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SOVEREIGNTY – FROM CLASSICAL TO SHARED AND BEYOND. THE CASE OF THE EU FISCAL POLICY

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Abstract:

Tax policy in the European Union is a goal difficult to achieve in the context of a community that brings together 28 European countries.
This assertion is based on the complexity and the many stages of the European integration process which resulted in the emergence of a supranational structure that does not fit neither into the patterns of federal state, nor of intergovernmental organizations.
Under these circumstances, the fiscal sovereignty the European Union enjoys is quite an atypical one, far form the classical version of sovereignty, which implies very few competences transferred to the European level and many more in the hands of the member states.
The European Union is caught between the need to take further actions in the field of taxation in order to reach fiscal integration and the reluctance of the member states to offer further attributions to the supranational construction regarding fiscal matters.

Keywords: European Union, sovereignty, fiscal policy, shared competences

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1. The classical sovereignty

Sovereignty is a complex concept that can be analyzed from multiple perspectives. Thus, from the perspective of public international law, it is an essential attribute of the state and includes national external sovereignty, as binding will for the whole society.[2]

External sovereignty is absolute, perpetual and individual, as was characterized by Jean Bodin, in „Les six livres de la Republique", published in 1576. Therefore, this attribute ensures total independence of any state from any supranational authority.

But Jean Bodin consider sovereignty as an attribute of the monarch, who enjoys it under a divine right. In this regard, sovereignty is „supreme and absolute power of the sovereign monarch."[3]

The sovereignty as absolute power does not accept any replacing legal authority.[4]

This first attempt to define the concept of sovereignty equate the will of the monarch and the general will. Therefore, at this stage, the monarch's struggle for power takes the form of absolute sovereignty.

From this perspective, sovereignty has become a cover for arbitrary actions of the monarch, its discretionary power representing the rule. The two above mentioned issues were the causes of the necessity to redefine the concept of sovereignty.

Social movements carried out by the bourgeoisie in the eighteenth century sought to limit the power of the monarch and increase its involvement in the economic life of the society.

Thus, with the French Revolution of 1789, it appears the notion of „sovereignty of the people."

„The monarch can not govern despotically, since sovereignty belongs to the people and as such, it even has the right of resistance to oppression." The theory according to which sovereignty belongs to the people came to replace the theory that sovereignty belongs to the monarch.[5]

Sovereignty which belongs to the people is best explained by the theory of social contract theory developed by Jean Jacques Rousseau.

Social contract theory makes the transition from so-called natural state to the

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[2] Muraru, I., Tănăsescu, E.S., *Constituția României. Comentariu pe articole*, Ed. C.H. Beck, București, 2008, p. 19,

[3] Iancu, G., *Drept constituțional și instituții politice*, Ed. C.H. Beck, București, 2010, p. 366

[4] Isenbauert, M., EC *Laws and the sovereignty of the member states in direct taxation*, IBFD, Doctoral series, Volume 19, 2008, p. 21,

[5] Uglean, G., *Drept constituțional și instituții politice*,Ediția a IV-a, Vol. 1, Editura Fundația România de Mâine, București, 2007, p. 79

social state. In the first state, the natural one, people have complete freedom, while in the second state, the social one, people are willing to give up full freedom in exchange for ensuring social order.

Therefore, from this point of view, sovereignty is the sum of attributes that each individual gives up in favor of the State.

Part of citizens' rights are opposable to the State, while other rights are transferred to the State for ensuring the general interest of the whole society.

„According to Rousseau, sovereignty is inalienable and indivisible. (…)

Sovereignty is only the exercise of the general will and can never be alienated, and the sovereign (the people), whom is only a collective being, can only be represented through himself. Power can be transmitted, but the will cannot. (...)

The same causes for which sovereignty is inalienable make it indivisible as well."[6]

This definition is the starting point of the French classical theory, according to which citizens form a collective that transfers attributes of sovereignty to the State, the latter having the mission to carry out the general will of the collective.

In contrast, the German school considered the state as being the nation organized according to a specific form of government in a certain area, with the public power as holder of sovereignty.

