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Developments Concerning the Concept of Nation States' Sovereignty in the 21st Century

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Abstract

From the second half of the 20th century, a comprehensive “offensive” was launched from different directions against the nation state, with considerable success. As a result, an almost incomprehensible number of authors talk about the erosion, fading or even disappearance of traditional state sovereignty. Since the last quarter of 20th century globalization, regionalization and deregulatory trends fundamentally corroded the traditional conception and construction of sovereignty. The dominance of monetarist-neoliberal doctrines has led to a change in the role of states in the sphere of social and economic production. These developments announced the primacy of market trends, the drastic reduction of economic and social intervention, and the need for international economic integration. Due to the growing prominence of global regulatory authorities (IMF, World Bank, WTO, OECD) in parallel with the increasing influence of transnational corporations, the traditional sovereignty of nation states had become increasingly volatile.

Keywords: sovereignty, nation state, globalization

1. Introduction

For centuries, the concept of the sovereignty had been a central if contested area of state theory and the related disciplines. The flames of disagreement are fueled not only by the lack of consensus in social sciences in general, but also by the diversity of the concept and the fact the theory of sovereignty “is nothing more than a – even if very refined and sublimated – totemic mask”.¹ Out of the cacophony of the literature on sovereignty, a few dominant voices can be highlighted. One such highlight is Georg Jellinek’s finding that the concept is fraught with interpretative confusion; and that these ambiguities are deeply rooted in the 19th century concepts of the state-society relationship with their obfuscating effects being felt even in the present.² Lassa Oppenheim’s following statement also makes it clear that the concept of sovereignty, “from the moment when it was introduced into political science until the present day, has never had a meaning which was universally agreed upon.”³ According to the insightful metaphorical formulation of Péter Takács, we ought to think of sovereignty as a chimera of state and political sciences. This is not due to the often alleged “monstrous nature” of sovereignty, but because “just as the mythological Khimaira is a complex monster of divine origin, so is sovereignty, considered the most important marker of states, a characteristically mixed concept with components of different natures”.⁴ Regarding the evaluation of Takács, it can be said, of course, that there is nothing new under the Sun. As József Szabó had already stated in 1937, it follows from the concept of sovereignty that “both politics and jurisprudence, and even sociology, require it. Moreover, the concept had

¹ Kelsen H. The Essence and Value of Democracy. Translated by Brian Graf. Lanham – Boulder – New York – Toronto – Plymouth, UK, Rowman & Littlefield Publishers, Inc., 2013, 433.

² Jellinek G. Allgemeine Staatslehre. Verlag von O. Häring, Berlin, 1914, 473.

³ Oppenheim L. International Law. A Treatise. Vol. I. Peace. Longmans, Green, and Co., New York – Bombay, 1905, 103.

⁴ Takács P. ed. Az állam szuverenitása. Eszmény és/vagy valóság. Interdiszciplináris megközelítések. [Sovereignty of the State. Ideal and/or Reality. Interdisciplinary Approaches.] Gondolat Kiadó – MTA TK JTI – SZE DFK, Budapest – Győr, 9.

of interest in exploring the problem of sovereignty. In his opinion, practitioners of the “theory of state and law” are able to perform a complex analysis of the interdisciplinary concept of sovereignty by summarizing the different elements, features and aspects of sovereignty, highlighting their permanent and essential momentums, and using the findings of the various disciplines.⁵

The controversial and “confused nature” of the concept is further complicated by the fact that practitioners of politics are especially fond of quarrelling over the concept of sovereignty. Sovereignty, according to practitioners of the political profession, is something definitely worth fighting for; it might not rise to the rank of terms and concepts considered “holy” in contemporary politics, but it is still regarded as precious. It is in this context that Szabó illustratively quotes Brown’s declaration (“Power and authority over others!”) and Alf Ross’s bon mot. According to this aphorism, sovereignty is the supreme ornament of the state, a precious jewel that every state guards with such an anxious care as a virtuous woman protects her chastity.⁶ The use of the concept as a reference point and catchword⁷ can be exemplified by the fact that both the current Hungarian Prime Minister, Viktor Orbán and former Greek Prime Minister Alexis Tsipras – who are far apart in terms of ideological preferences – can refer to the essentiality of sovereignty with equal vehemence.

Sovereignty is thus as sensitive topic as the virtue of the maiden mentioned in the above example, and as such it is expedient to examine the history of the concept of sovereignty in light of the principle laid down by József Szabó, who firmly expressed that the best policy in scientific endeavors is to exclude the quarrels of popular contemporary politics.⁸ Therefore, after examining the origins of the concept of sovereignty, we are going to proceed to identify how the conception of sovereignty changed in the 21st century. Our endeavor will mainly be based on the approach of the disciplines of state theory and political economy, and as such the constitutional aspects will only be examined tangentially.

2. Elaboration on the concept of sovereignty

According to Georg Jellinek, who is also revered as the founding father of “General Theory of the State”, the danger of misunderstanding the concept of sovereignty can only be avoided if one explores it in its proper historical context.⁹ In the wording of Jellinek: “Sovereignty was not

brought to life by sheltered, impractical intellectuals, but by mighty forces whose struggle came to define the essence of centuries.”¹⁰ However, Jellinek’s statement needs to be corrected. In our opinion, at the birth of the concept of sovereignty, the state theoreticians and intellectuals were as much midwives as the grandiose masses, who played an indispensable role in the century long struggles.

Sovereignty as a word derives from the Latin adjective *superanus* (~ above, ordered toward others). The word originally had a geographical meaning; indeed, from the 12th century onwards, in the French vocabulary “souverain” referred to the difference in physical difference in altitude, in the sense that „mountain A is souverain over mountain B”.¹¹ The word only began to take on political connotations in the late 13th century, around 1290, when Philippe de Beaumanoir stated in his work *Coutumes de Beauvaisis* that „every baron is the highest in his own barony”.¹²

Sovereignty, in our view, is a characteristic criterion for describing the modern state. Indeed, the modern sovereign state could only emerge from a chaotic period of religious and civil wars, from the “chaos” of territories ruled by petty monarchs and oligarchs, and only then, after overcoming this turmoil, has it finally acquired its whole shape and character. In fact, the first comprehensive theories of sovereignty were born out of the need for legitimacy of the state in the modern sense, and from the intention to build a strong national power that monopolizes the law and enforces the legal certainty.¹³ As a new theoretical basis, it had to offer a clear and decisive solution to the problem of antagonistic power relations within the state.

