e.g. to a nation or an empire. This territory is origin and product of the sovereign state. Meaning, that sovereignty is established by the nation or the empire, while nation-building is part of the sovereign's public policy to strengthen his own power³. But an empire need not be sovereign. The Holy Roman Empire is the best example. Power was always dispersed and fragmented, with various rulers holding sovereignty, separate systems of law, taxes and own armed forces.

2.1.1 Jean Bodin

Bodin's life was marked by the age of the confessional war⁴ and dreamed about religious peace⁵. Bodin believed that creation is on all levels the image of God and men can partake in God through reason. His world view is thus not theocentric, but anthropocentric⁶.

Therefore, although Bodin believed in the medieval notion that the ultimate sovereign was God⁷, he is considered the father of modern sovereignty⁸. Like Hobbes, his concept of state is based on a contract transferring sovereignty but quite unconsciously, out of inherently human qualities⁹. The purpose of the state is *droit gouvernement* and internal peace¹⁰.

Bodin's sovereign not only had the highest and most absolute power, but that power was also perpetual¹¹.

Though, the sovereign had supreme power over his subjects and was not merely the peak of the societal pyramid, but above it¹², he was not the absolute highest authority but subject to

³ Ossewaarde, M.R.R. (2007), pp.121

⁴ Denzer, H. (1968), p.321; p.325

⁵ Denzer, H. (1968), p.324

⁶ Denzer, H. (1968), pp.330

⁷ Kelly, M.J. (2005), p.374

⁸ Maritain, J. (1950), p.344

⁹ Dunning, W.A. (1896), p.90; Denzer, H. (1968), p.339

¹⁰ Denzer, H. (1968), p.339

¹¹ Maritain, J. (1950), p.344

divine law, nature and accountable to God. Should he not obey them, he would be a tyrant. The king is no less obsequious to natural law than his subjects and should protect their freedom and possessions like his own¹³.

Sovereignty can exist in monarchies, aristocracies and democracies. Nevertheless, Bodin favours monarchy as the most unitary and natural mirroring completely cosmic harmony¹⁴.

Two elements are central to Bodin's concept of sovereignty. First, sovereignty is a natural and inalienable right to supreme independence and power. Second, sovereignty is absolute and transcendental. Considering this true sovereignty is an ideal type that not even existed in absolute monarchies, because no prince can be entirely¹⁵.

To sum up sovereignty is the absolute power to make and enforce law with the aim of internal peace. Power is limited by natural and divine law and respect for the natural freedoms and possessions of the subjects.

2.1.2 Thomas Hobbes

Hobbes builds on Bodin but his state is atheistic. The objective of inner peace is the same, but Hobbes adds protection from foreign invasion.

Hobbes' thought is based on a negative anthropology summarised in the phrase *homo homini lupus est*. Humans are self-serving and unsocial, motivated by fear and self-preservation, resulting in the *bellum omnium contra omnes*¹⁶.

The origin of sovereignty for Hobbes is a deliberate act of volition by all citizens. In a natural state of anarchy self-preservation¹⁷ demands a sovereign to protect from foreign invasion and secure internal peace so that the citizens can nourish themselves. All power is conferred to this sovereign, not described as a benevolent ruler, but rather as a despot inducing awe to make the contract last and the citizens to direct their efforts towards the

¹² Maritain, J. (1950), pp.344

¹³ Shepard, M.A. (1930), p.590

¹⁴ Denzer, H. (1968), pp.344

¹⁵ Maritain, J. (1950), p.351; p.357

¹⁶ Maier, H. (1968), pp.357-364

¹⁷ Dunning, W.A. (1896), p.99

common good¹⁸. For Hobbes there is a choice between being free and being governed¹⁹, which implies security. The contract with the sovereign is unconditional, defining only minimal obligations and rights. If the state fails to protect these rights, resistance is possible but that means the return to anarchy²⁰.

In the Hobbesian anarchical world system, states are driven by self-interest and self-preservation. Over centuries Europe matched just his idea, the states balancing their powers in an effort to preserve international peace²¹. This is where Kant's thought offers an alternative.

2.1.3. Jean-Jacques Rousseau

The era of Rousseau is one of doubt, no longer finding security within the inherited traditions, but exploring and admiring the extra-European²². The rather romantic idea of the noble savage is mirrored by Rousseau's image of the primitive state of men²³. The savage living among animals, was independent, free and indifferent to others, age and sickness his only ailments. The same characteristic that prevents the use of reason prevents the misuse of his capabilities. Humans were naturally good before they became social and rational beings²⁴.

Different from Hobbes the freedom of the person is not restricted by entering the societal contract, because the state, like the individual, obeys the naturalness of men. This state of Rousseau is even more total than Hobbes', as the citizen does not reserve any natural rights but is fully absorbed in the state in total abalienation. For Rousseau no natural, pre-state law exists, but is made by the political community²⁵.

This social contract of Rousseau is a set of procedures to make substantive rules, which are sovereign expressions of the *volonté générale* and are obligatory as they are sanctioned by

¹⁸ Maritain, J. (1950), p.349

¹⁹ Lakoff, S (1994), p.69

²⁰ Maier, H. (1968), pp.365

²¹ Brown, G.W. (2005), p.498

²² Maier, H. (1968), p.105

²³ Arnhart, L.(2003), p.225

²⁴ Maier, H (1968), p.118 and pp.121; Arnhart, L. (2003), p.221

²⁵ Maier, H. 81968), pp.127

the contract; the contract itself is not obligatory, as withdrawal and return to the amoral state of nature is possible²⁶.

The state rests on popular sovereignty as the people can only be free within the state if they participate directly in the legislature²⁷. The Executive is a non-sovereign government answerable to the sovereign²⁸. Rousseau rejected representation and established instead the notion of *volonté générale*, being no objective condition, but a product of socialisation²⁹. The society depends on patriotic virtue of citizens devoted to the community³⁰.

Rousseau's state is not necessarily a democracy, but has to be republican. Like for Kant a republic can (also) be a monarchy or aristocracy. Important for Rousseau is, that a popular assembly makes the fundamental laws³¹.

2.1.4 Immanuel Kant

Kant's moral law and practical fundamental law for society are built on the categorical imperative³². Although being rather concerned with universal order than the sovereign state but does not promote world government³³ or the end of the sovereign nation states, but their cooperation. This is necessary as the sovereign states are the principle protector of freedom, as well as its primary violator. States are crucial for the domestication of the anarchic world³⁴, while peaceful external order is necessary to approximate the ideal internal society³⁵.

No international institutions should interfere in the constitution and government of its members, or have coercive powers³⁶. This combination of cosmopolitan order and sovereignty makes his ideas interesting for today's political arena. Kant thought world government would lead to despotism. Instead he proposed a universal body of law guarded by

²⁶ Noone, J.B.jr. (1970), p.707

²⁷ Arnhart, L.(2003), p.218 and p. 227

²⁸ Maier, H. (1968), pp.129

²⁹ Maier, H. (1968), pp.129

³⁰ Arnhart, L. (2003), p.219

³¹ Arnhart, L. (2003), p.233

³² Baruzzi, A. (1968), p.170 and p.184

³³ Brown, G.W. (2005), p.496

³⁴ Brown, G.W. (2005), p.497; p.499; p.501; p.503; p.516; Franceschet, A. (2001), p.210; p.213

³⁵ Baruzzi, A.(1968), p.178

³⁶ Brown, G.W. (2005), p.497; p.499; p.501; p.503; p.516; Franceschet, A. (2001), p.210; p.213

contractual agreement and the republican constitution of each state. For Kant practical reason commands the establishment and perpetuation of such an order³⁷.