This theory has been heavily criticized by Hans Kelsen, who tried developing a purely legal theories. He defined the state as a legislative order and a personification of legal rules. In this context, sovereignty is the attribute of the state, which is the rule of law.

In his conception „sovereignty is not a perceptible or a objectively discernible quality of a real object, but on the contrary the condition upon which depends the supreme normative order which, in its validity, is not deducted from any other higher order". From this point of view, the state seems not to have sole responsibility for solving problems, existing aspects that fall under the influence of international law.

Barthelemi believes that the state operates through two categories of legal acts, namely:

a) legal acts of unilateral nature, based on state authority, such as the lawmaking process, and the governance, i.e. all those acts which the State exercises in the form of functions;

b) management instruments (contracts) that the state performs as a private individual, as a legal entity (moral person).

According to the theory developed by Leon Duguit, citizens' conduct must be

[6] Iancu, G., *Op. cit.*, p. 367-8.

determined by social norms endowed with binding force. In his view, the very fact that humans are in a society generates the need for creation of a law or a social rule.

The state, by virtue of its sovereignty, is entitled to apply the rules, using the coercive force when needed. From this points of view, Leon Duguit considered necessary to replace the traditional concept of sovereignty with that of „public service".

Analyzing the classical theories of sovereignty, we conclude that sovereignty is characterized by the fact that it is a legal power and supreme power.

Therefore, the state legally exercises sovereignty, which complies with the requirements and expectations of the governed ones, being accepted by them in this way. However, the state exercises sovereignty without a higher will or a higher authority than the will of the state.

If classical theories of sovereignty established supremacy of state sovereignty, what happens to this attribute in the context of EU Members?

In the eighteenth century the Peace of Westphalia marked the transition from empire to independent states, being recognized the principle of state sovereignty.

For a long time the concept of sovereignty developed having as a starting point the system of national states. However, the challenges have emerged after the Second World War, with the formation of supranational institutions and organizations. From this perspective, sovereignty changed the trajectory of its evolution when the European Union emerged.

Through the Treaty of Paris, signed by France, Belgium, Italy, the Netherlands, Luxembourg and Germany, was established the European Coal and Steel Community. This document led to the formation of a supranational body, the High Authority, which function as an executive in the domain of coal and steel.

So in this context it is difficult to speak of sovereignty in the version established by the Peace of Westphalia.

If we consider that the signatory states on the basis of their sovereign wills signed the Treaty of Paris, we could say that the principle of national sovereignty has not changed after its entrance into force. However, the mere existence of a supranational authority which enjoys even a minimal decision-making power in a given economic area, refutes this claim.

In addition, globalization brings new challenges to the classical concept of sovereignty, Member States no longer being able to exercise it in all fields.[7]

Under these conditions, the concept of sovereignty in its classic sense should be redesigned to better adapt to the current reality. Thus, for example, Alfred Verdross,

[7] **Piris, J.C., *The constitution for Europe – A Legal Analysis, Cambridge University Press,* 2005, p. 194**

considered one of the founders of international constitutionalism, supports the idea that sovereignty is more suitable approach as a set of skills that can be transferred to the supranational level.

Alfred Verdross believes that sovereignty is defined only in terms of international public law[8], as that set of attributes that provide a state with the independence from other states, but not against the rules of public international law.

Also, Korowicz proposes giving up the idea of „absolute sovereignty" and accepting that of a „relative sovereignty." [9] This new type of sovereignty is more suitable to real situations, which in different forms limits sovereignty.

In this regard, Korowicz shows that sovereignty can be limited simply by concluding international treaties, because they result in restricting the freedom of action of the state.

If states limit their sovereignty, then it should also be considered the birth of international sovereignty via the transfer that occurs between states and international institutions.

Although this transfer appears to be feasible only through the conclusion of international treaties, at a simple analysis of the UN Charter - one of the most important international organizations - we see that it mentions the right of self-determination of peoples, not states. This „suggests that the peoples of the world are the ultimate source of international authority."[10]

These two theories, one that calls for a global state with rules that apply to all national states and the other advocating for the supremacy of international law over national law, it is added a third theory, based on some realistic findings about the inequality of military and economic power of states, argues that the notion of sovereignty loses all meaning.