As a result of the struggles against the internal sectarian and civil war, relying on the bureaucracy and the military, the princely state finally succeeded in establishing a supra-religious, rationalistic field of action, which was defined by the policies of the State.¹⁴ The marginalization of the sacred sphere well illustrated by Cardinal Richelieu’s statement in 1617: „no Catholic should be so blind to prefer, in matters of state, a Spaniard to a French protestant”.¹⁵ The Frenchmen Jean Bodin in 1576, in his *The Six Books of the Commonwealth* delineated the decisive concept of the *Jus Publicum Europaeum*, that of the domestically and internationally sovereign state, with incomparable success. In the Mid-17th century, the Englishman Thomas Hobbes perfected the sovereignty theory that Bodin had left incomplete. In his book *Leviathan* first published in 1651, Hobbes understood “the modern Leviathan that appears in four shapes, the fourfold combination of God, animal,

⁵ Antalffy Gy. A szuverenitás lényegének állam- és jogelméleti koncepciójáról. [On the Concept of the Essence of Sovereignty in State and Legal Theory.] Hungaria, Szeged, 1967, 3.

⁶ Szabó op. cit. 9. In another work, Ross concludes: “That the above concept [viz. the concept of sovereignty] can still play such a dominant role in spite of much criticism is no doubt connected with the fact that emotional ideas of the sublimity and sacredness of the power of the state are more or less consciously associated with it.” See more: Ross A. *A Textbook of International Law. General Part.* Longmans, Green and Co. London – New York – Toronto, 1947, 34.

⁷ Henkin L. *International Law. Politics and Values.* Dordrecht, Martinus Nijhoff Publishers, Dordrecht, 1995, 9-10.

⁸ Szabó op. cit. 10.

⁹ Grimm D. *Sovereignty. The Origin and Future of a Political and Legal Concept.* Translated by Belida Cooper. Columbia University Press, New York, 2015, 7.

¹⁰ Jellinek op. cit. 435.

¹¹ Baudet T.: *The Significance of Borders. Why Representative Government and the Rule of Law Require Nation States.* Leiden – Boston, Brill, 2012, 40.

¹² Krisztics S. *Politika. I. kötet.* [Politics. Vol. I.] Franklin Társulat, Budapest, 1931, 356-357.

¹³ Jakab A. *Neutralizing the Sovereignty Question. Compromise Strategies in Constitutional Argumentation before European Integration and since.* *European Constitutional Law Review*, 2006; (2), 375-376.

¹⁴ Koselleck R. *Critics and Crisis. Enlightenment and the Pathogenesis of Modern Society.* The MIT Press, Cambridge, Massachusetts, 2000, 16.

¹⁵ Baudet op. cit. 27-28.

person, and machine.”¹⁶ The State must have absolute power or complete sovereignty over the actions of the governed. In the indicated period, this concept was based on the “bilateral obligation” of the sovereign and the individuals, the obligations of protection and obedience. „No form of order, no reasonable legitimacy or legality can exist without protection and obedience. The *protego ergo obbligo* is the *cogito ergo sum* of the state.”¹⁷ In this situation, the Leviathan has created clear and understandable rules over which it has absolute power.¹⁸

Different legal powers can be derived from sovereignty “absolute and perpetual”; these are the “true marks”, the attributes of sovereignty. These royal prerogatives were for the first time enumerated by the aforementioned Bodin. In his view, there are nine marks of sovereignty. The main prerogative is the power of making and repealing law. It comprehends all the other rights – such as declaring war and making peace; hearing appeals in last instance from the judgments of any magistrate; instituting and demoting the highest officers; granting pardons against the rigor of the law; receiving homage; determining the name, value, and measure of the coinage; regulating weights and measures; and imposing taxes and alms.¹⁹ Although there have also been significant changes in these royal prerogatives over the centuries, the concept of sovereignty has for long proved itself capable of capturing and describing many aspects and characteristics of state power.

As result of indicated tendencies, the formerly unified structure of religious and secular power (*Respublica Christiana*) and the organic unity of medieval Christian society was replaced by a world of sovereign and – at least in principle – equal states organized in separate political spaces.²⁰ After the 1648 treaties of Westphalia, non-territorial political actors (city-states, city-leagues, feudal lords, and other corporate actors) fell out of from the front lines of international policy-making.²¹ From this point onwards, domestic politics became, ideally, a phenomenon of a centralized, integrated territory (a “nation-state”) with a comprehensive scope, where the government has a monopoly over the means of social control (monopolizing violence, disposing of the army and diplomacy, controlling

the conclusion of contracts, etc.).²² Within its exact borders, the state was universally presumed to be the supreme political and juridical power. This supreme power, as the exercise of the general will, is inalienable and indivisible, unconditional, sacred, and inviolable, capable of creating law by its manifested will.²³ The eminent 18th century English jurist, William Blackstone defined sovereignty as „a supreme, irresistible, absolute, uncontrolled authority, in which the »*jura summa imperii*«, or the rights of sovereignty, reside”.²⁴

Overall we can say that Bodin’s, but especially Hobbes’ theory had succeeded in replacing the universal theological order of the Middle Ages with an immanent worldly order that also strives for completeness; the state had thus become a mechanism that works predictably.²⁵ The real meaning and novelty of the concept lies in the fact that a model had been build, in which the creation and existence of a separate, dedicated public power is the result of the agreement of the citizens (or, the use the contemporary formulation, the subordinates). Consequently, a state order is lawful, recognizable and legitimate only if its people voluntarily consent to its existence. Sovereignty provided a principled base for the establishment and preservation of domestic political order – in that the ruler became the author of laws, rather than the interpreter of “divinely inspired” laws, in order to maintain society. This meant that, although he was not chained to the law, he could not rule in a completely arbitrary way either.

The state of absolutism was able to subordinate society temporarily (until the bourgeois revolutions), but in some respects it was already pointing towards the emergence of the modern bourgeois state by emphasizing sovereignty and striving for a more rational state apparatus. The dynastic state²⁶ was shortly afterwards replaced by the entity of the civil–bourgeois state. The Bodinian and Hobbesian theories of sovereignty, which served to legitimize the new system, thus led to the emergence of the category of state

¹⁶ Schmitt C. *Ex Captivitate Salus*. Experiences, 1945-47. Translated by Matthew Hannah. Cambridge, Polity Press, Cambridge, 2017, 53-54.

¹⁷ Schmitt C. *The Concept of the Political*. Translated by George Schwab. The University of Chicago Press, Chicago, 2008, 52.

¹⁸ Kevevári I. (2019): *A Fenevad, aki uralkodik felettünk: a szuverenitás fogalmának dekonstrukciója Jacques Derrida kései előadásában*. [The Beast that Reign over Us: The Deconstruction of the Concept of Sovereignty in the Late Lectures of Jacques Derrida]. *Iustum Aequum Salutare*, 2019; 15(1), 65.

¹⁹ Bodin J. *On Sovereignty*. Four Chapters from the Six Books of the Commonwealth. Translated by Julian H. Franklin. Cambridge University Press, Cambridge, 1992, 58-59.