A republican state is built on the principles of freedom, dependence of all on a common legislation and legal equality, as well as a separation of legislative and executive. By republican Kant means the form of government. This distinction is separate from the form of state, classified according to who holds sovereignty, as monarchy, aristocracy or democracy³⁸.

Furthermore, linkages between states in the economic field especially, prevent states from externally aggressive action³⁹. Just as the others, he sees internal and external peace as the objective of the state, but he is the only one proposing an international order to achieve this.

Kant’s international order rests on two assumptions. First, republican governments do not fight each other, and secondly, republican states present the only form of government able to provide internal and external justice⁴⁰.

The concept of sovereignty is transformed and weakened by Kant in three ways. (1) His definition rest on popular sovereignty and national justice, instead of an absolute claim to a limited territory and established power bases. (2) Internal sovereignty and external freedom is conditioned on the rule of law, commitment to universal principles, and federal membership to maintain the legitimate claim to right. (3) Cosmopolitan law de facto supersedes national sovereignty by regulating treatment of individuals both internally and externally⁴¹.

Key Features of Sovereignty

Legitimate rule of a territory
Highest, absolute authority
Not bound to a certain form of state (can be democratic, aristocratic or monarchic)
Cannot be a despotism
The purpose is to protect internal and external peace (and individual rights and freedoms)
Contract of people/citizens which only exists as long as sovereign fulfils his duties → right to resistance

³⁷ Brown, G.W. (2005), p.496; p.499, pp.501; Franceschet, A. (2001), p.222
³⁸ Kant, I. (1991), pp.100
³⁹ Brown, G.W. (2005), p.507; Franceschet, A. (2001), p.212
⁴⁰ Brown, G.W. (2005), p.502
⁴¹ Brown, G.W. (2005), p.517

2.2 Outdated Concepts? – Sovereignty in the Face of Globalization and European Integration

Sovereignty has been closely associated with the idea of a nation and the empire. But in the contemporary world with new technologies, increased mobility and various secession efforts, the borders of states and nations do not always overlap anymore, and territorial integrity and border control become difficult to protect. The lack of identification with the state that might result is also a problem for the concept of sovereignty, resting upon a societal contract⁴².

Furthermore interdependencies are growing, especially in the economic sector⁴³, and new institutions have emerged (UN, NATO, EU etc.) which limit states' room for manoeuvre⁴⁴. Especially in the EU sovereignty has been surrendered and their national institutions have become marginalized⁴⁵.

2.3 Alternatives to Sovereignty

National states are increasingly constricted by international coordination and in case of the EU also regulation. Some say states are no longer sovereign but only semi-sovereign⁴⁶ and globalisation has eroded state sovereignty. But a limitation of states' capability to exercise their sovereignty does not necessarily mean transferral of sovereignty⁴⁷. Sovereignty was originally undividable, yet with closer integration of the EU sovereignty is said to be partially transferred or in other instances pooled⁴⁸. The difference between pooling and transferring mirrors the intergovernmentalist and the supranationalist view on European integration⁴⁹.

⁴² Appadurai, A. (2003), pp.339; Thomson, J.E. (1995), p.215

⁴³ Thomson, J.E. (1995), p.215

⁴⁴ Kelly, M.J. (2005), pp.402

⁴⁵ Priban, J. (2010), p.42

⁴⁶ Hemerijck, A. (2004), p.2

⁴⁷ Bellamy, R. and Castiglione, D. (1997), p.434

⁴⁸ Bellamy, R. and Castiglione, D. (1997), p.438

⁴⁹ Jayasuriya, K. (1998), pp.441

2.3.1 Post-Sovereignty

In the globalised world national sovereignty as the supreme ordering factor, ultimate juridical authority, and reference point of national identity, is increasingly challenged. Power has become fragmented, diffused, multifaceted and polycentric⁵⁰. The post-modern states operate within a network of governance, based on the breakdown of the clear distinction between domestic and foreign affairs, mutual interference, transparency, and systems of mutual security. The European state also loses power due to the strengthening of sub-state governance⁵¹. Also, the judiciary has become more important, intruding on sovereignty. A heterarchical organisation of courts provides remedies globally and thus often has the final say on what is right or not⁵²; a function previously performed by the sovereign.

This order fails to combine identity and order, legitimacy and community, and thus bind the elite to the masses. National identity and solidarity have been replaced by multiple and shifting identities⁵³.

2.3.2 Subsidiarity

Subsidiarity in politics usually means that the smaller entity should be given priority while the higher levels manage the tasks the smaller cannot fulfil⁵⁴. Thus being often regarded as a safeguard against over-powerful supra-national institutions, which is similar to Kant's fear of a global state becoming despotic⁵⁵.

There are three sub-principles to the concept of subsidiarity. (1) A rule of assistance, the higher level will help as needed, (2) Ban on Interference, unless asked for, and (3) the notion of 'helping others to help themselves'⁵⁶.

Subsidiarity is very often interpreted from a federalist perspective as an attribute exclusive to states and part of the concept of sovereignty, instead of an alternative. But unlike

⁵⁰ Priban, J. (2010), p.46

⁵¹ Wallace, W.(1999), pp.519

⁵² Cohen, J.L. (2004), p.10

⁵³ Wallace, W.(1999), pp.519

⁵⁴ Gosepath, S. (2005), p. 157

⁵⁵ Gosepath, S. (2005), p. 159

⁵⁶ Gosepath, S. (2005), p. 161

sovereignty, subsidiarity is not an attribute of states, but a principle of hierarchy from scholastic natural-law, applying to various human organisations. Subsidiarity is only relevant to statehood, if the political community is a characteristic of nature⁵⁷. From the subsidiary perspective the state is not sovereign. It is the dependent servant of its citizens⁵⁸, responsible for their welfare and providing the environment in which all creatures can realize their nature, which is identical to their happiness for Aristotle⁵⁹.

This chapter gave an overview over different conceptions and a basic understanding of sovereignty and thus a basis for the way the policy documents will be analysed. There are basically two types of conceptions, the tradition, state-based vision that will be the focus of the first sub-question and a postnational view taking other actors on different levels into account, like the EU and within the EU the Commission and the EP, which will be the focus of the second sub-question. Especially in the field of foreign, security and defence policy I expect the MS to be guarding their sovereignty. The Commission and the EP on the other hand should be interested in extending their power and thus taking on the second vision. This theoretical framework will be condensed and operationalised in the following chapter providing then the map to the data and the basis for answering the research question.

3. Research Approach

To answer the question of what views on sovereignty there are to be found in EU documents on CFSP I will use Discourse Analysis (DA). I will construct a sovereignty discourse to answer the key questions of what types of sovereignty are represented. For this purpose views on sovereignty are grouped within two categories, the traditional (2.1.) and the alternative view (2.3).

In part 3.1. I will explain what documents I have chosen to answer the questions of this paper, why I think those will answer my question and how I organised this data, followed by

⁵⁷ Ossewaarde, M.R.R. (2007), pp.106

⁵⁸ Ossewaarde, M.R.R. (2007), p.111

⁵⁹ Aristotle, Book I, p.1987; Book VII, pp.2100

sections on the approach of DA and also limitations of the research, and at the end an operationalisation scheme.