Thus M.A. Kaplan[11] believes that currently, the international stage is characterized by the fact that it is dominated by a few powerful states, being a bipolar system, in which the idea of state sovereignty loses any meaning or its importance is greatly reduced by limiting it to only a few issues. So if sovereignty does not lose total meaning, it is diluted significantly, losing the specific consistency of the „wesphalian

[8] See Verdross, A., *Le fundement du droit international*, în Recueil des Cours [de l'] Académie de Droit International, 1927, t. 1, p. 247-324

[9] See Korowicz, M.S., *Organisations Internationales et Souverainete des Etats Membres*, Editions Pedone, 1961

[10] Nagan, W.P., Haddad, A.M., *Sovereignty in Theory and Practice*, 13 San Diego Int'l L.J. 429 (2012), http://scholarship.law.ufl.edu/facultypub/293, p. 461

[11] See Kaplan, M.A., *How sovereign is Hobbes's Sovereign?* in King, P. (ed.), Thomas Hobbes. Critical Assessments, Vol. 3, London, Routlege, 1993, p. 742-758

sovereignty".

2.Shared sovereignty

Although the European construction still takes the form of a union of independent states, it may conclude international treaties and agreements obliging Member States, reducing their capacity al international level.

The fact that the European Union enjoys its own legal order established by treaties, entitles us to consider absolutely necessary to redefine sovereignty to match current reality.

The Rome Treaty, following the Paris Treaty, strengthened a number of supranational institutions that arose with the entry into force of the Treaty of Paris - the European Commission, Council of Ministers, the European Parliament and the European Court of Justice.

Therefore, it had been created a supranational decision-making system similar to that of in the Member States, in which the European Commission acts as an executive, the Council of Ministers is the legislative of the community, the Parliament has a consultative role and the Court of Justice comes to resolve conflicts between Member States.

Although the decision-making power of these institutions remains low, there is a new kind of sovereignty shared between Member States and the European Communities.

This new type of sovereignty has evolved along with the European Union, the Maastricht Treaty being the legal document introducing the title „European Union" for the newly formed supranational European organization.

From the perspective of shared sovereignty, three important aspects should be considered at this stage: the emergence of the three pillars of the European Union (European Communities, Common Security and Defense Policy and the pillar of Justice and Home Affairs), European citizenship, the principle of subsidiarity and the emergence of the Euro. All these aspects come to give content to the concept of national sovereignty, being its attributes.

Any independent state, by virtue of its national sovereignty, is entitled to take action in areas related to foreign policy, national security and defense, rights and freedoms of citizens and national currency.

The subsidiarity principle was enshrined in Article 5 of the Treaty establishing the European Community. This article provides:

Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.

Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

In areas which do not fall within its exclusive competence, the Community must act in accordance with the principle of subsidiarity, only if and insofar as the objectives of the proposed action can not be sufficiently achieved by the Member States and therefore having the scale or effects of the proposed action, be better achieved at Community level. [12]

Therefore, it is becoming increasingly difficult to accept only the existence of classical sovereignty, limited to national states.

The impact of the next treaties of the Union Europe was not as strong as the one made by the Maastricht Treaty regarding the development of European institutions and the principle of shared sovereignty. These treaties were designed rather to support the EU enlargement.

However, the Lisbon Treaty comes with an extension of decision-making power of the European institutions, in order to make more efficient the integration process.

On one hand, the Lisbon Treaty gives the EU a legal personality, on the other hand the qualified majority voting is extended to new areas. Therefore, the political power of supranational institutions increases considerably.

It is also important to note that the Lisbon Treaty meant the establishment of the EU Charter of Fundamental Rights, a document that provides a series of rights for citizens. Disputes relating to the application and interpretation of the Charter fall under the jurisdiction of the European Court, which means that it is above the national jurisdictions.

