



INSIGHTS

QUESTIONING EUROPEAN (UNION) SOVEREIGNTY

edited by Ségolène Barbou des Places

TAKING THE LANGUAGE OF “EUROPEAN SOVEREIGNTY” SERIOUSLY

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ABSTRACT: This *Insight* argues that the rise and spread of the notions of “European sovereignty” and “European Union sovereignty” must be taken seriously. Since 2017, they have become central categories in the main political discourses on the EU. The paper first addresses the question whether European (or EU) sovereignty is an adequate concept to give account of the nature, or the future, of European integration. It answers negatively. Then the *Insight* describes the claim for “European sovereignty” as a discursive form. As such, it performs different functions that must be analysed: the notion of European sovereignty permits to mobilise the EU actors who aim to “rebuild” Europe and it serves to accommodate conflicting visions of what the EU is and should be. To focus on language permits to understand why “European sovereignty” gains momentum in the discourses and the literature on EU integration.

KEYWORDS: European sovereignty – European Union sovereignty – language – concept – discursive form – power.

I. INTRODUCTION

Since 2017, observers have witnessed the rise and spread of a new notion: “European Union sovereignty”. Even if he did not invent the term, French President Macron played a prominent part in its emergence. On 7 September 2017 he delivered a speech on Athens Pnyx Hill¹ where he vowed to lead a “rebuilding” of the European Union, calling for more unity, more solidarity, and for a more “sovereign Europe”. A few weeks later, he gave his Sorbonne speech² where he explained “how to build the six keys to sovereign-

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¹ Ministry for Europe and Foreign Affairs, *European Union - Speech by the President of the French Republic (Athens, 7 September 2017)*, available at www.diplomatie.gouv.fr.

² Presidency of the French Republic, *New Initiative for Europe - Speech by the President of the French Republic Emmanuel Macron, 26 September 2017*, www.elysee.fr.



ty”.³ Since then, European sovereignty has become the antiphon of the French diplomacy. In its Munich discourse in February 2020, Mr Macron claimed, again, that the European Union had to become a strategic political power. And recently, on 23 April 2020, he described sovereignty and solidarity as the two axes for the European Union’s common response to the Covid crisis.⁴

Gradually the notion of EU sovereignty has permeated the vocabulary of European institutions, with President Juncker entitling his 2018 State of the Union Speech “the Hour of European Sovereignty”.⁵ This was undeniably a signal for the observers: many think tanks, in particular among those specialized in defence policy and UE external relations, followed suit and now increasingly refer to the “sovereign Europe”. Other EU institutional actors have made use of the term, progressively transforming it into an influential notion; the President of the European Central Bank Mario Draghi has hence used it several times.⁶ Commissioner Margrethe Vestager also promotes “EU digital sovereignty”⁷ while Commissioner Thierry Breton supports the development of “European technological sovereignty”.⁸ Even Chancellor Angela Merkel has incorporated the notion of European sovereignty in her vocabulary.⁹ Finally, the term has progressively been integrated into European legal terminology: in 2020 the Commission enacted two Communications where European sovereignty is given a significant role.¹⁰

Because the notion of European (Union) sovereignty was introduced into the linguistic and conceptual landscape of EU integration, EU jurists are compelled to reflect

³ The six keys are described as follow: 1) A Europe that guarantees every aspect of security; 2) A Europe that addresses the migration challenge; 3) A Europe looking to Africa and the Mediterranean; 4) A Europe exemplary in sustainable development; 5) A Europe of innovation and regulation adapted to the digital world; 6) A Europe standing as an economic and monetary power.

⁴ Franceinfo, *Une réponse solidaire, organisée et forte – Speech by the President of the French Republic Emmanuel Macron*, 23 April 2020, www.francetvinfo.fr.

⁵ European Commission, *State of the Union 2018: The Hour of European Sovereignty, Speech of the President of the European Commission*, 12 September 2018, ec.europa.eu.

⁶ European Central Bank, *Sovereignty in a globalised world, Speech by Mario Draghi, President of the ECB*, on the award of *Laurea honoris causa* in law from Università degli Studi di Bologna, Bologna, 22 February 2019, www.ecb.europa.eu.