²⁰ For an analysis of this process, see: Derekas Gy. *Carl Schmitt elmélete a nemzetközi viszonyokról*. [Carl Schmitt’s Theory on International Relations]. *Jogelméleti Szemle*, 2019; (1), 29.

²¹ Teschke B. *The Myth of 1648: Class, Geopolitics and the Making of Modern International Relations*. Verso, London, 2003, 3. See for more details: Spruyt H.: *The Sovereign State and Its Competitors: An Analysis of Systems Change*. Princeton University Press, Princeton, New Jersey, 1996.

²² Morse E. *Modernization and the Transformation of International Relations*. Collier Macmillan Publisher, London, 1976, 35.; Teschke op. cit. 2-3.

²³ Rousseau J-J. *The Social Contract or Principles of Political Right*. Translated by H. J. Tozer. Wordsworth Editions Limited, Amsterdam, 1998, 25-30., 33.

²⁴ Blackstone W. *Commentaries on the Laws of England*. Vol. 1. Clarendon Press, Oxford, 1765-1769, 156-157.

Cs. Kiss L. *Egy keresztény Epimétheusz [A Christian Epimetheus]*. In Schmitt C. *A politikai fogalma. Válogatott politika-és államelméleti tanulmányok*. [The Concept of the Political. Selected Studies in State- and Political Theory.] Osiris – Pallas Stúdió – Attraktor Kft., Budapest, 271.

²⁶ According to Endre Sashalmi, the dynastic state was truly flourishing in the western half of the European continent between about 1470 and 1660; in the indicated period, the rulers – and the dynasties – became in fact the dominant political actors in both domestic and international politics. These “dynastic conglomerates” were created by succession, marriage or wars, and linked together a set of economically, institutionally, legally, ethnically, linguistically or religiously disparate territories through a single ruling family. For more information, see Sashalmi E. *Az emberi testtől az óraműig. Az állam metaforái és formaváltozásai a nyugati keresztény kultúrkörben. 1300–1800*. [From the Human Body to the Clockwork. Metaphors and Transformations of the State in Western Christian Culture. 1300–1800.] *Kronosz Kiadó, Pécs*, 2021, 159-188.

sovereignty.²⁷

3. Assessing changes in the concept of sovereignty

From the end of the 17th century onwards, theories of absolute sovereignty began wither away; the works of the Englishman John Locke and the Frenchman Montesquieu led to theories on the limitation of the sovereign's power and the concept of the separation of powers gaining more and more publicity and recognition. In light of this, the theories that prioritized the rule of law paradigm gained a greater reputation, slowly but surely eclipsing earlier theories of absolute sovereignty. The first major challenge to the doctrine of absolute sovereignty was therefore to find a legal framework for the exercise of power. The "mighty philosophical movement" of the Enlightenment aimed to universalize human rights as opposed to the personal and particular character of princely sovereignty. The Declaration of the Rights of Man and of the Citizen, adopted by the French National Assembly on 26 August 1789, became the symbolic "opening document" of a new era in European constitutional development. It declared that "the principle of all sovereignty resides essentially in the nation" and that "no body, nor individual may exercise any authority which does not proceed directly from the nation".²⁸ Thanks to these developments, a process has begun, in which became clear that the sovereignty of the state cannot be unlimited vis-à-vis its citizens. The belief in the absolute nature of state sovereignty has thus suffered a great loss, since the priority of universal human rights as an inherent characteristic of the Enlightenment concept of power is a debilitating obstacle to unrestricted legislation. Historical development has thus modified the principle of absolute sovereignty to a considerable extent; in fact, it has "abolished the boundary which separated the privileged few from the great mass of the duty-bound; modern state life thus presents a picture of a harmonious balance of rights and duties".²⁹

The indisputable advantage of modern constitutionalism is that it has set limits on governmental power and enforced a fundamental change of approach: the logic of "power constitutes law" has thus been replaced by the principle of "law is the basis of power" (*lex facit regem*).³⁰ The principle of the separation of powers has succeeded in eroding the previous concentration of power. These historical developments have led to a fundamental change in the concept of sovereignty: for constitutional states, the starting point was to break with the previous concept of absolute sovereignty and to recognize, guarantee and enforce human rights resulting in system of the limitation of powers. In the wake of the rule of law approach, it slowly became evident that sovereignty has certain limits.

²⁷ Shaw M. *International Law*. Cambridge University Press, Cambridge, 2017, 19.

²⁸ For a more detailed analysis of the declaration, see Jellinek G. *The Declaration of the Rights of Man and of Citizens. A Contribution to Modern Constitutional History*. Henry Holt and Company, New York, 1901.

²⁹ Ulllein A. *Az emberi jogok térfoglalása a modern jogrendszerben*. [The Occupation of Human Rights in Modern Legal Systems.] *A Debreceni Szemle Kiadása*, Debrecen, 1931, 2-4.

³⁰ Kriele M. *Einführung in die Staatslehre. Die geschichtlichen Legitimitätsgrundlagen des demokratischen Verfassungsstaates*. Kohlhammer, Stuttgart, 2003, 81.

The concept of unrestricted sovereignty was transcended by the rise of the rule of law paradigm and the aforementioned developments rooted in the concept of fundamental rights. By the 21st century, the classical Westphalian paradigm and the original concept of Bodinian and Hobbesian sovereignty had fundamentally changed. *De jure* legal sovereignty has, of course, remained intact in the "post-national constellation"³¹ and could only be diminished by possible self-limitation, i.e. by the act of the sovereign. Thus, the limitation of sovereignty in a formal sense is today not realized by a supranational legal order, but by the self-limitation of the state concerned – i.e. "the Sovereign sovereignly limits itself". Legal sovereignty does not preclude, and indeed allows, a sovereign state to enter into relations with other states in its own interest and to exercise some of its public powers together with others, or even to delegate them to a body of regional integration.³² In addition, the constitutions of individual states regularly declare their sovereignty as legally absolute. Thus, Article R (1) of the Hungarian Fundamental Law stipulates that the Fundamental Law is the foundation of the Hungarian legal system, while Article R (2) proclaims that "the Fundamental Law and laws shall be binding on everyone". Other substantive changes have also taken place in the context of globalised capitalism. If we interpolate the functions and powers identified by the classical theorists of sovereignty into our present-day conditions, it becomes clear that many of the traditional powers of nation states have been modified. Some of these – such as the internationalisation of the law of war – were a historical necessity, and to this extent their occurrence is not open to criticism, while others have been forced through the legal regulation of individual states by self-serving non-state actors to pave the way for the construction of a neoliberal state.