3.1 Policy Documents

I restricted the range of policy documents to the EU's involvement in the DRC. There is a range of operations and policy measures concerning the DRC. There is the mission "EUPOL Kinshasa", the advisory and assistance mission to reform the security sector "EUSEC DR Congo", and the EUFOR Mission in support of the MONUC during the election process. Apart from this there are embargos enforced on the EU level. Since all of these have a distinct character and different legal basis and thus different legislative procedures and also vary according to the institutions involved it would be preferable to give a comprehensive picture of documents on all areas but that would exceed the extend of this paper. So instead I have restricted the data to documents about the EUFOR Mission supporting the MONUC as this is the most restricted mission only being operational shortly before and during the election process in the DRC. And secondly, to the embargos because this is from a perspective of shared competencies and possibly shifting sovereignty the most interesting as it involves both CFSP und EC areas of policy and therefore not only documents of the Council but also the Commission and the EP.

In choosing the documents I tried to select documents that use different policy instruments and are from all important actors, that is the Council, the Commission, the EP and also the PSC a body composed of high ranking officials from the national defence ministries performing a similar task to COREPER as well as execute the political oversight during EUFOR missions under the intermediate responsibility of the Council.

Also I tried to choose related documents, e.g. a proposal for a regulation and than an amendment thereof, showing for one a possible development over time and possibly different perspectives of different institutions.

The documents were grouped together according to the measures taken, e.g. a proposal, the measure, its amendment and opinion of the EP and then analysed in relation and contrast to those using the scheme at the end of this chapter.

In these documents on EU foreign policy I expect to find language, terms, expressions that will answer the question of how the concept of sovereignty is used and understood by the MS of the EU.

3.2 Discourse Analysis

I will analyse these documents by means of a discourse analysis. Being neither a qualitative nor a quantitative research method, Discourse Analysis (DA) is rather a way of questioning the basic assumptions of both qualitative and quantitative research methods. Instead of providing substantial answers to problems, DA gives access to the ontological and epistemological assumptions, and the hidden motivations behind statements or a method of research, as every text is conditioned and engraved within a given discourse.

One definition of a discourse is as a communicative event satisfying seven criteria: (1) *Cohesion*, having to do with the relationship between text and syntax; (2) *Coherence*, having to do with the meaning of the text; (3) *Intentionality*, relating to the attitude and purpose of the author or speaker; (4) *Acceptability*, concerning the ability of the reader or hearer to assess the text; (5) *Informativity*, referring to both quantity and quality of the given information; (6) *Situationality*, pointing to the fact that the situation of both production and reception of the message are important; and (7) *Intertextuality*, meaning that a text is always related to other preceding or simultaneous discourses, and texts are grouped by formal criteria within certain genres⁶⁰.

In short DA aims at discovering the connections between discourse practices, social practises, and social structures⁶¹. Meaning that one needs to take into account the historical,

⁶⁰ Alba-Juez, L. (2009), pp.6

⁶¹ Sheyholislami, J. (2001), p.1

political and social context of the issue as well as the main participants, and pay attention to the groups and their power relations involved⁶². DA is essentially multidisciplinary, involving linguistics, poetics, semiotics, psychology, sociology, anthropology, history, and communication research. Thus not only purely linguistic facts are important, but also language use in relation to social, political and cultural aspects⁶³.

3.3 Sovereignty as a Discourse

In my analysis I am limited to the texts published in the OJ. Meaning that I lack information on the context of how these documents were composed, that is the discussion and consent-finding process in the Council meetings and individual opinions of the Member States representatives, as well as consultations with the Commission, EUMC, Operation Commander, High Representative and other actors. Such a broad, inclusive analysis would be far beyond the scope of this paper. Therefore this paper can only answer the question how the concept of sovereignty is represented within the officially published documents in this particular policy area.

Furthermore, one has to bear in mind in the EU there almost as many languages as MS. Although, there are interpreters at most the meetings there are three official - and de facto only two - working languages (German), French and English. Documents are usually produced first in English. Most participants are not native-speakers of English and not all are fluent. Single words may be differently understood by the different non-native speakers. Additionally, the documents are usually published in at least French and German translations, if the translators were not able to finish translations in all official languages. These two points make a linguistic analysis of the text difficult. Since there is no way to avoid this deficit, it just has to be accepted as imperfect research conditions, of course limiting the validity of the

⁶² Sheyholislami, J. (2001), pp. 4

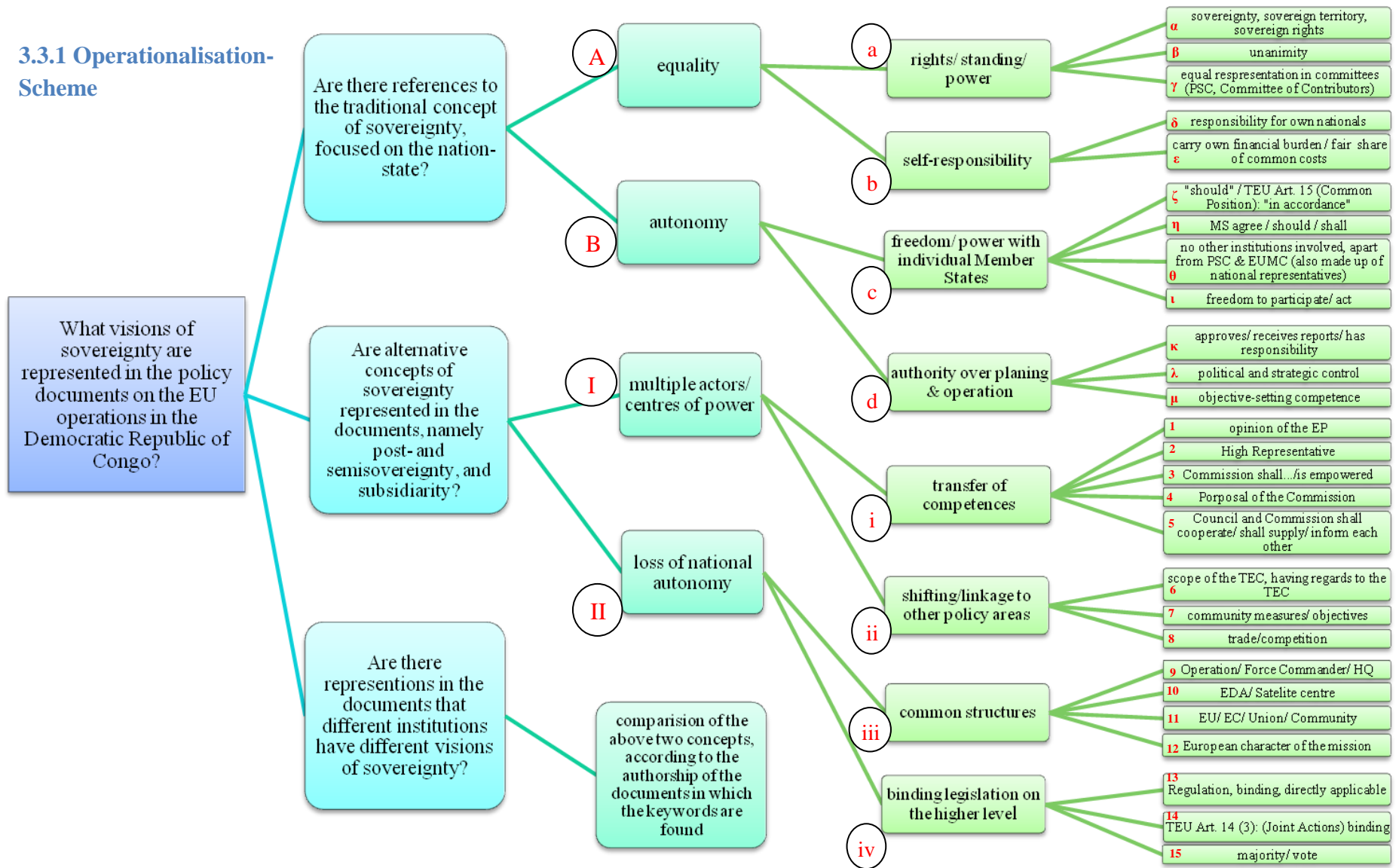
⁶³ Alba-Juez, L. (2009), pp.9 and pp.12

paper. To guard against this deficit even a little bit I analysed the documents at least in the two languages I am fluently in: German and English.