⁷ *Live debate: Digital Sovereignty in the Age of Pandemics*, with Margrethe Vestager and Pascal Lamy, 24 April 2020, joinup.ec.europa.eu.

⁸ European Parliament, Hearing of Commissioner-designate Thierry Breton, 14 November 2011, www.europarl.europa.eu.

⁹ The German Federal Government, *Multilateralism Guarantees the Freedom of the Internet, Speech by the German Chancellor Angela Merkel*, 26 November 2019, www.bundesregierung.de.

¹⁰ Communication COM(2020) 50 final of 29 January 2020 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, on Secure 5G deployment in the EU - Implementing the EU toolbox; Communication COM(2020) 37 final of 29 January 2020 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, on Commission Work Programme 2020, A Union that strives for more.

on the potential impacts that this evolution has on their analytical categories. This is why *European Papers* has opened a debate. The contributions gathered in this special section aim to critically assess the spread of the terms European (and European Union) sovereignty. They also address the possibility of applying the concept of sovereignty to the EU, and try and evaluate what would be the legal consequences of Europe becoming a “sovereign” entity.

As a preliminary step for this enquiry, this paper focuses on the language of European sovereignty. It takes the view that jurists cannot disqualify words for the simple reason that they are, only, words used by political leaders. In less than three years, European sovereignty has become a category used to describe both the nature and the future of the EU. Hence is the necessity of striving to understand what EU political actors and observers do mean when they refer to the EU as a (possible) sovereign. In so doing, this paper assumes that the relevance and importance of the notion of European sovereignty are not to be found in its conceptual dimension. Rather, European sovereignty must be taken for what it has been so far: a discursive form.

II. THE WEAKNESS OF THE CONCEPT OF EUROPEAN (UNION) SOVEREIGNTY

Many observers, in particular among jurists, do not feel comfortable with the rise of the notions of “European sovereignty” and “European Union sovereignty”. Admittedly, the recent context is not supportive of the idea that European sovereignty has a role to play in the future of European integration. Who indeed would defend the idea that the EU is, or could become, a sovereign, at a time when the German constitutional Court expresses so much reluctance to respect the European Court of Justice’s authority?¹¹ What could European sovereignty mean in the context of a sanitary crisis that has led some Member States to unilaterally “close” their borders and to refuse elementary forms of cooperation? To put it in a less trivial way, is it still relevant, after reading Habermas and MacCormick, to keep using the word “sovereignty” (notably in the singular) to describe our European world? In other words, one question has to be addressed: is European (or EU) sovereignty an adequate concept to give account of the reality, or the future, of European integration?

Furthermore, the term European sovereignty, which was coined for political purposes,¹² has a particular discursive form: it is an oxymoron. While this latter characteristic is valuable for those who pursue a discursive strategy, it nevertheless creates ambi-

¹¹ German Bundesverfassungsgericht, judgment of the Second Senate of 05 May 2020 - 2 BvR 859/15, paras 1-237, www.bverfg.de.

¹² “Because I will not allow the so-called ‘sovereignists’ be the only ones to use this term [...] Sovereignty is not the property of those who prefer to withdraw into national borders! Do not leave sovereignty to those who wish to wither, those who pretend that looking inwards is a defence, a protection, a decision when actually it is a hate for others, a refusal of those who come from abroad, a denial of decades of shared history where we have finally tried to move beyond nationalisms!”, *European Union - Speech by the President of the French Republic (Athens, 7 September 2017)*, cit.

guity. Unsurprisingly the term European sovereignty was described as mere “slogan”; a “fuzzy” or “catchall notion”¹³ the meaning of which remains uncertain. There are a number of reasons to support this description, which suggests that the idea of European sovereignty is too vague to be a legal concept we could resort to in order to make sense of our European legal world. Let me mention two of them.

