Conflicts of sovereignty in a European Union in Crisis (SovEU)

Promoters ULB: Nathalie Brack, Ramona Coman, Amandine Crespy

Partner: Christopher Bickerton (Cambridge University)

Associated researcher: Julia Rone

Abstract

Conflicts around sovereignty form the core of political and academic debates and lay narratives on European integration. More integration at the EU level is associated with a transfer of sovereignty from nation states to supranational institutions. Resistance to 'ever closer union' is taken as evidence of a reassertion of national sovereignty. This project is premised upon the original hypothesis that the existential crisis faced by the EU over last decade is not a product of a conflict between national sovereignty and supranational institutions but rather the result of conflicts at the national level between different conceptions of national sovereignty, specifically the struggle between popular and parliamentary visions of national sovereignty. This project will empirically test this hypothesis using three paradigmatic cases: judicial reforms in Poland regarding the rule of law, ratification of the EU Canada Comprehensive Trade Agreement (CETA) in Belgium and the UK's decision to leave the EU (Brexit).

Résumé

Les conflits de souveraineté sont au coeur des discussions, tant scientifiques que politiques, sur l'intégration européenne. Une plus grande intégration européenne est associée à un transfert de souveraineté des Etats nations vers les institutions supranationales. Et la résistance à "une union sans cesse plus étroite" est considérée comme attestant la réaffirmation de la souveraineté nationale. Ce projet vise à aborder les conflits de souveraineté. Il repose sur l'hypothèse originale que la crise existentielle de l'UE au cours de la dernière décennie n'est pas le produit d'un conflit entre souveraineté nationale et institutions supranationales, mais plutôt le résultat de conflits au niveau national entre différentes conceptions de la souveraineté nationale, en particulier la lutte entre les visions populaires et parlementaires de la souveraineté nationale. Ce projet testera empiriquement cette hypothèse en utilisant trois cas paradigmatiques: les réformes liées à l'Etat de droit en Pologne, la ratification de l'AECG en Belgique et la décision du Royaume-Uni de quitter l'UE (Brexit).

Goals of the project

Over the last decade, the European Union (EU) has faced unprecedented challenges. From the economic and financial crisis of 2008 that culminated in Greece's near exit of the Eurozone in 2015 through to the decision of the UK to leave the EU in June 2016, the very existence of the EU has often been in doubt (Zielonka 2014; Schmitter 2012; Webber 2013). Notwithstanding the scale and novelty of these threats, scholarly and lay narrative around the dynamics of European integration continue to rely upon the traditional view that more European integration means less national sovereignty and that any resistance to this process – from a mainstreaming of Euroscepticism through to Brexit – implies a reassertion of national sovereignty across Europe. New theoretical advances in EU studies have challenged this narrative (e.g. Bickerton et al 2015). Empirical work suggests that attitudes of populist parties to the EU are mixed and that Euroscepticism should be understood as new dimension of national political space (Coman 2012, Brack & Startin 2015). However, traditional views on sovereignty and 'ever closer union' remain the dominant framework for understanding the contemporary crisis of EU integration. They inform fears about a populist wave in Europe targeting the supranational EU. Reflecting this same manner of thinking, the European Commission's recent White Paper on the future of Europe set out a range of possible directions for the EU, each of them carefully placed on a spectrum ranging from the status quo to a fully integrated supranational Europe with many powers removed from national authorities (2017: 24).

This project will challenge this narrative by suggesting that whilst conflicts around sovereignty are indeed at the heart of the challenges facing the EU today, this are not necessarily the kinds of conflicts that we are used to. Instead of a conflict between the national and the supranational level, the project develops the hypothesis that sovereignty conflicts in the EU stem from competing visions of sovereignty at the national level, specifically between popular and parliamentary sovereignty. The project's hypothesis is that what appear as struggles between nation-states and the EU are in fact struggles over the very meaning of sovereignty in the first place.

By recalibrating our analytical and conceptual lens in this way, this project promises to reconfigure our understanding of political conflicts in the EU. It will also investigate how conflicts of sovereignty are triggered, what their origins might be and how they develop in interaction with (and are shaped by) EU level processes. Finally, this project will shed light on the discourses and counter-discourses over sovereignty articulated by different types of actors in the EU. In addition to making an important conceptual contribution to the field of EU studies, the project will enrich empirically our knowledge of sovereignty conflicts in the EU through its three case studies. At present, political theoretical writings dominate this discussion (Bellamy 2017, Robelin 2016) and there is a lack of detailed empirical work of the kind provided by a case study approach.

Work Packages

Work package 1: Re-conceptualizing sovereignty conflicts in the EU

The concept of sovereignty has long been at the heart of many different sub-fields of political science and European studies, though often without much debate or discussion between these different strands of scholarship. What has been largely absent from scholarly inquiry is a systematic, empirically-informed study of the dimension of conflict or contestation. Scholars writing about the shift from government to governance (Rosenau and Czempiel 1992) assumed that powerful forces of globalization and interdependence would usher in a new politics of pooled or shared sovereignty – the practice of trading some political autonomy at the national level in exchange for greater collective influence at the regional level (Kohler Koch 1996, Peterson 1997). Where there was contestation around these transformations in sovereignty, it was described as an atavistic reassertion of "modern" notions of sovereignty in opposition to the "postmodern" reality of the EU in the 21st century (Cooper 2004). What remained the backdrop for thinking about sovereignty conflicts in the EU was that more integration meant less national sovereignty and less integration was the wish of national capitals hostile to the concentration of power in Brussels.