Based on the insights gained in the research of the conceptual framework the following operationalisation-scheme was developed.

This chapter with the following scheme provided the code with which the documents are analysed. The compass so to speak that will be used to classify and interpret the language of the documents in order to be able to answer the research question. Using this basis to analyse the selected documents, I hope to answer the questions posed in this paper. By carefully reading the documents with the scheme in hand and theoretical framework in mind, I will weight and classify expressions and then compare related documents and the frequency with which certain expressions are used by different institutions, in order to answer my key questions.

3.3.1 Operationalisation-Scheme



4. Discourse Analysis

In the following section I will conduct the actual analysis using the insights of the previous two chapters. The analysis is divided into three sections. In the first I will be looking for expressions of the first, traditional, state-centred conception of sovereignty, meaning sovereignty as understood by Bodin, Hobbes, Rousseau and Kant. In the second section I will read the documents again but this time searching for expressions that represent the second, post-modern and –national, multilevel and network based vision of sovereignty, as the concepts of post-sovereignty and subsidiarity. Thereby, answering the first two questions respectively. Finally, I will be comparing the visions found in the documents according to a possible predominant vision of a certain institution, that is to say, does any institution take a clear perspective on sovereignty as either traditional or alternative.

4.1 Vision I – Traditional Conception of Sovereignty

In the resolution by the EP there were only two references to the upper part of the scheme. The only references to the MS themselves, not collectively summarised in the term “European Union”, is the following:

“- under no circumstances should the military operation consist of troops from only one Member State. The European character of the operation should be expressed in the participation of several Member States⁶⁴”

Though, the term “Member State” is used, the objective is to advance the European idea, which might lead to an erosion of state sovereignty. Still, the sequence portrays the idea that it is the sovereign decision of each MS whether or not to participate (B-c- ι), which would represent a vision of sovereignty close to Kant accepting an international framework but stressing the supremacy of the nation state.

The second reference to the MS, this time indirectly referred to as the Council.

“- in order to achieve these goals, the Council would have to develop a clear concept of how to deploy the necessary military [...] forces⁶⁵”

⁶⁴ European Parliament P6_TA(2006)0111

Although the Council is an official EU institution, I do not regard the term as belonging to the numeric part of the scheme, as it is in fact the MS themselves that decide, especially in the area of CFSP and ESDP where decisions are made unanimously. The passage above shows that the MS retain the political and strategic control (B-d- $\lambda + \mu$), again Kantian sovereignty.

Much more references are found in the documents of the Council. First of all, the CCP⁶⁶ are in themselves a reference to the alphabetic part of the scheme as is the legal basis of Art 15 TEU, since a unanimous decision is required (A-a- β), no other institutions are involved in the formulation of a CCP (B-c- ξ) and the TEU formulation ‘act in accordance’ is a very loose one, stating not that the MS are “legally bound” (B-c- θ), representing sovereignty according to Kant. Council decisions, internally, are probably closest to the Hobbesian sovereignty as they are made without direct popular involvement, which is precisely the problem of the democratic deficit. It is doubtful whether Rousseau would have agreed to this practice, though Bodin probably would not mind, as long as is in the benefit of (internal) peace.

Below, in the explanations for the CCP, a reference to State sovereignty, mostly in the Hobbesian sense, is found (A-a- α):

“...prevent the entry into, or transit through, their territories of the persons [listed in the annex]⁶⁷”

Although, this might be obvious the sovereign territory of the MS could just have been referred to as “territory of the Union”, as it is verbally summarised in “territory of the Community” in Council Regulation 889/2005.

“the territory of the Community should be deemed to encompass the territories of the Member States”⁶⁸

Despite a reference to national territories (A-a- α), the collective term could be seen as undermining the idea of sovereign national territories, and going against Kantian thought.

⁶⁵ European Parliament P6_TA(2006)0111

⁶⁶ Council of the European Union 2005/440/CFSP and 2008/369/CFSP

⁶⁷ Council of the European Union 2005/440/CFSP

⁶⁸ European Commission com(2005)227 and Council of the European Union 889/2005

In the main section of the CCP there are other references to national autonomy and territories, as well as national citizens and the state symbol of the flag, which I believe is closest to Bodin's understanding of sovereignty since it stresses national unity:

“The [...] sale or transfer of arms [...] to the DRC by nationals of Member States or from the territories of Member States, or using their flag vessels or aircraft, shall be prohibited whether originating or not in their territories. (A-a- α)
[...]
Member States shall [...] prevent the entry into[...] their territories [...]
[A] Member State [shall not be obliged] to refuse its own nationals entry into its territory. (A-a- α , B-c- η , B-c- ι , B-d- κ)
[...]
[When a] Member State authorises the entry into [...] its territory⁶⁹” (A-a- α , B-c- η)

Also the implementation is left to the MS with a certain level of discretion, thereby defending national autonomy and sovereignty in the Kantian sense, despite being limited by common guidelines:

“The supply [...] shall be subject to an authorisation granted by the competent authorities of the Member States. [...]
Member States shall consider deliveries [...] taking full account of the *criteria set out in the European Union code of conduct* [...]. Member States shall require adequate safeguards against misuse of authorisation (A-b- δ , B-c- η , B-d- κ)
[...]
Exemptions may be made [...] in accordance with national laws⁷⁰” (A-a- α , A-b- δ)

Based on CCP 2008/369/CFSP a Council Decision⁷¹ was adopted (A-a- β , B-c- $\eta + \theta$) to change the Annex of the CCP. Since it is amended as determined by the Sanctions Committee the Council might as well have authorised the Commission to amend the Annex as with e.g. Council Regulation (EC) 1183/2005. But this piece of legislation is adopted in a different pillar and apparently MS are more careful to protect their autonomy within the CFSP.

Interesting is the comparison between the Commission proposal com(2005)227 and the adopted Regulation 889/2005. The first difference is found in the legal basis. In the proposal there was a reference to Art 308 TEC granting the possibility that the Council on proposal by the Commission and after consultation of the EP, can unanimously pass provisions necessary

⁶⁹ Council of the European Union 2005/440/CFSP and 2008/369/CFSP; first passage changed in the revision from: “to the DRC”, to: “non-governmental entities and individuals operating in the [...] DRC”

⁷⁰ Council of the European Union 2005/440/CFSP and 2008/369/CFSP; the second paragraph is missing in 2008/369/CFSP; the last changed to the more active formulation: “Member States may allow for exemptions”

⁷¹ Council of the European Union 2009/349/CFSP

for the implementation of EC measures that are not provided for in the TEC. This article, being the reason for the reference to the EP opinion, is also missing in the final version.