If we take the catalogue of sovereignty of Bodinian or Hobbesian origin as a starting point, we can see that many powers that were once exclusively state powers have indeed become relative. Although the right to legislate is the exclusive prerogative of the national Parliaments, the European Union's legal order contains numerous sources of law which are binding on the Member States or which have to be transposed into their domestic legal order.³³ In the

³¹ A reference to Habermas' book. See Habermas J. *The Postnational Constellation. Political Essays*. Translated by May Pinsky. Polity, Cambridge, 2018.

³² This possibility also provided by the Fundamental Law of Hungary with the following technical legal solution. „In its role as a Member State of the European Union, and on the basis of an international treaty, Hungary may – as far as its rights and its obligations set out in the founding Treaties allow and demand – exercise certain competences deriving from the Fundamental Law, together with the other Member States, through the institutions of the European Union.” [Article E, (2)]

³³ In the *Van Gend en Loos* judgment, the European Court of Justice (ECJ), in setting out the relationship between the Member States and the Communities (now the EU), stated that an act of the Union has direct effect where it is sufficiently precise (unambiguous), unconditional, negative and does not require implementing measures (autonomous) on the part of the Member States. All directly applicable European law, i. e. treaties, regulations, decisions and directives addressed to individuals, has direct effect. The consequence of the principle of direct applicability is that certain elements of EU law (in

case of EU Member States, the traditional notion of sovereignty is hardly tenable: the European legal order is visibly and significantly interfering in the internal relations of the Member States. The Court of Justice of the European Communities declared in *Flaminio Costa v. E.N.E.L.* that “the law stemming from the Treaty, an independent source of law, could not, because of its special and original nature, be overridden by domestic legal provisions, however framed, without the legal basis of the Community itself being called into question.”³⁴ According to the wording used in the *Van Gend en Loos* case, the Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights.³⁵ The supremacy of Community law and the adoption of direct effect by the Member States have thus given rise to a new legal order, which in many cases considers itself sovereign.

Further examining the classical sovereignty matrix, in relation to the declaration of war, the ability of states to resort unilaterally to the use of force against other states had been drastically reduced. In this context, the prohibition of force in the UN Charter (Article 2, paragraph 4) is an *ius cogens* rule of international law that requires absolute application. The Charter also sets out the functions and powers of the UN Security Council and the UN General Assembly, and provides detailed rules on the procedure to follow in cases of breach of the peace, threats to the peace or acts of aggression. The Charter also sets out the powers and responsibilities of the UN Security Council and the UN General Assembly, and details the procedure to follow in cases of breach of the peace, threats to the peace or acts of aggression. If the UNSC determines that an act of aggression under Article 39 of the Charter has been committed, it may ultimately apply coercive measures, whether armed or not, against the offending state concerned. In addition to the normative restriction on the use of force, states exist in a symbiotic relationship in the military sector, defence alliances, the defence industry and arms trade, and military cooperation regularly raises the question of arms limitations and the mutual exchange of observers. Moreover, wars are often no longer fought in the classical way: the traditional “order” of wars between states has been replaced by rapidly spreading and quasi-ubiquitous forms of organised violence in the global space, the reality of organised crime “based” on private violence, and, where appropriate, mass violations of human rights.³⁶

In the context of supreme jurisdiction, as a traditional attribute of sovereignty, there is a growing role for international arbitration. The majority of nation states opened their national legal systems to the services of private international commercial arbitration and thus created a huge global market for the business of resolving

particular treaties, regulations and decisions) become part of national law without the need for a separate act of a Member State. Their applicability cannot be subject to any national legal preconditions, nor do they require implementing measures. See more: Barnard C. – Peers S. eds. *European Union Law*. Cambridge University Press, Cambridge, 2020, 157–160.

³⁴ 6/64 *Flaminio Costa v. E.N.E.L.* [1974] EBHT 1141

³⁵ 26/62 *NV Algemene Transport-en Expeditie Onderneming van Gend en Loos v Nederlandse Administratie der Belastingen* [1963] EBHT 3, 1963 CMLR 105

³⁶ Kaldor M. *The Imaginary War. Understanding the East-West Conflict*. Basil Blackwell, Oxford, 1990, 8.

disputes in cross-border exchange. “Arbitration tribunals have indeed adapted their legal services to the demands of global commerce and therefore outperform state courts.”³⁷ The integrated dispute settlement system established under the auspices of the WTO is open to all disputes arising under the WTO Agreement, and the Dispute Settlement Body’s decision is considered binding and enforceable. In Sassen’s view, international commercial arbitration is proving to be indispensable for the functioning of the global economy. Arbitration is proving to be a dispersed and decentralised platform for the resolution of disputes in international trade, forming a network of competing but complementary institutions and individuals.³⁸ The result is the emergence of a novel layer of law, the so-called *lex mercatoria*,³⁹ which may not yet be called homogeneous, but which is nevertheless independent of national laws. According to Galgano, the *lex mercatoria* is of common law origin, a “normative universal system” in its own right, corresponding to an *opinio iuris* established collectively by persons operating on international markets. According to his analysis, national laws are no longer confined within national borders, but rather compete with each other in the context of *lex shopping*, where parties often submit their disputes, which include an international element, to the law of a third country.⁴⁰

Following Bodin’s line of argument, we come to the question of the financial powers that constitute the “musculature of the state”, where several authors point out that the economic sovereignty of the state seems to be practically disappearing. Of course, the right to issue banknotes remains a state monopoly for many states, but the Forint will be almost certainly replaced by the Euro as official currency. In connection with this Ákos Péter Bod explains that “the right of minting money, the right to determine weights and measures, and even, strictly speaking, the right to levy taxes, are particularly obsolete, since modern conditions, and especially European realities, show a very different picture in these respects. The system of weights and measures is largely governed by international conventions; even economically and politically powerful states have voluntarily given up the right to unilateral imposition of taxes (tariffs), one of the listed attributes of sovereignty, when they became members of the WTO or joined organisations with even narrower membership and thus more constraints (OECD, EU, NAFTA).”⁴¹

Of the powers assumed by the classical theories of

³⁷ Mattli W. – Dietz T. *International Arbitration and Global Governance. Contending Theories and Evidence*. Oxford University Press, Oxford, 2014, 193.

³⁸ Sassen S. *Losing Control? Sovereignty in an Age of Globalization*. Columbia University Press, New York, 1996, 33-62.

³⁹ Carbonneau T. ed. *Lex Mercatoria and Arbitration: A Discussion of the New Law Merchant*. New York, Juris Publishing – Kluwer Law International, New York, 1998.

⁴⁰ Galgano F. *Globalizáció a jog tükrében*. [Globalization with regards to the Law.] HVG-ORAC, Budapest, 2006, 11.