First, in the “discourse” of EU sovereignty, there is no such thing as one clear conception of what the notion means and entails. The term “European Union sovereignty”, which is the support of very different claims, is not only vague but its meaning is also changing. While European Union sovereignty is sometimes the synonym of “unity” or “solidarity”, it is likewise frequently used to refer to an increased harmonisation of national legislations or deepened integration (as in the term “technological” or “digital sovereignty”). This plurality of meanings can be rightly seen as undermining the added value of the notion. To be sure, the promoters of EU sovereignty never clarify how they use the term: are they speaking about internal and/or external sovereignty? Do they have in view a narrow (and formal) or a thick conception of sovereignty? Do they really agree on how EU sovereignty is articulated with national sovereignty? While Jean-Claude Juncker and Emmanuel Macron’s projects are explicitly based on the idea of “shared sovereignty”, claims for the EU’s digital or economic sovereignty seem to entail a less pluralistic conception of sovereignty in Europe. Lastly there is a net difference between Mr Macron, who claims that the overhaul of Europe will require amending the founding treaties¹⁴ and Mr Juncker, who is more cautious and who suggests to act within the current limits of EU competences.

Accordingly, there are substantial blind spots in the discourses of European sovereignty. Undeniably the promoters of the notion have in view one side of the notion of sovereignty: they indeed intend to refer to state sovereignty rather than popular sovereignty. This has opened the floor to criticism. A number of observers rightly ask: where is the sovereign in this call for European sovereignty? The notion of European sovereignty is thus said to be “driven by foreign-policy elites” who primarily wish to increase the power of the European executive “while there is little discussion of the legitimacy of this executive power, little discussion of whether it expresses the will of the people of Europe”.¹⁵ Despite Emmanuel Macron’s emphasis on democracy in his Athens speech, the claim for EU sovereignty is “not sufficiently connected with the issue of democracy

¹³ See C. ECKES, *EU Autonomy: Jurisdictional Sovereignty by a Different Name?*, in *European Papers*, Vol. 5, 2020, No 1, www.europeanpapers.eu, p. 319 *et seq.*

¹⁴ “That will require, first and foremost, a new method to overhaul Europe. That is why I want this roadmap that I intend to propose to all EU Member States – this roadmap to build the future of our Europe over the next decade – not to involve a treaty negotiated sneakily behind closed doors in Paris, Brussels or Berlin. No, I propose that we try a new method: that by the end of the year, we sketch out the major principles of our approach, where we want to take our Europe, and define our objectives clearly”, President of the French Republic Emmanuel Macron, Speech held in Athens, 7 September 2017, *cit.*

¹⁵ H. KUNDAMI, *Europe’s Sovereignty Conundrum*, in *Berlin Policy Journal*, 13 May 2020.

within the EU”.¹⁶ For Nicolas Leron,¹⁷ this approach is problematic insofar as democracy is annexed to the project of sovereignty; it is secondary and conditional. In sum, European Union sovereignty certainly remains a notion (and a project) to be clarified.

Second, many observers have also expressed surprise when Mr Macron, who aimed at “rebuilding” the EU, resorted to the old and somehow hackneyed notion of sovereignty. It even appeared to be counterproductive to refer to the EU in the terms of sovereignty. Haven’t two decades of writings emphasised the progressive inability of the notion of sovereignty to make sense of the international and European legal order? Sovereignty is increasingly viewed in “disaggregated terms”¹⁸ and there has been “much talk of pooled, shared, divided, split or partial sovereignty”.¹⁹ Progressively, in the wake of Neil MacCormick notorious works,²⁰ the notion of “post-sovereignty” has gained momentum in Europe; both in the academy and in political circles, the concept of sovereignty is increasingly being ignored or dismissed “as an anachronistic irrelevance or as a reactionary danger in discussion of the terms of the emerging European and legal political configuration”.²¹ This position certainly neglects the persistence of sovereignty in national constitutional discourses, but the rise of “multilevel constitutionalism” or “polyarchism”²² has nevertheless gradually eclipsed the traditional description of the EU through the lenses of sovereignty. The notion has been increasingly viewed as an irredeemably vague and polysemic concept, as redundant and incoherent. In brief, to describe the EU with the help of an outdated notion would be an unconvincing attempt to make something new out of something old.

Worse still, to describe the EU as (more) sovereign was akin to ignoring the political and legal nature of the EU. It is the law that governs the life of the EU, which is equally named a rule maker and a rule exporter. In short, EU law is generally described as an instrument to limit national sovereignty and the politics that comes with the popular conception of sovereignty. The ambition was to construct a “European Union through law” and, as Verellen underlines,²³ the EU is mainly “a rejection and overcoming of national sovereignty, whereby the ‘old’ (national sovereignty and, by extension, politics as the means through which to articulate the will of the people) is replaced by something ‘new’

¹⁶ *Ibidem*.