The concept of sovereignty has not evolved strictly linear, classical sovereignty being profoundly changed by the emergence and development of the European Union, a supranational structure.

Even if we would support the idea that the authority enjoyed by the EU comes from the Member States[13], it is impossible to deny that a number of actions at EU

[12] Consolidated version of TCE, http://eur-lex.europa.eu/

[13] See Tokar, A., *Something happened. Sovereignty and european integration, Extraordinary Times*,

level take priority over the national ones, even though it applies due express or implied acceptance by Member States.

In the example given, although we would be tempted to say that there is no new kind of sovereignty because supranational structures do not enjoy coercive force necessary to enforce the rules which they develop, we can not deny the fact that EU Member States recognise the priority of EU law over the national one.

So we would say that, at first glance, the EU enjoys sovereignty in the legal sense; it creates legal standards higher than those of the Member States. Furthermore, Member States do not enjoy legal supremacy in the areas entrusted to the European Union. However, it is true that the implementation of EU measures, in the the overwhelming majority of cases, lies with the Member States.[14]

But beyond this idea, the EU is far from enjoying legal sovereignty in the true sense of the word, aspect evidenced by the fact that in public policies with a more pronounced national character (national defense policy, competition policy, fiscal policy) the supranational structure plays a secondary role.

In fact, the entire classification of policies into three categories: those which lie exclusively with the Member States, those which lie exclusively with the EU and those assume shared competences between Member States and the Union, denotes failure of the EU's legitimacy.

The fact that the European Union enjoys its own legal order established by the Treaties should mean the rethinking of the sovereignty concept.

There is a sharing of authority and governance between EU and its Member States; the latter participate in the work of EU, establishing its role and its existence, but their participation is reduced in the communitarised area.[15]

State sovereignty is the ultimate source of autonomy in terms of internal problems related to the organization and functioning of society.

The new institutional structure was charged not only with substantial powers which until then were in the hands of sovereign states, but also received normative powers, in concrete, the power to approve regulations and directives.[16]

2.3 Suveranitatea fiscală: de la național la european

IWM Junior Visiting Fellows Conferences, Vol.11: Vienna 2001.

[14] Ibidem , p. 6

[15] Anghel, M. I, *Suveranitatea statelor membre ale Uniunii Europene*, Annals of the "Constantin Brâncusi" University Târgu Jiu, Juridical Sciences Series, Nr. 2/2010.

[16] Fossum, J.E., Menéndez, *The Constitution's Gift A Constitutional Theory for a Democratic European Union,* ROWMAN & LITTLEFIELD PUBLISHERS, INC, Plymouth, p. 81

In the context of a new type of sovereignty, the shared one, which is shared between the European Union and its Member States, what happens to the fiscal policy of the Member States and more specifically, their fiscal autonomy?

This is one of the questions we want to answer in detail.

If classical sovereignty implies the full power of the state to set tax rates, taxable income categories and categories of taxpayers, how much would the fiscal power be affected in the case of shared sovereignty.

EU Member States are reluctant to the idea of transfer of fiscal sovereignty to supranational institutions, as this would lead to diminished control over their own financial resources that are to form the state finances.

However, the system of sovereign states with a control focused on the domestic sphere, can facilitate creating and sustaining a unique society, with a distinct cultural and political identity, capable of follow its own vision of a desirable society. [17]

The actions of Member States in this field continues to stress the fact that they are not willing to give up their tax autonomy in favor of the European construction.

Therefore, EU legislation on tax matters continue to be adopted unanimously. However, all terms of direct taxes remains under the regulator of the Member States.

However, we can not deny the existence of three separate decision-making levels: European Union level, composed of all the powers which the Member States have ceded to the Community bodies, which they perform exclusively (antitrust, trade policy, monetary policy in the case of Monetary Union Member States); national level, consisting of exclusive competences, remaining within the sovereignty of Member States[18] **and a level of shared competence, which belongs to both EU institutions and Member States.**

Although fiscal policy is considered exclusive attribute of the sovereignty of the Member States, in the part related to indirect taxation, the European Union sets limits that must be respected by Member States regarding the Value Added Tax.