⁴¹ Bod P. *Létezik-e közgazdasági értelemben ma szuverenitás Európában? [Is there Sovereignty in Economic Terms in Europe Today?]* In Péter Takács ed. *Az állam szuverenitása. Eszmény és/vagy valóság. Interdiszciplináris megközelítések*. [Sovereignty of the State. Ideal and/or Reality. Interdisciplinary Approaches.] Gondolat Kiadó – MTA TK JTI – SZE DFK, Budapest – Győr, 2015, 30.

sovereignty, only the right to appoint and dismiss public officers remains fully intact, but the opinions of the European Central Bank and the decision-makers in international financial markets can, for example, de facto influence the case practices of EU member states in the appointment of central bank governors. Our hypothesis that state sovereignty has eroded at several points over the centuries seems to be confirmed by a comparison of the Bodinian and contemporary sovereignty marks.

4. The network state

„Who controls the world, now that we are at the end of the second millennium?“ – asked a well-known figure in the anti-globalisation movement, Ignacio Ramonet, in the opening page of his book *Geopolitics of Chaos*.⁴² Despite the poetry of his words, this is not a mere rhetorical question, since, as we have seen above, at the dawn of the new millennium it is far from clear who is the most powerful, the most influential or even the most credible of the actors in a complex world order with multiple players.

According to traditional theories of international relations, power and authority are concentrated in the hands of nation states. The various theories on the role of the state have generally assumed its existence as an objective necessity.⁴³ In order to ensure the prolonged existence of the social condition, and to guarantee the security of the political community from violent interference, it is necessary to institute a dedicated public power. The nation state maintains social order by means of coercive measures and restores the disrupted social order by its legitimate use of physical power. The scope of the state's functions has of course been judged differently in different periods, but even the anarcho-capitalists, who occupied perhaps the most extreme position, did not dispute that a certain degree of regulatory activity by the state is indispensable for the proper functioning of society.

However, recent studies had shown that the primacy of the state have got eroded by globalization, and that the state no longer has absolute power over its territory or its population as result of fundamental changes in the world order. In Joseph Nye's wording: „The problem for all states in the twenty-first century is that there are more and more things outside the control of even the most powerful states, because of the diffusion of power from states to non-state actors. [...] In this world, networks and connectedness become an important source of relevant power.“⁴⁴ Globalization had been interpreted by many authors as a shift towards a „borderless world“ and an economic power space where a substantial part of state power was replaced by market-oriented structures of production. The market has taken over the powers of management and control of the economy, and therefore the dominant economic role of the state is, according to some authors, coming to end.⁴⁵

⁴² Ramonet I. *Geopolitics of Chaos*. Internationalization, Cyberculture & Political Chaos. Translated by Andrea Lyn Secara. Algora Publishing, New York, 1998, 5.

⁴³ For a more detailed discussion of this claim, see: Szilágyi P. *Jogi alaptan*. [Introduction to Legal Studies.] Osiris, Budapest, 1998, 157-172.

⁴⁴ Nye J. *The Future of Power*. PublicAffairs, New York, 2011, XVI–XVII.

⁴⁵ Strange S. *The Retreat of the State: The Diffusion Power in the World Economy*. Cambridge University Press, Cambridge, 1996, 91-99.

Others, however, believe that the presence of states should still be reckoned with on the global stage. Hirst and Thompson, for example, argue that the economy is predominantly international, not global, and that nation states continue to play a central role in governance.⁴⁶ Bisley adds that world politics is still a state-centred social system.⁴⁷ According to Béland, the role of the state is enduring and even growing in advanced industrial societies.⁴⁸ Globalization has certainly reduced the scope of the nation state, but it has shown a surprising degree of adaptability, maintaining its key role in the political and economic spheres.⁴⁹ Global markets cannot exist without at least a minimum of a state legal order that protects public order and security, and ensures and guarantees the freedom of contract and the property rights necessary for investment. The role of the State has therefore not diminished, but it has changed: it has undergone a transformation and needs to be subjected to further transformations.

Whichever way we look at what is going on in the world, one thing seems certain: the nation state today is faced with a number of „challengers“ or „rivals“ in the global arena. According to Cerny, in the global world, a wide variety of institutions, authorities, actors and agents are emerging and competing with each other – with partially or fully overlapping profiles, activities and authority.⁵⁰ The importance of non-state actors in the international system has increased – although it would be an exaggeration to say that they have pushed the nation state out of the international arena. Power had become polycentric in its essence, of which the nation state is only one – though still one of the most important – of its centres. The state remains an important actor in global politics, but it is no longer the sole determinant of world processes. While states remain the main – and the only legitimate – decision-makers in an international system that many still see as anarchic, the internationalisation of the economy and the market system has made the primacy of domestic politics contested and the international system highly interdependent.⁵¹ According to Abram and Antonia Chayes, the international system had gone beyond interdependence, as „modern states are bound in a tightly woven fabric of international agreements, organizations, and institutions that shape their relations with each other and penetrate deeply into their internal economics and politics.“⁵²

Ramonet also spoke of the transformation of power in international relations and domestic society. In his view, we

⁴⁶ Hirst P. – Thompson G. *Globalization in Question*. Polity Press, Cambridge, 1996, 178-189.

⁴⁷ Nick B. *Rethinking Globalization*. Palgrave Macmillan, New York, 2007, 8.

⁴⁸ Béland D. *States of Global Insecurity: Policy, Politics and Society*. Worth Publishers, New York, 2008, 48.

⁴⁹ Weiss L. *The Myth of Powerless State: Governing Economy in a Global Era*. Cornell University Press, Ithaca, 1998, 212.

⁵⁰ Cerny P. *Globalization, Fragmentation and the Governance Gap: Towards a New Medievalism in World Politics?* University of Birmingham. Birmingham, 1997.

⁵¹ Underhill G. *Conceptualizing the Changing Global Order*. In Stubbs R. – Underhill G. eds. *Political Economy and the Changing Global Order*. Macmillan, London, 1994, 19-20.

⁵² Chayes A. – Chayes A. H. *The New Sovereignty: Compliance with International Regulatory Agreements*. Harvard University Press, Cambridge MA – London, 1995.

are moving away from a commanding, hierarchical, vertical form of power towards a negotiated, entangled, horizontal version, but this new system is characterized by the supremacy of economic law and considerable power is concentrated in the hands of international regulatory authorities.⁵³ Ramonet has dealt extensively with the so-called “planetary network” (International Monetary Fund, World Bank, Organisation for Economic Development and Cooperation, World Trade Organization). In this context, he notes the following: “Immune from democratic pressure, this informal power network runs our world and decides the fate of its inhabitants. And there is no counter-power – parliaments, media, political parties – that can correct, alter or reject its decisions.”⁵⁴ The partial privatization of public functions creates a complex network of public and private interests, transgressing the old line between private and public interests. As a result, the state might become the servant of oligopolies’ sub-interests, delegating to them a non-negligible part of the management of the health, culture, tourism and even leisure activities of the population. The complex yet fragmented power of semi-public, semi-private “hybrid” agencies and organizations thus plays an important role in overcoming exclusive state power.⁵⁵