¹⁷ N. LERON, *Les faux semblants de la souveraineté européenne*, in *Esprit*, 2019, no. 5, p. 111 *et seq.*, esp. p. 117.

¹⁸ N. WALKER, *Late Sovereignty in the European Union*, in N. WALKER (ed.), *Sovereignty in Transition*, Oxford: Hart, 2003, p. 14.

¹⁹ *Ibidem*.

²⁰ N. MACCORMICK, *Questioning Sovereignty: Law, State and Practical Reason*, Oxford: Oxford University Press, 1999.

²¹ N. WALKER, *Late Sovereignty in the European Union*, cit., p. 16.

²² J. COHEN, C. SABEL, *Directly Deliberative Polyarchy*, in *European Law Journal*, 1997, p. 313 *et seq.*

²³ See T. VERELLEN, *European Sovereignty Now? A Reflection on What It Means to Speak of “European Sovereignty”*, in *European Papers*, Vol. 5, 2020, No 1, www.europeanpapers.eu, p. 307 *et seq.*

(the EU as a project of integration through law)". In brief, the European Union offers the hope of transcending the sovereign state rather than replicating it in some super state.²⁴

Because of its vagueness and its lack of coherence, the term "European sovereignty" has proven inadequate to conceptualise the EU and its possible future. Why then, in 2020, taking the risk to claim that Europe is and should become (more) "sovereign"? A simple answer can be given: because European sovereignty is a figure of speech. As such, it performs a number of functions that make it valuable for those who support the project of rebuilding the EU.

III. THE STRENGTHS OF THE LANGUAGE OF "EUROPEAN SOVEREIGNTY"

I would not go as far as Neil Walker who describes sovereignty as an "act of speech",²⁵ in the sense given by Austin, but I certainly agree with this author when he analyses sovereignty as a discursive form in which a claim is expressed. European sovereignty has similarly become a discursive form: the term performs different discursive and rhetorical functions. In looking at these different functions, we can better understand why the term gained momentum in the European discourse.

First, to mention the "sovereignty" of the European Union is not only a provocation, it is also a discursive strategy: it permits to trigger imagination. There is no denying that in most texts and discourses, "European sovereignty" symbolises the transformation of Europe. Emmanuel Macron was explicit in Athens: Europe "has always been nothing but a metamorphosis!" European sovereignty has even taken the form of an emblem: it expresses the hope that the EU, once transformed, will achieve its goals and cope with its current difficulties.

But there is more. The influence of the notion comes from its capacity to express an important (although less-than-glorious) reality: the EU is in crisis and its very existence as a polity is at risk. The assumption that the European construction is in danger is omnipresent in the EU sovereignty discourse. This is of no surprise: the Sorbonne speech was delivered a few months after President Trump had brought the "America first" theme of his presidential campaign to Europe, and had criticised the Europeans' "chronic underpayments" to the NATO. The call for a sovereign Europe was also triggered by the decisions of the US administration to abandon the nuclear agreement with Iran and to impose new sanctions that would affect European companies doing business in Iran.

Given the troubled geopolitical context, European leaders agreed on the necessity to (re)affirm the political and strategic role, and the influence, of the EU in the world. Read Emmanuel Macron: "How can we protect ourselves? As Nations alone? [...] The right level is the European level! Our European sovereignty is what will enable us to be digital cham-

²⁴ K. SCHIEMANN, *Europe and the Loss of Sovereignty*, in *International and Comparative Law Quarterly*, 2007, p. 475 *et seq.*

²⁵ N. WALKER, *Late Sovereignty in the European Union*, *cit.*, p. 6.

pions, build a strong economy, and make us an economic power in this changing world. And not be subjected to the law of the fittest, the Americans and, soon, the Chinese, but our own law [...] So yes, I want us to rediscover the strength of a sovereignty that is not national but European”. In his 2018 State of the Union speech, Mr Juncker similarly argued that the transformation of the EU into “an active player, an architect of tomorrow’s world” is needed: “*Weltpolitikfähigkeit*” and “leadership” were called for, together with the “capability” to act independently and “increased strong and effective agency”.