However, given that fiscal policy affects other European policies - competition policy, labor policy - through European treaties the powers of States were limited in areas connected to tax policy, to ensure coordination of this policy at Community level. The EU approach regarding fiscal policy is the harmonization of the laws and

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[17] Ring, D., *What's at stake in the sovereignty debate?: International Tax and the Nation-State*, Boston College Law School, Research paper 153, 2008, p. 17, http://ssrn.com/abstract=1120463

[18] Chilarez, D., Ene, G.,S., *From fiscal sovereignty to a good fiscal governance in the European Union*, Revista Economică, No. 4/2012

policies of Member States.

The concept of sovereignty has adapted to the structure and functioning of the European Union. These substantial changes that can not be easily overlooked, even in a situation where we have to accept that there is a new normative order that requires political power to move beyond national states.

Considering sovereignty as the attribute conferring a power of absolute government to an entity in a given territory through will of the people, in this case, at first glance we might consider that the European Union fits neatly into this pattern. But there are atypical features of this structure, which do not fit easily into the patterns of classical sovereignty.

Problematic in terms of the new type of sovereignty is how the national and European systems influence each other. It would be wrong to think that the relationship is a one-sided type .

The increase of duties incumbent to the European Union had the effect of lowering the possibility for Member States to develop public policies independently, without regarding the policies of other members of the European Union[19]. Therefore, although the national state remains the main actor on the international stage, it is not the only one.

From another perspective, the common European economic market prevents Member States from taking unilateral decisions as they affect fair competition, an essential principle of this market.

However, the states, by their own will, accept the European regulations affecting their internal legal order. The above aspects seem to create a paradox, however, the European Union is a non-standard construction, therefore, its degree of complexity is an increased one.

Therefore, increasing the powers that bring the EU closer to model of a structure which enjoys sovereign power has the effect of eroding the national sovereignty.

As the European Court of Justice ruled, the transfer of sovereign powers from the national to the European level works rather as a system of mutual limitation of power for national and European actors. If the former are limited by the principle of supremacy of EU law over national one, the latter are limited by the principle of conferral, which means that the EU can not act in areas where the Treaties do not empowered it to make decisions.

We can say that the European Union has gained ground against Member States in terms of decision making and public policy development. However, the question of

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[19] Sjaak J.J.M. Jansen, *Fiscal sovereignty of the Member States in an internal market. Past and future*, Ecotax Vol 28, Wolters Kluwert Law and Business, The Netherlands, 2011

sovereignty remains a thorny one, difficult to approach and managed by the European Union. This can be determined by analyzing the Treaties and EU legislation, action which would emphasize the fact that the express term „sovereignty" is not used, but rather references are made to it.

However, in the TFEU art. 114, para. (2) is noted that the provisions of par. (1) of the same Article shall not apply to fiscal provisions. If in general, the European Parliament and the Council, through the ordinary legislative procedure, may adopt measures aimed at harmonization of national laws to ensure the functioning of the Common Market operation in tax matters this procedure does not apply.

Although states continue to maintain fiscal sovereignty, overall, it is increasingly diluted, which could be explained by three aspects:

1. **The emergence and development of international mechanisms and institutions vested with decision-making functions;**
2. **An extensive economic market that goes beyond a single state;**
3. **Failure of States to absorb or mitigate macroeconomic shocks, given that monetary policy is a centralized European one and the fiscal one is decentralized, remaining attribute of Member States. This is confirmed by the economic crisis that states could not „discard" of.**

These issues being presented, perhaps the most interesting feature of the new type of sovereignty, the shared one, is how the Member States power is limited by the European Union, and Union power is also limited by the Member States. We could consider this attribute works as a way to control and balance, as in the classical theory of sovereignty where the executive, legislative and judicial powers shall limit each other to ensure avoidance of abuse of power.

Shared Sovereignty implies that both Member States and European Union play the role of the decider in public policy making.