In conclusion, we can point out that, after the Westphalian paradigm had been transcended, the nation-state is no longer the only source of authority. While states have retained their fundamental importance, a widening spectrum of non-state actors has an increasing capacity to structure global politics and economics. In addition, nation states have the unpleasant task of legitimising the power of “governance mechanisms” over individual nations: “The central functions of the nation-state will become those of providing legitimacy for and ensuring the accountability of supranational and subnational governance mechanisms”.⁵⁶ According to Manuel Castells, the creator of the concept of the post-national network state, nation states are now rivalled by networks of capital, production and communications, operated and utilized by international institutions, supranational military machines, non-governmental organizations, supranational religions, criminal organizations and various public opinion and social movements. This list can be compared with Malcolm Bull’s list of organizations that can be considered competitors of nation states: civilizations, intergovernmental relations, NGOs, churches, international organizations, academic networks, drug cartels, al-Qaeda.⁵⁷ Another approach refers to the following actors as “challengers” of nation-states, who play an important role and wield considerable power: transnational corporate empires, the UN, “international agencies” (World Bank, IMF) that impose conditions for aid, international NGOs,

“powerful individuals”, and – with an apparently marginal role and no real power – indigenous peoples.⁵⁸ From an economic point of view, the following institutions can be identified as “rivals” of nation states: global financial institutions, transnational corporations, credit rating agencies, backbone of private regulatory regimes, investors and speculators, offshore centres outside the regulatory reach of states, and free trade areas (International Finance Centre in Dublin, IBF in New York, Manhattan Free Trade Area).⁵⁹

According to Susan Strange, „market-oriented production structures” can put a significant segment of state power at risk. Impersonal forces in the global marketplace now wield considerable influence. Multi- and transnational corporations, bankers, insurers and risk managers, the “mafia” (global and powerful criminal networks such as the Italian mafia, the Chinese triads, the Colombian drug cartels and the Japanese Yakuza), international organizations, international auditing and accounting firms, can be seen from different angles, but they are wielders of power. As such, they have one or more of the following powers: to offer security, or to make threats by withdrawing it; to offer, or to withhold, credit; to control who has access to knowledge and information; and to determine what products can be produced, where, and by whom on what terms and conditions.⁶⁰ As Josselin and Wallace observe, non-state actors are emanating from civil society, the market economy, or from political impulses beyond state control and direction.⁶¹

Of course, none of the lists and typologies can be considered exhaustive; they are merely representative. Whoever the actors are on our imaginary table, it is characteristic of nation states that, in the context of global capitalism, they often come up against other actors in the global arena, some even capable of damaging the reputation of the respective state. Matthews has written about a global process of power shift. She describes a shift away from the state to supra-state, sub-state, and, above all, non-state actors. Matthews argued that: “National governments are not simply losing autonomy in a globalizing economy. They are sharing powers – including political, social, and security roles at core of sovereignty – with businesses, with international organizations, and with a multitude of citizens groups, known as nongovernmental organizations (NGOs).” This led to an increase in the number of international players and the emergence of competing and diverse loyalty expectations. The diffusion of power and sovereignty is reinforcing a process that is leading to the decline of traditional power and the disappearance of classical power politics.⁶²

State-centred politics are replaced by a complex matrix formed from the new branches of the network society. In the global arena, powerful, non-territorial forms of economic and political organisation are emerging,

⁵³ Ramonet op. cit. 1998, 5.

⁵⁴ Quotes: Surin K.: *Freedom Not Yet. Liberation and the Next World Order*. Duke University Press, Durham – London, 2009, 368.

⁵⁵ Dardot P. – Laval C. *The New Way of the World. On Neoliberal Society*. Translated by Gregory Elliot. Verso, London – New York, 2013, 228.

⁵⁶ Castells M. *The Power of Identity*. Blackwell Publishers, Oxford, 1997, 304-305.

⁵⁷ Bull M. *States of Failure*. <https://newleftreview.org/issues/ii40/articles/malcolm-bull-states-of-failure>. 03 Dec. 2021.

⁵⁸ Trudy J.– Sampford C. – Thakur R. eds. *Re-envisioning Sovereignty. The End of Westphalia?* Ashgate Publishing Company, Burlington, 2008, 5.

⁵⁹ Gál Z. *Pénzügyi piacok a globális térben*. [Financial Markets in the Global Space.] Akadémiai Kiadó, Budapest, 2010, 171-173.

⁶⁰ Strange op. cit. 4., 13–14., 44–46., 54–55., 91., 93.

⁶¹ Josselin D. – Wallace W. *Non-State Actors in World Politics: A Framework*. In Josselin D. – Wallace W. eds. *Non-State Actors in World Politics*. Palgrave, New York, 2001, 3.

⁶² Matthews J. *Power Shift*. *Foreign Affairs*, 1997; 76(1),65-66.

including multi- and transnational corporations, international regulatory agencies and even transnational movements. The role of the nation-state is not disappearing, but it is undergoing a transformation: authority is dispersed between public and private agents, as well as between local, national, regional and global levels. Sovereignty itself and the state territory which are inherently connected to the concept of the nation state, remain fundamental elements of the international system, but are now getting transformed, “decentralized” and partially relocated outside the state and national territory. Sovereignty remains a fundamental feature of the system, but now it appears in a wider institutional context: the nation-state, having lost its position as the “supreme power”, is forced to establish a division of labour with new supranational organisations and regulatory powers. Sovereignty is still present in this world, but instead of getting concentrated on the interstate level and in the hands of nation states, it gets dissipated between multiple places and levels of power.

In the era of transnational capitalism, while nation states are likely to remain long-term key players, they become nodes in wider power networks. Castells concludes that: „nation-states having become part of a network of power and counter-powers [are] bypassed by global flows of capital, goods, services, technology, communication and information”. They are losing power; but they still remain entrenched “as the basic components of [an] entangled web of political institution”, and they retain some influence and durability.”⁶³

It is far from certain that nation states trapped in the network will be able to free themselves from this “trap” without compromise. We have to accept the fact that the traditional, Bodinian or Hobbesian concept of sovereignty of nation states is becoming increasingly fragile. But public state power is not disappearing. Instead, it is getting dissolved in the concept of the “network state”: the only viable form of effective political governance is now a conglomerate of nation states, international institutions, associations of nation states, regional and local governments and NGOs. Nation states are thus still present on the global stage, but they have to give up their previous roles as Leviathans with almost unlimited powers: they are transformed from being the sole representatives of sovereignty into non-negligible, even inescapable strategic actors in a “shared” or “dispersed” concept of sovereignty.