New approaches to EU integration have suggested that the picture is complex: more European integration may not necessarily mean an erosion of the role of nation-states within the EU (Bickerton, Hodson and Puetter 2015). The conceptual work of this project will start from a need to unpack the meaning of sovereignty at the national level, by specifying differences between parliamentary and popular sovereignty and thinking about how competing understandings of sovereignty at the national level interact with conflicts between national and supranational actors. The conceptual contribution of this project will be to develop a typology of sovereignty conflicts, which can then be applied to the case studies. At this early stage, at least four different meanings of sovereignty need to be accounted for in any typology. (A) *National state sovereignty*, which is most prevalent in writings about Westphalian sovereignty and a popular starting point for thinking about sovereignty in the field of International Relations. (B) *Supranational sovereignty*, as represented in the state-like qualities and "core state powers" (Genschel and Jachtenfuchs 2018) exercised by EU supranational institutions. (C) *Parliamentary sovereignty*, referring to the autonomy of parliaments (national, regional, European) to legislate in areas over which they have competence. (D) *Popular sovereignty*, understood as the general principle that final authority in a given polity lies with the people. As the table below shows, this unbundling of the concept of sovereignty can lead to multiple sovereignty conflicts in addition to the ones traditionally associated with EU integration.

Table 1 – Sovereignty conflicts in the EU

		New sovereignty conflicts	
Traditional sovereignty conflicts		Supranational sovereignty	Popular sovereignty
		National state sovereignty	Parliamentary sovereignty

Work Package 2: Case Studies

There are three case studies, each of which will explore the ways in which sovereignty conflicts within the EU may be emerging and changing over time. For each case study, the ambition will be to examine how conflicts of sovereignty develop and to analyze the discourses and counter-discourses over sovereignty articulated by different types of actors.

Case Study 1: Conflicts over the Rule of Law in Poland

The integration through law laid down the foundations of the European Communities based on the rule of law, as stated by the EU Court of Justice in 1986. The EU institutional actors sought to establish a community of member states that relinquished part of their sovereignty to create a *sui generis* system of governance where the law is certain and predictable, while public officials act within the powers conferred to them and the individuals are protected from being deprived from their rights. Over the last few years, however, conflicts over the rule of law intensified. By undertaking reforms seeking to reform the organization and the functioning of the judiciary, Poland and Hungary have challenged the legitimacy of the Commission to safeguard the rule of law at the supranational level (Coman 2017). Scrutinizing the case of Poland, this case study will focus on how – at the domestic and European level - the understandings of the rule of law are embedded in different legal cultures and political traditions. As hypothesized, we expect to capture new conflicts of sovereignty, not only the axis supranational vs national sovereignty but also on the axis popular versus parliamentary sovereignty. To test our hypothesis, we will map - through interviews and content analysis - the arguments invoked by political and legal actors at the domestic and European level since 2015 onwards.

Case Study 2: CETA Ratification in Belgium

The second case focuses on the European economic and social crisis and its aftermath. Between 2008 and 2014, the EU faced one of the worst economic crisis in recent history, known as the Great Recession (Bermeo and Pontusson 2012), which has led to various reforms of its socio-economic governance. Here, we will concentrate on one policy field – trade – which perfectly illustrates the principle of shared sovereignty (Meunier and Nicolaïdis 2000). Since the Lisbon treaty, the EU has legal personality and can therefore conclude international agreements in an autonomous way. At the same time, this principle of shared sovereignty is increasingly contested, as shown by the conflictual and difficult ratification of CETA in Belgium. The postdoctoral fellow and one of the co-promoters will work on this case study. They will study sovereignty conflicts arising in economic policies and how such conflicts shape - and are shaped by - a multi-level governance framework, where authority exists at regional, national and supranational levels.

Case Study 3: Brexit

Brexit is generally assumed to fit with the narrative of a reassertion of national sovereignty against the power of EU institutions. However, there are good reasons to think that it is more complex than this. Brexit is as much a *test* of sovereignty as an *expression* of it. This case study will begin with a wide review of the existing academic and lay literature around Brexit and sovereignty. The conflict between popular and parliamentary meanings of sovereignty was particularly evident around the legal disputes pertaining to the *Miller v Secretary State for Exiting the European Union* judgement by the British Supreme Court, which will studied in detail. Other issues central to debates around Brexit and sovereignty include the defense of borders and the relationship between a majoritarian Westminster-based political system and the requirements of consensus within a multi-national (and highly devolved) UK. The analysis will

include the 'traditional' conflict between national and supranational sovereignty during the Brexit negotiations and how both are portrayed by actors, with a focus on how this traditional sovereignty conflict interacts with other sovereignty conflicts. Semi-structured interviews with EU and national political figures and British officials along with some discourse analysis will add to the data provided by the case study.