

SOVEREIGNTY – RETURN TO THE ORIGINAL MEANING OF THE TERM

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Summary: State power is one of the favourite topics of legal writers. The reason for this, among other things, is the fact that it has been constantly changing. Sovereignty, among all its characteristics, may have been written about most. As it is the case with the majority of the classical theories, the theory of sovereignty seems to have suffered some changes. Social circumstances have greatly changed since Bodin times, which inevitably raises the question of the applicability of the theory of the sovereignty of the state power in the traditional sense. One of the most striking changes is so-called globalization. The connection between states, their regional, continental and intercontinental cooperation, i.e. the interdependence on the global level, seems to be more expressed than ever. That manner of developing international relationships involves joint decision making on many issues, whereby sometimes there is no formal, and even less substantial equality. As sovereignty has several aspects, it is not only legal, but also largely a political problem, and even economical. Therefore, it is necessary in modern times to understand sovereignty as a legal and political problem, and in the synthesis of those two to find the contemporary meaning. The author of this paper considers the legal aspect of sovereignty built upon the standpoint of the famous English legal writer Dicey. He created the theory of sovereignty of English Parliament which was based on strict law and the conventions of the constitution. On the other hand, the political meaning of sovereignty is taken into consideration in accordance with teachings of John Austin. His theory of habitual obedience as a fundament of sovereignty has its critics, but it seems that it has stood the test of time and with awareness of its limitations still can be useful at the present time. Finally, those two aspects of the term sovereignty are considered in the context of modern national states. There is a question if sovereignty can exist internally or the reality denies that principle? Is it in some way exceeded, so the states enter a sort of “post sovereignty” phase? Does legal and political (factual) sovereignty exist independently and which one should possibly be given priority to? Which are the limitations of sovereignty in modern times? It is particularly interesting the narrowing of sovereignty by soft law of the EU states, as well as of the states which have the ambition to become a part of the European Union. The author of this paper tries to shed light on the various influences on the modern theory of state power and sovereignty, and to point out a potential modern conception of sovereignty.

Keywords: sovereignty, legal and political sovereignty, state power, separation of powers.