Also the difference of the following passages is striking.

“...provided that the Member State concerned has notified its intention to the Sanctions Committee [...] the competent authorities of the Member States [...] may authorise the release of certain frozen funds [...] under such conditions as they deem appropriate...”⁷² (B-c- η , B-c- ι)

Whereas the final version reads:

“...the competent authority [...] of the Member State where the service provider is established, may authorise...”⁷³ (B-c- η , B-c- ι , B-d- κ , B-d- λ)

The Sanctions Committee needs only to be notified if non-lethal equipment for humanitarian or protective purposes is concerned, bringing the final documents closer to Kant’s understanding of state sovereignty in the international context.

The following two passages are missing in the final version altogether. Although responsibilities are given to the MS, their absence completely leaves the Commission out and rather strengthens national sovereignty – in the sense of all four thinkers – as something which is not granted by EU legislation. The presence of national authority therefore need not be mentioned.

“...supply immediately any information which would facilitate compliance with this Regulation [...] to the competent authorities of the Member States...” (A-b- δ , B-d- κ)

“Any additional information directly received by the Commission shall be made available to the competent authorities of the Member State concerned.”⁷⁴ (B-d- κ)

National authority, jurisdiction and citizens are also referred to in these passages:

“Member States shall lay down the rules on penalties...” (B-c- η , B-d- κ , B-d- λ ; Kant)

“This Regulation shall apply

- (a) [...] on board any aircraft or any vessel under the jurisdiction of a Member State;
- (b) to any person [...] who is a national of a Member State;
- (c) to any legal person [...] incorporated [...] under the law of a Member State”⁷⁵ (A-a- α)

A different, more practical perspective assumes the JA. The legal basis for the JA is Art 14 (B-c- η + θ), 25(3) (B-c- θ , B-d- κ + λ), and 28(3) TEU (A- a- β , A-b- ε , B-c- ι). While

⁷² European Commission com(2005)227

⁷³ Council of the European Union 889/2005

⁷⁴ European Commission com(2005)227

⁷⁵ European Commission com(2005)227 and Council of the European Union 889/2005

Art 14 legally binds the MS they agree to specific measures for a specific, limited situation, with no other institutions involved, mirroring Rousseau's ideas about fundamental law being made by *volonté générale*. Art 25(3) is about the PSC and the ultimate responsibility of the Council that is the MS, similar to the executive in Rousseau's ideas. Later in the document it reads:

“Under the responsibility of the Council, the PSC shall exercise the political control and strategic direction⁷⁶”

Art 28(3) settles the financial burden, which is to be paid by the MS, if the Council does not by unanimity decide differently.

“...the operational expenditure [...] should be charged to the Member States...”⁷⁷”

And later on:

“barracks and lodging for the forces [...] and] expenditure related to transportation [...] shall not be eligible for payment as common costs⁷⁸” (A-b- ε)

MS might also opt not to participate at all, as Denmark does (B-c- ι), which is also mentioned in the JA, pointing at an understanding of sovereignty close to Kant and Bodin.

At several instances in the JA there is reference to the Council's responsibility and control, and also the PSC's, which ultimately is also the MS, in both general and quite specific rules, which can be interpreted as Kantian and in some instances Rousseauan sovereignty.

“Council approved an option paper for possible EU support to MONUC” (B-c- η ,B-d- κ)

“The forces deployed [...] shall operate [...] as approved by the Council” (B-d- κ + λ + μ)

“The Decision on [...] the EU military operation shall be adopted by the Council following the approval of the Operation Plan and the Rules of Engagement” (B-c- η + θ + ι ,B-d- κ + λ + μ)

“The Council [...] authorises the PSC to take the relevant decisions (B-c- θ , B-d- κ + λ) [...] includ[ing] the powers to amend the planning documents [...] the Chain of Command and the Rules of Engagement [...] appointment of the EU Operation Commander and/or EU Force Commander. The powers of decision with respect to the objectives and termination [...] shall remain vested in the Council” (A-a- γ , B-c- θ , B-d- κ + λ + μ)

“The PSC shall receive reports from the [CEUMC]...” (B-c- θ , B-d- κ + λ)

“The Council hereby authorises the PSC to [set-up] a [CoC]...” (A-a- γ , B-c- η + θ , B-d- λ)⁷⁹

⁷⁶ Council of the European Union 2006/319/CFSP

⁷⁷ Council of the European Union 2006/319/CFSP

⁷⁸ Council of the European Union 2006/319/CFSP

The other body that is vested with authority is the EUMC, which is basically the military counterpart of the PSC.

“...EUMC shall monitor the proper execution [...] The EUMC shall receive reports...”⁸⁰ (B-c- θ , B-d- $\kappa + \lambda$)

Interesting is also the automatic termination of the mission as a way to limit the common action and retain national control.

“The EU military operation shall end four months after the [...] first round of elections...”⁸¹ (A-a- α , B-d- $\lambda + \mu$)

Finally there is the PSC Decision based again on Art 25 TEU (A-a- γ , B-c- $\eta + \theta + \iota$, B-d- $\kappa + \lambda$) which does not only base its authority on the Council but also on the European Council, the assembly of the heads of state and government, not only the ministers (Kant, Hobbes and Bodin).

“The European Council [...] laid down the arrangements for the participation of third States...”⁸² (A-a- $\alpha + \beta$, B-c- η , B-d- $\kappa + \lambda$)

The role of the CoC in some respects defends sovereignty, while also limiting it in some sense, as also third states are members of the CoC (limiting A-a- γ , B-c- θ , B-d- $\lambda + \mu$)

“The CoC members shall [...] representatives of all Member States...” (A-a- γ)

“The [CoC] will play a key role in the [...] management of the operation. It will be the main forum where [...] questions relating to the employment of [...] forces in the operation [are discussed]. (A-a- $\alpha + \gamma$, A-b- δ , against: B-c- θ , B-d- $\lambda + \mu$) The PSC [...] will take account of the views...”⁸³ (B-c- θ , B-d- λ ; Kantian; and Rousseauan transported to a different level)

Again a defence of national sovereignty is the unanimity rule:

“...unanimity [...] shall apply when the CoC takes decisions on the day-to-day management of the operation [and] possible adjustments to operational planning, including possible adjustment to objectives”⁸⁴ (A-a- $\alpha + \beta$, B-d- $\lambda + \mu$, but not: B-c- θ ; Kantian)

To sum up the MS do pay attention to mention national differences, national law and so on, even when passing Regulations on the EU level. Concerning the embargo the execution is also left to the MS to a great deal. Even when common bodies take over political and more vitally strategic control like the EUMC and PSC it is in fact just the MS in a different constitution, although it gives the appearance of being unitary and supranationalised.

⁷⁹ All from Council of the European Union 2006/319/CFSP

⁸⁰ Council of the European Union 2006/319/CFSP

⁸¹ Council of the European Union 2006/319/CFSP

⁸² Political and Security Committee 2006/492/CFSP

⁸³ Political and Security Committee 2006/492/CFSP

⁸⁴ Political and Security Committee 2006/492/CFSP

4.2 Vision II – Alternative Conceptions of Sovereignty

The EP document has of all the documents I analysed relatively the most references to Vision II. The EP Resolution (I-i-1) hardly has any reference to the MS but refers to the EU's military mission, troops, and goals, going especially against the sovereignty concepts of Kant and Rousseau, and representing the post-national concept.