5. Quo vadis sovereignty?

Despite the aforementioned developments, it is clear that the global economic and financial crisis that emerged of autumn of 2007 marked the beginning of the crisis of the model of neoliberal governance as a whole. The global economic and financial crisis has led to a revision of the previously mainstream doctrines on the role of the nation state. The dominant direction of neoliberalism, which was treated as “sacrosanct” in the former decades, had suddenly collapsed, and as a result the legitimacy of the “liberal world revolution” view was also called into question. “The holy trinity of liberalization, deregulation and privatization can no longer be sustained when U. S. fiscal policy, based on the efficiency of self-regulating markets and responsible market behaviour, has led to the devaluation of the shares of largest financial institutions, the disruption of the

banking system and, ultimately, to government bailouts and direct state ownership on a scale unprecedented since 1934” – argued Zoltán Gál.⁶⁴ The rescue and consolidation of banks by means of public funds represented a complete collapse of the liberal doctrines of the Chicago school, making the need to strengthen the legal and organizational potential of regulatory institutions an elementary necessity. Therefore, in contemporary state theory, a number of proposals suggest a new type of role for the state. According to Márton Gellén, the reassessment of the role of the state has been particularly acute, because the economic crisis has caused significantly less damage in countries where state control over the economy (incentives and controls) is significantly greater than in the Euro-Atlantic model.⁶⁵ It should also be added that during the crisis, the economies of the developed countries (above all the so-called “triad” of the USA, Western Europe and Japan) were almost the first to slip into recession, and the size of the downturn depended to large extent on the openness of the country in relation with the external markets. Using convincing data, Péter Ákos Bod demonstrated that countries that were more “liberal”, i.e. more open to international finance and trade, were more exposed to international economic and financial developments and the spill-over effects of the crisis compared to those pursuing more “closed” policies. While the “triad” and the more liberalised peripheral countries of Europe (Hungary, Ireland, Slovenia, Slovakia) were among the main victims of the economic crisis, the countries that have previously suffered severe crises (Latin America, Africa and some Asian regions) have only experienced a “slight economic slowdown”. Europe’s dependence on external markets has therefore been rather heterogeneous. While in 2009 Germany suffered a 4% drop in GDP and Hungary 6.5%, both Poland, which already had a dynamic internal market, and less open Albania, have managed to grow in the crisis year.⁶⁶ The above data, backed up by macroeconomic indicators, prove the claim that in times of crisis, only a nation state with the capacity to manoeuvre can remain a vehicle for stability, unlike the very hectic world of the markets. The state must therefore retain its ability to set limits for the market, precisely in order to protect society.

From the mid-twentieth century to the present day, a number of theoretical and practical solutions have emerged for creating an effective state in the 21st century, which are adequate to the needs of governance for the common good, but at the same time provide sufficient democratic guarantees and are in some cases in line with global trends. The direction of this change is clearly shown by the fact that Francis Fukuyama, who predicted the “end of history” after the failure of the state socialist experiments, in his studies after the 2007-2009 financial crisis and in his work on the origins of the political order, had started to advocate a strong state and an efficient administration. At the heart of these ideas is the insight that, while the free market is as

⁶⁴ Gál op. cit. 661-662.

⁶⁵ Gellén M. A közigazgatási reformok az államszerep változásainak tükrében. Doktori értekezés. [Public Administrative Reforms with regards to the Changes of the Role of State. Doctoral Thesis.] Széchenyi István Egyetem Állam-és Jogtudományi Doktori Iskola, Győr, 2012, 9.

⁶⁶ Bod P. Nem szokványos gazdaságpolitikák – évtizedek óta. [Unorthodox Economic Policies – for Decades.] Akadémiai Kiadó, Budapest, 2014, 33-35.

⁶³ Castells op. cit. 303., 330-331., 357.

an important component of democracy, markets are inherently incapable of taking over the functions of the hierarchical state. Fukuyama argues that the quality of freedom can only be made better and more satisfactory if there exists both a strong society and a strong state; democratic institutions and parliamentary governance are best served if there is a relative balance of power between a strong, hierarchical state and an equally well-organized civil society that could defend its interests effectively.⁶⁷ With regard to the administrative sector, he emphasized the need for serious reforms and administrative development, as well as the ability of the executive to be able to calculate for many years in advance and to carry out its plans. In this way, the crisis prevention and crisis management character of the state can be strengthened, made more efficient and the social safety net can be expanded to a greater extent. The crisis demonstrated that unregulated or poorly regulated markets can produce extraordinary costs and measurable losses at the societal level.⁶⁸

The doctrine of market fundamentalism and “global free competition” has changed in the wake of the economic and financial crisis, the activity of anti-globalization movements, the growing cooperation between countries of the South and the failure of development policies with a neoliberal character. The public policy agenda of neoliberalism and the ideology of the Washington Consensus has now eclipsed worldwide. The background to this was the realisation that “the Washington Consensus was not a comprehensive set of politically and emotionally neutral laws, but a summary of crude interests dressed up in science, resulting in a crippled national economy, rising poverty and a crushing debt pile.”⁶⁹ The Washington Consensus had now simply become a “defective product”.

At the turn of the millennium, Joseph Stiglitz began to pave the way that eventually led to the development of an alternative public policy agenda.⁷⁰ In the Post-Washington Consensus, the previous neoliberal current was replaced by a narrative emphasising good governance (or increasingly good government), as an institutional environment capable of regulating the market and creating/strengthening the necessary state functions, the provision of fundamental rights and the importance of quality public services.⁷¹

⁶⁷ Francis Fukuyama F. *The Origins of Political Order*. From Prehuman Times to the French Revolution. Farrar, Straus and Giroux, New York, 2011, 13., 424.

⁶⁸ Birdsall N. – Fukuyama F. *The Post-Washington Consensus: Development After the Crisis*. Foreign Affairs, 2011; 90(2), 50-52.

⁶⁹ Róna P. Előszó [Foreword.] In Schering G. – Boda Zs. eds. *Globalizáció és fejlődés. Kritikai fejlődéstanulmányok szöveggyűjtemény*. [Globalization and Development. Critical Development Studies Reader.] Védegyelet – Új Mandátum Könyvkiadó, Budapest, 2011, 8.

⁷⁰ Stiglitz J. More Instruments and Broader Goals: Moving Toward the Post-Washington Consensus. In Chang, H-J. ed. *The Rebel Within: Joseph Stiglitz and the World Bank*. London, Wimbledon Publishing Company, London, 2001, 17-56.

⁷¹ Scheiring G. Fenntartható humán fejlődés neoliberalizmus helyett: gondolatok a jóléti állam politikai ökológiájáról. [Sustainable Human Development instead of Neoliberalism: Reflections on the Political Ecology of the Welfare State.] In Scheiring G. – Boda Zs. eds. *Gazdálkodj okosan! A privatizáció és a közszolgáltatások politikája*. [Economise Wisely! The Politics of Privatization and Public Services.] Védegyelet – Új Mandátum Könyvkiadó, Budapest, 2008, 48.