States could argue that the transfer of competences in the fiscal domain to the European Union constitutes acceptance of the loss of their fiscal autonomy. But in an economic crisis which greatly debalanced economies, the need for legitimate institutions with enough power and authority to tax transnational corporations and to share equitably the tax burden, so that the crisis is over, is undeniable.

However, the idea of an international or regional order in which fiscal sovereignty is dispersed and disaggregated[20], we consider being more effective because an event that takes place at international level can not be solved by measures taken solely at

[20]**Hurrell, A., *On Global Order - Power, Values, and the Constitution of International Society*, Oxford University Press, p. 293 and next.**

national level. Furthermore, the states show a high degree of individualism, reason for which, the measures adopted aim only self-interest.

With the entry into force of the Lisbon Treaty, the EU has acquired legal personality, the treaty expressly stating this fact and detailing its underlying elements. „The Union shall have legal personality". [21]

In each of the Member States, the Union shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Union shall be represented by the Commission. However, the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation. [22]

EU enjoys legal personality in the field of international law, not in the field of private law, treaties being just a series *res inter alios acta* documents, which function on the recognition by Member States[23]. This aspect could raise the question of a possible conflict between the legal personality of the European Union and the legal personality of the Member State.

3. Conclusions

From the perspective of sovereignty, the European Union does not fold under the classical theory of sovereignty, which implies absolute freedom of states to manage their internal affairs and autonomy towards other states, being rather a pattern of relative sovereignty, which means limiting the power of states in various forms (legislation, transfer of functions).

Tending to claim that states, by virtue of national sovereignty, have signed the EU treaties via their own will, would lead us to the conclusion that classical sovereignty remains the only kind of sovereignty, even after the evolution of the European Union.

Accepting the idea that the authority enjoyed by the EU comes from the Member States[24], it is impossible to deny that a number of actions at Community level has priority over the national ones.

Member States are not willing to cede sovereignty in the tax field to the supranational construction. Therefore, the European Union, on the one hand is forced

[21] Consolidated Version of the Treaty on the European Union, article 47
[22] Consolidated Version of the Treaty on the functioning of the European Union, article 335
[23] See BLAHUŠIAK, I., Legal *Personality of the European union after the Lisabon Treaty – a fundamental change*, în COFOLA 2010 : the Conference Proceedings, 1st Edition. Brno: Masaryk University, 2010, p. 1480-1498
[24] See Tokar, A., *Op. cit.*.

to rather follow the path of tax harmonization, on the other hand to apply the „contract" type of fiscal governance. Decision making in the taxation field is a heavy one, which requires unanimity and correct application of EU law.

The EU's ability to adopt treaties and agreements with international organizations is expressly enshrined in the Lisbon Treaty. However, states have continued to feel the need to limit this legal personality through the Declaration no. 24 annexed to the Treaty of Lisbon.

According to it „the fact that the European Union has a legal personality will not in any way authoriz the Union to legislate or to act beyond the competences conferred upon it by the Member States in the Treaties."

Although, this repetition show that the sovereignty debate is still based on the international legal personality of the European Union.[25]

Objectives of the European Union and European Single Market are difficult to achieve in the context of confrontation with problems of fiscal sovereignty of Member States and territoriality understood as limitation of the power of taxation. The free movement of people, goods, services and capital among member countries of the Union may be put in peril. And if we add to this aspect the lack of fiscal prudence, the chances of fiscal integration will decrease considerably.

To avoid this very least desirable aspect, we must accept that although the authority enjoyed by the EU comes from the Member States, in some cases it has supremacy over the national level.

Therefore European regulations aimed at a common fiscal policy, through which it is ensured the fiscal prudence and the balance the economy, should be supported by EU Member States as regulations applicable with priority. However, Member States continue to defend their sovereignty in taxation matters against the supranational construction. This endows the European Union with reduced tax legitimacy.

Regarding the issue of sovereignty, transfer of attributes from national to the EU can be seen both as a dilution of sovereignty and as pure will of the Member States.

On the one hand states miss a part of their duties which are naturally theirs on the basis of their sovereignty of to provide the power required for the European construction to achieve its objectives.