“...the EU's involvement in maintaining the stability of the DRC, through the [...] ESDP missions” (II-iii-11)

“... the EU has only a limited number of deployable troops at its disposal” (II-iii-11+12)

“... goal of the EU and its [...] CFSP and European Security Strategy” (II-iii-11+12)

“European operation” (II-iii-11+12)⁸⁵

The EP even calls on the Council to appear before it (I-i-1).

Though the matter is of no great importance a Commission Regulation in this field still shifts authority and is an attack on national sovereignty (I-i-3, I-ii-6-8, II-iv-13) which is clearly conflicting with Kantian thought, but also with the other three as the sovereign as the highest and sole decision-making authority is contested. Since in the Act of Accession of the new MS of 2004 the amendment of the Annex that listed the national authorities being responsible for granting exceptions to the embargo and freezing of funds, this is now taken care of by the Commission (I-i-3), based on the TEC (I-ii-6). As a Regulation the document gains legal force on the date of publication (II-iv-13+14) and is binding and directly applicable in the MS (II-iv-13)⁸⁶.

One expects those references in documents by the EP and Commission, but even in a CCP references are made to the numeric part of the scheme. The Council itself links policy areas and thereby shifts also power to the Commission.

“Action by the Community is needed [...] to implement certain measures⁸⁷” (I-ii-7, II-iii-11)

Again the comparison between the Commission proposal and the Council Regulation (I-i-3, II-iv-13) is interesting. The basis is the CCP quoted above calling for EC measures:

⁸⁵ All from European Parliament P6_TA(2006)0111

⁸⁶ European Commission 1567/2004

⁸⁷ Council of the European Union 2005/440/CFSP and 2008/369/CFSP

“The freezing of funds [...] falls within the scope of the Treaty. The Commission proposes to implement these measures in the Community by means of a Council Regulation.⁸⁸” (I-i-3, I-ii-6+7, II- iii-11, II-iv-13)

“In order to avoid any distortion of competition Community measures are therefore necessary to implement them as far as the Community is concerned⁸⁹” (I-ii-6-8, II-iii-11, II-iv-13)

The final version is a bit different, placing competition second to the goal of the CCP.

“The prohibition on providing [...] assistance related to military activities falls within the scope of the Treaty. In order to avoid any distortion of competition...⁹⁰” (I-ii-6-8, II-iii-11)

To demonstrate the need for a Regulation and a linking/shifting of policy areas, the Commission draws parallels to similar, previous legislation (I-ii-6+7, II-iv-13). Contrary to the proposal the final version does not mention the opinion of the EP (I-i-1) thus limiting the number of institutions involved and strengthening their own power⁹¹.

The Commission is authorised to amend the Annex but not as much as they proposed (against the general principle of sovereignty, and especially Kantian thought):

“...the Commission should be empowered to amend the Annexes...⁹²” (I-i-2, II-iv-13)

“... (a) amend Annex I on the basis of determinations made by the Sanctions Committee;
(b) amend Annex II on the basis of information supplied by Member States.⁹³” (I-i-3)

In the final version point (a) is not mentioned, just as the Commissions involvement proposed in this passage is missing:

“...transmit such information, directly or through these competent [national] authorities, to the Commission⁹⁴” (I-i-3, II-iii-11)

The following passages on involvement and competences of the Commission are identical in both proposal and final Regulation. Though, they might be view as indirect, intermediate and not essential, they still strengthen coherence and the external appearance of unity, while restricting MS’s authority to act independently, and might be interpreted as representing the concept of subsidiarity.

“The Commission and Member States shall immediately inform each other of the measures taken [...] and shall supply each other with any other relevant information [...] in particular information in respect of violation and enforcement problems and judgments [...] by national courts” (I-i-5)

⁸⁸ European Commission com(2005)227

⁸⁹ European Commission com(2005)227 and Council of the European Union (EC)889/2005

⁹⁰ Council of the European Union (EC)889/2005

⁹¹ European Commission com(2005)227

⁹² European Commission com(2005)227 and Council of the European Union (EC)889/2005

⁹³ European Commission com(2005)227

⁹⁴ European Commission com(2005)227

“...the Commission shall maintain all necessary contacts with the Sanctions Committee” (I-i-3)

“Member States shall notify those rules to the Commission without delay [...] and shall notify it of any subsequent amendment” (I-i-5 and reaching farther)⁹⁵

A certain sense of unity is also expressed by the collective reference to the geographical scope of the Regulation.

“...(a) within the territory of the Community, including its airspace [...] (d) to any legal person, group or entity doing business within the Community”⁹⁶(II-iii-11)

Despite being a Council instrument the JA has quite a few references to the numeric part of the scheme. The JA in itself, being binding on the MS and possibly based on a proposal of the Commission, expresses the idea of Vision II (I-i-3, II-iv-15), and especially the post-national view.

Furthermore the JA uses the collective term EU instead of referring to the MS of the EU, despite the context of military and defence policy, as e.g.:

“The European Union is committed to supporting...” (II-iii-11)

“...the European Union [...] conducted a military operation in the DRC” (II-iii-11)

But not only the Council itself refers to collective but also other international actors, again representing the post-national concept:

“Under-Secretary-General for Peace-keeping Operations invited the European Union to consider the possibility of deploying a military force” (II-iii-11)

“...authorised the EU to deploy forces [...] EU-led forces...” (II-iii-9+11+12)⁹⁷

Apart from that fact there are a number of positions created that help in the execution of the EU’s mission those would traditionally be positions existing only within states. There are:

“European Union Special Representative (EUSR)” (iii-9)

“Appointment of the EU Operation Commander” (iii-9+11)

“Designation of the EU Operational Headquarters” (iii-9+11)

“Designation of the EU Force Commander” (iii-9+11)

Also, the HR has been given some competences, influence and leeway, further centralising traditional state sovereignty or restricting direct state-government control.

⁹⁵ All from European Commission com(2005)227 and Council of the European Union (EC)889/2005

⁹⁶ European Commission com(2005)227 and Council of the European Union (EC)889/2005

⁹⁷ All from Council of the European Union 2006/319/CFSP

“The powers of decision with respect to the objectives and termination [...] shall remain vested in the Council, assisted by the [...] HR” (i-2, iii-9+11)

“The Presidency, the HR, the EUSR, the EU Operation Commander and the EU Force Commander, and the Heads of Mission for EUPOL Kinshasa and EUSEC RD Congo respectively shall ensure close coordination of [...] activities...” (I-i-2, II-iii-9+11+12)

“The HR, assisted by the EUSR shall, in close coordination with the Presidency, act as a primary point of contact with the United Nations and [...] other relevant actors” (I-i-2, II-iii-9)

“The EU Operation Commander shall, in close coordination with the HR, liaise with the [...] United Nations and MONUC on issues relevant to his mission” (I-i-2, II-iii-9)

“The EU Force Commander in coordination with the EUSR [...] shall [...] maintain close contacts with MONUC...” (II-iii-9+11+12)

“The HR, assisting the Presidency, may negotiate such agreements [on the participation of third states] on its behalf” (I-i-2, II-iii-11+12)

Similarly, the PSC Decision building on the JA gives the HR (I-i-2) and the CEUMC some competences, thereby encroaching on state sovereignty and autonomy (A-a- α , B-c- η), although, this is lessened by the close consultation with the Presidency and more so by the reference to the European Council (A-a- $\alpha + \beta$), shifting the power structures a bit closer to Kant’s idea of cooperating states.