In the context the EU is facing, the European Union was called sovereign precisely because sovereignty is the language of self-preservation. For Neil Walker, sovereignty can be defined as the discourse “in which a claim concerning the existence and character of a supreme ordering power for a particular polity is expressed, which supreme ordering power purports to establish and sustain the identity and status of the particular polity *qua* polity and to provide a continuing source and vehicle of ultimate authority for the juridical order of that polity”.²⁶ This is precisely what EU political leaders have in mind when they claim that the EU is sovereign: they wish to ensure that the EU is capable of sustaining its identity and its status as a polity. The vocabulary of self-preservation is implicit in Emmanuel Macron’s discourse on sovereignty: what allows us “to decide for ourselves, to decide our own rules, our own future, it is what makes our world. [...] The sovereignty that we want, is sovereignty which is there precisely to bring our forces together to build together a European power to decide not to be subjected to what the superpowers will do better than we will”.²⁷ In Athens, he added: “nowhere else is there such a political and social space where collective preferences – our preferences – are defended as such. That is what European sovereignty is about! If we give it up, the result is simple: we will be subject to the rules of one side or another”.²⁸

In sum, the EU is endangered by the competition and the influence of superpowers and its transformation is urgent. Its necessary evolution called for a change of vocabulary, and the notion of sovereignty was the most suitable concept to achieve this objective. It indeed points at the direction of power and capability because sovereignty can be understood “to be an expression of public power”.²⁹ In the words of Bodin, sovereignty is the absolute and perpetual power in a commonwealth. Of course, this conception of sovereignty as absolute power was challenged by contemporary political theory. But the notion still conveys the ideas of power and command that are invoked by EU political leaders. As the Commission recently acknowledged, “Europe needs to be more geopolitical, more united and more effective in the way that it thinks and acts. It needs to invest in alliances and coalitions to advance our values, promote and protect

²⁶ *Ibidem*.

²⁷ European Union - Speech by the President of the French Republic (Athens, 7 September 2017), cit.

²⁸ *Ibidem*.

²⁹ M. LOUGHLIN, *Ten Tenets of Sovereignty*, in N. WALKER (ed.), *Sovereignty in transition*, cit., p. 67.

Europe's interests".³⁰ This is what the promoters of the notion of "European sovereignty" are calling for: transforming the EU into a supreme ordering power which has the capacity to sustain its identity and status as a political and legal entity.

Therefore, the call for European sovereignty is not synonymous with a call for the (greater) autonomy of the EU legal order, although the two notions of sovereignty and legal autonomy are related. The different discourses on EU sovereignty clarify this point: despite the autonomy of its legal order, as protected by the CJEU, the EU is said to be losing its "capability" to decide for its future as an economic and a political entity. The notion of sovereignty has resurfaced in the precise fields (defence, migration, technology, financial security, the protection of personal data) where the EU has no effective decision-making capacity. What is at stake in is neither the distribution of competences nor the authority of EU law: what the EU leaders are calling for is the necessity to transform the EU into an entity that is "capable" of resisting to the influence of other superpowers. In this respect, EU law does not appear to be sufficient: European sovereignty is a term that invites the EU to take international politics seriously.

The superpowers the EU is assumed to compete with are both public (the US, China and Russia) and private: the EU, like its Member States, fails to impose its regulations on multinationals. This is why the German Chancellor held that the EU should claim "digital sovereignty" by developing its own platform to manage data and reduce its reliance on the US-based cloud services run by Amazon, Microsoft and Google. As for the Commission, it recently emphasised the need "to respond to the security challenges posed by the 5G networks".³¹ This should remind us that, in the history of European States, sovereignty coincided with a dual primacy: the primacy of the political order over both the theological and the economic orders: the conquest of sovereignty "went along the conquest of control, and transformation of the economic domain (the domain of labour and production, of property and commerce) through a variety of means".³² This sense of sovereignty is crucial in the claim for European sovereignty: the autonomy of the political order relates as well to the imposition of public authority above spheres of private initiatives. When Bruno Lemaire, the French Minister for economic affairs, supported in turn the "European economic sovereignty", his ambition was to stand for more protectionism and more interventionism of the state on the market; it was a call for the public power to retake control of the private sphere. The same kind of claim has surfaced during the Covid-crisis, with European leaders calling for the EU's increased capacity to be self-sufficient in food and medicines, and willing to support the development of industrial EU "champions".