On the other hand, in lack of willingness of Member States, the transfer of powers to the European Union can not be achieved.

Thus, as long as treatis vest the European institutions with decision-making power by will of the states, the states can not be classified as semi-sovereign, because they

[25] David, R., *The European Union and its Legal Personality 1993-2010*, p. 22, www.ssrn.com

do not cede some attributes, but rather they pool them in the institutional structure of the EU. [26]

The need for sharing of sovereignty between the supranational and national level in the field of taxation and increase of the legitimacy of the EU is justified by the economic, political and social phenomena exceeding the national level.

References:

1. Anghel, M. I, Suveranitatea statelor membre ale Uniunii Europene, Analele Universitatii "Constantin Brâncusi" din Târgu Jiu, Seria Ştiințe Juridice, Nr. 2/2010

2. BLAHUŠIAK, I., Legal Personality of the European union after the Lisabon Treaty – a fundamental change, în COFOLA 2010 : the Conference Proceedings, 1. edition. Brno : Masaryk University, 2010,

3. Chilarez, D., Ene, G.,S., From fiscal sovereignty to a good fiscal governance in the European Union, Revista Economică, No. 4/2012,

4. David, R., The European Union and its Legal Personality 1993-2010,

5. de Witte, B., The emergence of a European system of public international law: The EU and its member states as strange subjects, în Wouters, J., Nollkaemper, A., de Wet, E., (ed.) The Europeanisation of International Law. The status of international law in the EU and its member states, T.M.C Asser Press, 2008,

6. Fossum, J.E., Menéndez, The Constitution's Gift A Constitutional Theory for a Democratic European Union, ROWMAN & LITTLEFIELD PUBLISHERS, INC, Plymouth,

7. Hurrell, A., On Global Order - Power, Values, and the Constitution of International Society, Oxford University Press,

[26] See de Witte, B., *The emergence of a European system of public international law: The EU and its member states as strange subjects*, în Wouters, J., Nollkaemper, A., de Wet, E., (ed.) The Europeanisation of International Law. The status of international law in the EU and its member states, T.M.C Asser Press, 2008, p. 39-54

8. Iancu, G., Drept constituțional și instituții politice, Ed. C.H. Beck, București, 2010,

9. Isenbauert, M., EC Laws and the sovereignty of the member states in direct taxation, IBFD, Doctoral series, Volume 19, 2008,

10. Kaplan, M.A., How sovereign is Hobbes's Sovereign? în King, P. (ed.), Thomas Hobbes. Critical Assessments, Vol. 3, London, Routlege, 1993,

11. Korowicz, M.S., Organisations Internationales et Souverainete des Etats Membres, Editions Pedone, 1961,

12. Muraru, I., Tănăsescu, E.S., Constituția României. Comentariu pe articole, Ed. C.H. Beck, București, 2008,

13. Nagan, W.P., Haddad, A.M., Sovereignty in Theory and Practice, 13 San Diego Int'l L.J. 429 (2012),

14. Piris, J.C., The constitution for Europe – A Legal Analysis, Cambridge University Press, 2005,

15. Ring, D., What's at stake in the sovereignty debate?: International Tax and the Nation-State, Boston College Law School, Research paper 153, 2008,

16. Sjaak J.J.M. Jansen, Fiscal sovereignty of the Member States in an internal market. Past and future, Ecotax Vol 28, Wolters Kluwert Law and Business, The Netherlands, 2011,

17. Tokar, A., Something happened. Sovereignty and european integration, Extraordinary Times, IWM Junior Visiting Fellows Conferences, Vol.11: Vienna 2001,

18. Uglean, G., Drept constituțional și instituții politice,Ediția a IV-a revăzută și adăugită,Vol. 1, Editura Fundația România de Mâine, București, 2007,

19. Verdross, A., Le fundement du droit international, în Recueil des Cours [de l'] Académie de Droit International, 1927, t. 1,

20. Consolidated Version of the Treaty on the European Union,

21. Consolidated Version of the Treaty on the functioning of the European Union,