“In accordance with the *European Council* conclusions of Nice and without prejudice to the prerogatives of the *Presidency*, the CoC for this operation shall be chaired by the [HR] in close *consultation with the Presidency*, assisted by the [...] CEUMC...”⁹⁸

In a way the establishment of the CoC might also be seen as an encroachment on state sovereignty and autonomy because of the participation of third states (against: A-a- γ , B-c- θ , B-d- $\lambda + \mu$) and the possible presence and indirect influence of the Commission.

“A Committee of Contributors for the European Union military operation [...] is hereby established” (II-iii-11)

“Representatives of the Commission and other persons may be invited for relevant parts of the discussion, as appropriate” (I-i-3)⁹⁹

In some instances it is surprising how much influence the Commission and the HR are apparently given. Nevertheless, this usually happens in close cooperation with the Presidency or the Council, so in the end the MS. Yet the MS seem to be striving for some air of supranationalism and unity, otherwise different formulations could have been used instead of

⁹⁸ Political and Security Committee 2006/492/CFSP

⁹⁹ Political and Security Committee 2006/492/CFSP

the EU's operation, goals and so on, apart from the involvement of the HR and the Commission.

4.3 Different Actors – Different Conceptions?

It is clearly the EP that has the most supra-/post-national vision on sovereignty in the documents that were analysed. But the EP hardly has any role in the CFSP and ESDP, so that it does not need to provide formulations that the Council might agree to. Different from the Commission, that at instances might provide proposals and thus has to produce documents the Council and thus the MS can confer with, the EP can simply give its opinion.

This is something the Commission cannot do, having to cooperate with and also work for the Council. Nevertheless, the comparison of the proposal and the final Regulation has shown that at some points the Commission did try to take a more post-/supranational perspective, later revised by the Council, trying to protect their autonomy and authority.

In spite of this, it is surprising how much even the Council, especially in the JA takes on the collective perspective, speaking about the “European mission”, “European goals”, “EU troops” and painting a picture of harmony and unity, that is questionable e.g. when remembering the dissent in the Kosovo problem. The MS could be more stringent in protecting their sovereignty verbally in the Council documents, but it appears that the idea of Europe and the dispersion and shifting of power and sovereignty has taken root in the heads of the MS even in the traditionally most defended and most crucial area of state-sovereignty, the foreign and defence policy. Instead they too in some instances seem to accept the post-national and subsidiarity concepts.

So to sum up, while there appear to be differences between the views of the institution, also depending on the role they have within the CFSP, there seems to be a general acceptance of the idea of a common foreign and defence policy and external appearance of unity of the EU-MS.

To conclude, the answer given by the analysis to the first question, if the traditional view of sovereignty is represented in the documents, is clearly confirmative. In all types of documents and by all institutions references to the traditional view on sovereignty are made, especially to the concept of Kant. This is quite natural as he was the only one concerned with the sovereign state cooperating on the international level. Reflecting the fact, that most of the time the MS do defend their sovereignty and merely try to cooperate without allowing to be bound legally. But there are also references to the concepts of the other three.

Council decision for example could be interpreted as representing Hobbesian sovereignty as they are made without popular involvement, though this interpretation would regard the government as a sort of Leviathan and ignore the fact that the EU states are supposed to be constituted by popular sovereignty.

JA on the other hand might be seen as the Rousseauan idea of *volonté générale* transposed to the higher level, not state-internally but between states by condensing the *volonté particulière* of each state via dialectic process into the *volonté générale* of the EU.

Finally, the reference to state symbols might be interpreted in the sense of Bodin as a different aspect of the phrase *un roi, une loi, une foi*¹⁰⁰.

As to the second question, it was expected that especially in the EP document there would be references to alternative interpretation of sovereignty. But also all of the other institutions made references to the alternative concepts, especially to the post-national idea of networking and governance. The execution of the trade embargoes might also be interpreted as representing the idea of subsidiarity.

As the above already indicates, all institutions use both the traditional and the alternative view on sovereignty. Not surprisingly the EP tends to think in terms of the alternative concept of sovereignty. The Commission does too, but within this policy area it has to make proposal that need to be accepted by the Council, therefore there were many references to the

¹⁰⁰ Denzer, H. (1968), p.324

traditional understanding of sovereignty. Yet, the comparison between the proposals and the final documents still show, that compared to the Council the Commission thinks more in terms of the alternative concepts of sovereignty.

Nevertheless, I was surprised how much even the Council uses language representing the alternative vision. But naturally, when decisions have very practical implications others e.g. the military, has to work with unity and clear guidelines are needed. In contrast to questions without immediate practical consequences as acknowledging the independence of Kosovo for example, where the MS failed to reach consent.

5. Conclusion

So overall it can be said that both visions of sovereignty, the traditional state-based and the postnational, inter- and supranationalised one, can be found in the documents on the EUFOR mission in the DRC. Not only is the traditional concept of sovereignty used as might have been expected, but also post-national ideas and the concept of subsidiarity. So while at instances traditional sovereignty is protected by the MS, at other instances the need for cooperation and the changed environment and conditions of politics in the globalised world are recognised. Especially the Kantian thought and post-national ideas seem to be useful to analyse the language of policy documents in this area. To use Rousseau within this context his ideas would need to be transposed from the individual to the state as the basic unit, otherwise the democratic deficit which is especially prominent within the CSFP would pose a problem to sovereignty. It is easier to use sovereignty as understood by Hobbes and Bodin instead, since both vested a strong leader with sovereignty who despite public contract (and moral obligations) could act independently.

It is surprising to find so many references to the alternative view since foreign, security and defence policy are usually seen as the core policy areas of a state for retaining its independence and sovereignty, and were for a long time the policy areas that were protected

most from EU influence. Despite the overall control and responsibility of the MS even when other actors and institutions are involved and the periodic references to state sovereignty in various ways, this could be done more forcefully if desired. The EU-MS themselves seem to strive for a certain external appearance of unity and uniformity. Speaking often enough of the EU's military mission, goals, troops and so on, which in fact are the commonly carried out mission of the MS of the EU, the agreed goals of the MS, the MS's troops and so on. Even accepting the need for cooperation during this type of missions and for being a strong and important player on the world stage, other formulations could be chosen defending national autonomy and sovereignty more strongly. It seems that the MS themselves do to a certain extent accept Vision II, where solely Vision I was expected.

So once again, the actors on the EU level do not discard traditional sovereignty, although the need for a more pragmatic approach is realised and post-national networking and subsidiarity are also used. As with any case study generaliseability is low, but it seems in this particular case that a need for clear guidelines and objectives with which the EUFOR troops can operate, necessitated binding cooperation and a partial and temporary transfer of sovereignty. If this would be the same in other areas of CFSP is questionable as the issue of Kosovo and currently the issue of riots and upheaval in North Africa and the Arabic Peninsula indicate where a common EU position is lacking.