³⁰ Communication COM(2020) 37 final, cit.

³¹ Communication COM(2020) 50 final, cit., p. 6.

³² E. BALIBAR, *Prolegomena to Sovereignty*, in E. BALIBAR (ed.), *We the Pople of Europe?, Reflections on Transnational Citizenship*, Princeton: Princeton University Press, 2004, p. 147.

In brief, in the new geopolitical context the EU is facing, “instead of a transformation of international politics, there has been a transformation of pro-European thinking”.³³ Pro-Europeans no longer see the EU as a model, but as a power that has to compete with others. In order to do so, they say, it needs “sovereignty”. European sovereignty is the name for different things: it is the name for the perilous situation the EU is currently living; it is also (and above all) the justification for its evolution. As such, the claim of “European sovereignty” aims to mobilize the pro-Europeans. The notion of “European sovereignty” has a transformative effect: it modifies the perception that EU jurists have insofar as what was analysed as both impossible and undesirable (“sovereign Europe”) finally appears to be a viable alternative to the current situation. “European Union sovereignty” is akin to a slogan, i.e. a repetitive expression of an idea and purpose, with the goal of persuading members of the public. Because “European sovereignty” is based upon the “totemic word”³⁴ of sovereignty, it could “produce powerful and sometimes unreasoned and unreasonable actions in our hearts and thus shape our actions and decisions”.³⁵

There is a second reason why the term European sovereignty is now circulating in different arenas. Being a fuzzy notion, it is vague and flexible enough to accommodate conflicting visions of the European Union.

The term European (Union) sovereignty, as mentioned in the previous lines, is a call for a stronger Europe: the ambition is undeniably to strengthen the EU’s capacity to compete with other “superpowers” – whether public or private. But while a number of observers are convinced that the EU must regain control in many fields, many European actors do not feel comfortable with the very idea of coupling “Europe” and “power”. This can be because they are reluctant to adhere to the idea of “Europe puissance”, supported by Charles de Gaulle and revived by Emmanuel Macron. This can also be because they consider that “European sovereignty” risks being the screen for Europe’s closing on itself.

But more precisely it appears that the actors who have in mind the transformation of the EU are encountering a conceptual difficulty. Mr Juncker’s position clarifies this difficulty: immediately after the Sorbonne speech, the former President of the Commission has supported the idea that the European Union should turn into a major sovereign power on the global stage “making the world in its image”. His ambition was to make Europe militarily and economically independent from its traditional ally, the US: the EU should be “a global player” as well as a “global payer”. But when asked whether he wanted the EU to have superpower status, Juncker avoided the term: “I want the EU to become a major player in the global scene,” he said. “Superpower, I don’t like that expression. We have to

³³ H. KUNDNAMI, *Europe’s Sovereignty Conundrum*, cit.

³⁴ K. SCHIEMANN, *Europe and the Loss of Sovereignty*, cit., p. 476.

³⁵ *Ibidem*.

be super but not a superpower.” Immediately after, he expressed his disapproval “of those who pursued unilateral actions, waging trade and currency wars”.³⁶

In a recent column entitled “Embracing Europe’s power”,³⁷ the High Representative of the Union for Foreign Affairs and Security Policy Josep Borrell, conveyed the same kind of discomfort. He first argued that “we must relearn the language of power and conceive of Europe as a top-tier geostrategic actor. [...] Capitalising on Europe’s trade and investment policy, financial power, diplomatic presence, rule-making capacities, and growing security and defence instruments, we have plenty of levers of influence. Europe’s problem is not a lack of power. The problem is the lack of political will for the aggregation of its powers to ensure their coherence and maximize their impact”. But he instantly nuanced his position: “We must get serious about devising credible approaches to dealing with today’s global strategic actors: the United States, China, and Russia. While different in many ways, all three are practicing issue linkage and power politics. Our response should be differentiated and nuanced, but clear-eyed and ready to defend EU values, interests, and agreed international principles”.