Compared to the Washington Consensus, the Post-Washington Consensus is not a set of recommendations, but rather a framework of different guidelines. This understanding already clearly benefits from the recognition of the central role of the state in development; the aim of state involvement will be to improve living conditions in a sustainable way and to promote equitable and democratic development. This inevitably increases the importance and intensity of the links between policies, institutions and society, and the existence and quality of policies and institutions that were previously seen as “ignored stepchildren” now become decisive. The advocates of the “new consensus” also recognise that there are no equally valid and universally applicable economic policy prescriptions as such. They believe that there are, however, some general principles, whose validity is based on a broad scientific consensus and which can be transformed into local policies.⁷² However, it is one thing to have a broad consensus in scientific discourse, and quite another to achieve a broad consensus in social reality and practice.

The combination of WTO rules, IMF practices and recommendations from Western policy advisers “have had the collective effect of shrinking the policy space within which similar home-grown, sequential approaches could be devised and implemented – all in the name of spreading the benefits of globalization.”⁷³ We agree with Dani Rodrik that a tailor-made growth strategy (i.e. one that takes into account the parameters of a given nation-state and national economy), focused on specific problems and effectively applied, can lead to results. Individual countries need sufficient room for manoeuvre to experiment with different alternative and unconventional economic and trade policy solutions. The autonomy of the nation states should be asserted more strongly in the future, since all economic policy decisions are embedded in the local context, and are fundamentally influenced and determined by local conditions and problems. It is by no means certain that the principles of social and economic organisation of the neoliberal “competition state”, which has already suffered serious setbacks in the recent years, should be held up as an example for any government to follow. The neo-liberal market economy variant, which has been propagated almost exclusively for decades, is neither the only variation on capitalism, nor the only model one for economic catching-up. In fact, no country belonging to the periphery or semi-periphery has been able to catch up with the centres of the world economy, or succeeded at approaching its level of development.

The most pressing problem of our time is that democracy and capitalism are dysfunctional and are in a very poor state. If failures could be corrected, if we could get rid of the harmful effects of corruption and corporate influence, democracy and reformed capitalism could serve as a fundamental compass for finding the right direction of civilizational development.

According to Dardot and Laval, after this, the first

⁷² Ricz J. *A fejlődés új paradigmája: elmélet és gyakorlat*. [The New Paradigm for Development: Theory and Practice.] Doktori értekezés. Debreceni Egyetem Közgazdaságtudományi Doktori Iskola, Debrecen, 2008, 210-212.

⁷³ Rodrik D. *The Globalization Paradox. Why Global Markets, States, and Democracy can't Coexist?* Oxford University Press, Oxford, 2011, 179.

“firefighting” (introduction of new accounting standards, establishment of a minimum level of control of tax havens, reform of credit rating agencies) is likely to be a comprehensive adjustment of the current division of labor between the state and the market. It cannot be excluded that once the neo-liberal concept has been transcended, we might enter a new phase, one that holds up the possibility of a return to regulated capitalism.⁷⁴

6. Results, conclusion

The centuries-old argument that the essence of the nation-state is that a well-defined territorial unit is the exclusive material basis of state power, that the power of the state is absolute and exclusive, and that citizens owe an unconditional loyalty to the power of the state, is nowadays, according to many, in need of serious revision. The processes of globalization, regionalisation and deregulation have fundamentally challenged this traditional view. The dominance of monetarist - neoliberal doctrines since the last quarter of the 20th century has led to the “peripheralization” of states in relation to their former position in controlling the national economy. These tendencies advocated the primacy of market processes, the serious reduction of economic and social state intervention and the need for international economic integration. As global regulatory powers and the influence of transnational corporations grew, the traditional sovereignty of nation states became increasingly fragile.

However, the global economic and financial crisis has indeed led many to rethink their earlier doctrines on free market mechanisms. In place of repeating the very popular canonical interpretation the “regression/reduction of the state”, in our view it seems more reasonable to speak about a reassignment of state responsibilities and powers. Since the global economic and financial crisis, we can no longer think of the “stripped down” state being fully subjected to the jungle laws of global capitalism. Political leaders in various countries, including Western European ones, have taken decisive steps to take back their positional powers from economic powerhouses, often with a transnational background (“struggle for economic dominance”⁷⁵). There is a growing consensus that the principles that neoliberalism has put on a pedestal need to be reconsidered, and the previous position of the total withdrawal of the state from the economy needs to be reassessed. In face of the global COVID-19 pandemic, the special/extraordinary legal order introduced in some countries also reminds us of the irreplaceable role of the sovereign state in managing crises and coordinating the daily life of society.⁷⁶

⁷⁴ Dardot P. – Laval C. A globálrezon. A neoliberalizmus múltja és jelene. [The Globalrezo. The Past and Present of Neoliberalism.] EgyKettő Kiadó, Budapest, 2013, 459.

⁷⁵ Hegyesi Z. – Ludányi D. A gazdasági közigazgatás vizsgálata Imre Miklós munkásságában. [The Economic Administration in the Works of Miklós Imre.] In Kovács É. ed. Ünnepi kötet a 65 éves Imre Miklós tiszteletére. [Festive Volume in Honour of Miklós Imre.] Budapest, Ludovika Egyetemi Kiadó, Budapest, 2020, 169.

⁷⁶ On the problems of the special legal order, see Kelemen R. A különleges jogrend, mint jogrendi fogalom jellemzői. [Characteristics of the Special Legal Order as a Legal Concept.] In Farkas Á. – Kelemen R. eds. Szkülla és Kharübdisz között. Tanulmányok a különleges jogrend elméleti és pragmatikus kérdéseiről, valamint nemzetközi megoldásairól. [Between Scylla

and Charybdis. Studies on Theoretical and Pragmatic Issues and International Solutions to the Special Legal Order.] Magyar Katonai és Hadijogi Társaság, Budapest, 2020, 185-203.

Despite the fact that the meaning of sovereignty as formulated by Bodin or Hobbes needs to be revised and updated, we can state that the world has clearly moved forward with theories of sovereignty. For theories of sovereignty were not just a means of legitimising the power of absolutist rulers. The growing importance of democratic and rule of law demands led to the Leviathan being tamed and giving way to popular parliamentary sovereignty. While we do not want to exaggerate the importance of sovereignty for the 21st century, we believe that only a sovereign government with a degree of authority can restore the confidence of citizens and, reflecting their expectations, repair the edifice of prosperity, freedom and security that has also been shattered in our time. The role of the state remains crucial in positioning the national economic space and workforce in the global world economy, and is likely to further grow in importance in the coming years. In light of this, it can argue that sovereignty remains an essential feature of the state and, consequently, a privileged field of inquiry for state theory and political science.

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