Bibliography

- “Discourse Analysis”, from: <http://www.ischool.utexas.edu/~palmquis/courses/discourse.htm>, (accessed 12.07.2010)
- Alba-Juez, L. (2009) *Perspectives on Discourse Analysis: Theory and Practice*, Newcastle upon Tyne: Cambridge Scholars Publishing
- Appadurai, A. (2003) "Sovereignty Without Territoriality: Notes for a Postnational Geography," in: *The Anthropology of Space and Place: Locating Culture*, ed. Setha M. Low and Denise Lawrence-Zúñiga, Malden, Oxford, Victoria: Blackwell Publishers
- Aristotle (1984), “Politics”, in: *The Complete Works of Aristotle*, ed. J.Barnes, Princeton: Princeton University Press
- Arnhart, L. (2003) *Political Questions – Political Philosophy from Plato to Rawls*, 3rd ed., Long Grove, Illinois: Waveland Press
- Baruzzi, A. (1968) “Kant”, in: *Klassiker des Politischen Denkens II – Von Locke bis Weber*, eds. H.Maier, H.Rausch, H. Denzer, München: C.H.Beck
- Bellamy, R. and Castiglione, D.(1997) “Building the Union: The Nature of Sovereignty in the Political Architecture of Europe”, *Law and Philosophy*, Vol.16, pp.421-445
- Brown, G.W. (2005) “State Sovereignty, Federation and Kantian Cosmopolitanism”, *European Journal of International Relations*, Vol.11, No.4, pp.495-522
- Caporaso, J.A. (2000) “Changes in the Westphalian Order: Territory, Public Authority, and Sovereignty”, *International Studies Review*, Vol.2, No.2, pp. 1-28
- Cohen, J.L. (2004) “Whose Sovereignty? Empire Versus International Law”, *Ethics & International Affairs*, Vol.18, No.3, pp.1-24
- Denzer, H. (1968) “Bodin”, in: *Klassiker des Politischen Denkens I – Von Plato bis Hobbes*, eds. H.Maier, H.Rausch, H. Denzer, München: C.H.Beck
- Dunning, W.A. (1896) “Jean Bodin on Sovereignty”, *Political Science Quarterly*, Vol.11, No.1, pp.82-104

Franceschet, A. (2001) “Sovereignty and Freedom: Immanuel Kant’s Liberal Internationalist ‘Legacy’”, *Review of International Studies*, Vol.27, pp.209-228

Gosepath, S. (2005) “The Principle of Subsidiarity”, in: *Real World Justice*, eds. Follesdal, A. and Pogge, T., Dordrecht: Springer Netherlands

Hemerijck, A. (2004) “Recasting Europe’s Semi-Sovereign Welfare States and the Role of the EU”, <http://www.europeanstudiesalliance.org/calendar/fall04events/hemerijckPaper.pdf> (accessed 12.07.2010), pp.1-53

Jayasuriya, K. (1998) “Globalization, Law, and the Transformation of Sovereignty: The Emergence of Global Regulatory Governance”, *Global Legal Studies Journal*, Vol.6, pp.425-455

Kant, I. (1991) “Perpetual Peace: A Philosophical Sketch”, in: *Kant - Political Writings*, ed. H.S. Reiss, 2nd ed., Cambridge: Cambridge University Press

Kelly, M.J. (2005) “Pulling at the Threads of Westphalia: ‘Involuntary Sovereignty Waiver’ – Revolutionary International Legal Theory or Return to Rule by the Great Powers?”, *UCLA Journal of International Law & Foreign Affairs*, Vol.10, No.2, pp. 361-440

Lakoff, S. (1994) “Between Either/Or and More or Less: Sovereignty Versus Autonomy Under Federalism”, *Publius: The Journal of Federalism*, Vol.24, No.1, pp.63-78

Lemke, J.L. “Analysing Verbal Data: Principles, Methods, and Problems”, in: K. Tobin & B. Fraser, (Eds). *International Handbook of Science Education*, retrieved from: <http://academic.brooklyn.cuny.edu/education/jlemke/papers/handbook.htm>, (accessed 12.07.2010)

Maier, H. (1968) “Hobbes”, in: *Klassiker des Politischen Denkens I – Von Plato bis Hobbes*, eds. H.Maier, H.Rausch, H. Denzer, München: C.H.Beck

Maier, H. (1968) “Rousseau”, in: *Klassiker des Politischen Denkens II – Von Locke bis Weber*, eds. H.Maier, H.Rausch, H. Denzer, München: C.H.Beck

Maritain, J. (1950) "The Concept of Sovereignty", *The American Political Science Review*, Vol.44, No.2, pp.343-357

Noone, J.B.Jr. (1970) "The Social Contract and the Idea of Sovereignty in Rousseau", *The Journal of Politics*, Vol.32, No.3, pp.696-708

Ossewaarde, M.R.R. (2007) "Three Rival Versions of Political Enquiry: Althusius and the Concept of Sphere Sovereignty", *The Monist*, Vol.90, No.1, pp.106-125

Priban, J. (2010) "Multiple Sovereignty: On Europe's Self-Constitutionalization and Legal Self-Reference", *Ratio Juris*, Vol.23, No.1, pp.41-64

Shepard, M.A. (1930) "Sovereignty at the Crossroads: A Study of Bodin", *Political Science Quarterly*, Vol.45, No.4, pp.580-603

Sheyholislami, J. (2001), "Critical Discourse Analysis", from: <http://www.carleton.ca/~jsheyhol/cda.htm>, (accessed 12.07.2010)

Stacy, H. (2003) "Relational Sovereignty", *Stanford Law Review*, Vol.55, No.5, pp.2029-2059

Thomson, J.E. (1995) "State Sovereignty in International Relations: Bridging the Gap Between Theory and Empirical Research", *International Studies Quarterly*, Vol.39, pp.213-233

Wallace, W. (1999) "The Sharing of Sovereignty: the European Paradox", *Political Science*, Vol.47, pp.503-521

List of Policy Documents

Council of the European Union, "Council Common Position 2005/440/CFSP of 13 June 2005 concerning restrictive measures against the Democratic Republic of Congo and repealing Common Position 2002/829/CFSP", *L152/22*, 15.06.2005

Council of the European Union, “Council Common Position 2008/369/CFSP of 14 May 2008 concerning restrictive measures against the Democratic Republic of the Congo and repealing Common Position 2005/440/CFSP”, *L127/84*, 15.05.2008

Council of the European Union, “Council Decision of 27 April 2009 implementing Common Position 2008/369/CFSP concerning restrictive measures against the Democratic Republic of the Congo (2009/349/CFSP)”, *L106/60*, 28.04.2009

Council of the European Union, “Council Regulation (EC) No 889/2005 of 13 June 2005 imposing certain restrictive measures in respect of the Democratic Republic of Congo and repealing Regulation (EC) No 1727/2003”, *L152/1*, 15.06.2005

European Commission, “Commission Regulation (EC) No 1567/2004 of 31 August 2004 amending Council Regulation (EC) No 1727/2003 concerning certain restrictive measures in respect of the Democratic Republic of Congo”, *L285/10*, 4.09.2004

European Commission, “Proposal for a Council Regulation imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (presented by the Commission)”, COM(2005) 227 final, *2005/0101 (CNS)*, 27.05.2005

European Parliament, P6_TA(2006)0111 “Criteria for EU peace enforcement operations, especially in the Democratic Republic of Congo - European Parliament resolution on the criteria for EU peace enforcement operations in the Democratic Republic of Congo“ of 23.03.2006, published *C292E/118*, 01.12.2006

Council of the European Union, “Council Joint Action 2006/319/CFSP of 27 April 2006 on the European Union military operation in support of the United Nations Organisation Mission in the Democratic Republic of the Congo (MONUC) during the election process”, *L116/98*, 29.04.2006

Political and Security Committee, “Political and Security Committee Decision MONUC SPT/2/2006 of 30 May 2006 on the setting up of the Committee of Contributors for the

European Union military operation in support of the United Nations Organisation Mission in the Democratic Republic of the Congo (MONUC) during the election process (2006/492/CFSP)” *L194/31*, 14.07.2006