The two institutional leaders address the key issue: how can they avoid creating a conflict between the two representations of the EU they support? Their challenge is indeed to adapt the European Union to a conflicting international context while, at the same time, preserving its very identity as a rule of law system. The EU was not constructed as a geopolitical entity: it was planned to transform “international politics by moving beyond a world of power politics to one based on the rule of law”.³⁸ The question European actors have to answer is a difficult one: how can the EU be, at the same time, a normative and a political power?

The reference to “sovereignty” permits to avoid the difficulty, by remaining at the discursive level. Sovereignty, because of the influence of Bodin and Schmidt, certainly evokes power and command. For Bodin, the sovereign, as the highest power of command, cannot be subject to the law. But at the same time, political theory has taught us that sovereignty is full of tensions and contradictions.³⁹ In a number of writings, sovereignty is not synonymous with pure power. To be sovereign does not equate to be outside the sphere of the law:⁴⁰ sovereign authority “is expressed through those established institutional forms which enable the general will to be articulated, that general will, although absolute, has nothing in common with the exercise of an arbitrary power.

³⁶ D. BOFFEY, *Juncker calls on EU to Seize Chance to Become Major Sovereign Power*, in *The Guardian*, 12 September 2018, www.theguardian.com.

³⁷ J. BORRELL, *Embracing Europe’s Power*, in *New Europe*, 14 February 2020, www.neweurope.eu.

³⁸ H. KUNDNAMI, *Europe’s Sovereignty Conundrum*, cit.

³⁹ E. BALIBAR, *Prolegomena to Sovereignty*, cit., p. 133 et seq.

⁴⁰ M. LOUGHLIN, *Ten Tenets of Sovereignty*, cit.

Sovereignty will is the antithesis of subjective will. And since the expression of this will takes the form of the law, sovereignty in reality means the sovereignty of law”.⁴¹

While the semantic plurality of the term sovereignty creates ambiguities, it is also what makes it a useful rhetorical device for EU actors. The reference to European sovereignty is, to a certain extent, an oratorical precaution: it permits to support two different projects at the same time, without making the contradictions between them explicit. In short, the call to “European sovereignty” is a discursive form that allows institutional actors to hold on to the crest line: on the one hand, the EU must be transformed and adapted to the evolution of international politics – the “geopolitical Commission” supported by Mrs Von der Leyen being the name of this necessary adaptation; and on the other hand, the identity of the EU, as a rule of law system, must be preserved. The term European sovereignty ultimately serves to project what can be named a reasonable utopia.

IV. CONCLUSION

All in all, a new category has emerged in the vocabulary of EU integration. “European (Union) sovereignty” progressively tends to become an inescapable notion when it comes to reflect on the transformation of the European Union. While its conceptual meaning remains uncertain, it is more than a slogan: it offers a new terminology to conceive of the possible nature and future of the EU; it triggers imagination; it permits to coalesce different visions and projects of the EU. European sovereignty speaks to the reason and to the imagination. However, whether this figure of speech is also an act of speech is more than questionable. Theories of sovereignty have produced many attacks, often justified, from different directions. To put it in Konrad Schieman’s words: “there are those who say that no State should be omnipotent, even within its borders. There are those who ask questions in relation to the boundaries of State and there are those who point out that in practice no State is omnipotent”.⁴² It remains to be seen whether, in enouncing that sovereignty is European, the promoters of EU sovereignty will avoid comparable attacks. Admittedly language is powerful, but its strength depends on the acceptability of the words - and the representation conveyed by them- that are employed.

⁴¹ *Ibidem.*, p. 73. In contrast, Pavlos Eleftheriadis argues that sovereignty cannot be, at the same time, unlimited and limited: “where there is law there is no sovereignty, and where there is sovereignty there is no law”, P. ELEFThERiADiS, *Law and Sovereignty*, in *Law and Philosophy*, 2010, p. 535 *et seq.*

⁴² K. SCHiEMANN, *Europe and the Loss of Sovereignty*, cit., p. 478.

