

The Concept of Sovereignty in the Political Philosophy – From Antiquity to the Contemporary Epoch

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Abstract

The concept of state power represents the dominant theme of the whole political philosophy. The concept of sovereignty, which in contemporary epoch became the norm of constitutional law and unanimously recognized principle of international law, has concerned philosophical minds since antiquity to nowadays. The best minds of humanity contemplated about the essence of the state power. The major thinkers of all times were finding out the answer to the question “How should be organized the state so that all people to be happy?” The answer to this question is connected with the concept of sovereignty, which was developed during the humanity’s history. The idea of sovereignty refers to the state body or the person who exercises state power. So, for each epoch is characteristic its own vision of this concept, that reflects, on the one hand, the entire structure of society, and, on the other hand, the state’s ruler position. The sovereignty, which appeared as the concept in the Greek Antiquity, was developed in the Meddle Age and Modern Era and fully formed in the contemporary era, being the component part of majority national constitutions. This article is a study dedicated to determining the specific aspects of sovereignty in the background of the idea’s history. A doctrinal and practical interest in the concept of sovereignty is based on the political and legal dimension of this notion in the actual state construction. As a result of this research, we aimed to determine the role and the regulation of sovereignty in the cotemporaneous state order at national and international level. This research paper focuses on the presentation of the philosophical aspects of this concept of constitutional law.

Keywords: sovereignty, political philosophy, state power, ruler, state’s order, constitution, UN, EU

1. Introduction

1.1 The Importance and the Actuality of the Study

The purpose of the research. Based on the complex, philosophical and legal study of sovereignty, we aimed to identify trends in evolution of this concept and the importance of the classical philosophical theories on the actual perception of “state sovereignty” in the current conditions of intensive cooperation between states during the process of contemporary globalization both at national, regional and international levels. In this context, we investigated the problem from the aspect of dialectical evolution with the identification of the negative aspects of globalization. We determined the solutions for diminishing the negative consequences of this phenomenon in relation to sovereignty.

Research objectives. To achieve the identified goal, we have outlined the following objectives: to identify the fundamental elements of the genesis and evolution of the philosophical concept of sovereignty; to identify the specific aspects of notion of this concept, that was promoted in the Antiquity, Meddle Age, Modern Era and Contemporary Epoch, to analyze the concept of state ruler, characteristic for each epoch, to establish the essence of the concept of sovereignty elaborated during the Enlightenment Epoch, to identify the international law’s approaches of the recognition and guarantee of state sovereignty; to determine the legal and practical aspects of the exercise of sovereignty in the regional framework – European Union; to perform an comparative approach of state sovereignty at different periods of the formation of this concept; to determine the importance of the philosopher’s ideas in the modern constitutionalism; to analyze the specific aspects of the legal regulation of sovereignty in the Republic of Moldova.

The originality of this study is manifested in the identification of the primary factors which exert a negative influence on the state’s sovereignty, for example, globalization and the determining of solutions that can mitigate this negative impact. We analyzed the importance and complexity of state sovereignty both from the point of view

of the independence and sovereignty of power and the necessity of guarantying of fundamental citizen rights at national and international level.

The connection between the philosophical and practical aspect of sovereignty. In this study, we began from the philosophical approaches to the concept of sovereignty, analyzed the achievements of the Enlightenment Epoch and finally show the connection between theoretical approaches and contemporary legal regulations.

The legal regulation of sovereignty. We should mention that sovereignty, as a general feature of the state, is regulated at the international, regional—European Union and national level. At the international level, the UN Charter regulates state sovereignty (United Nations Charter Chapter 6 and 7). The charter, on the one hand, proclaims and recognizes the sovereignty of each state. Nevertheless, this international treaty admits “humanitarian intervention “, which” constitutes a calculated and unsolicited violation of sovereignty (rights of states) in the name of humanity (individual rights)”. At the European Union’s level state sovereignty is regulated by the Treaty on the functioning of the European Union (Treaty of Rome of 1957) according to which in some fields, mentioned expressly in this document only EU could legislate. State’s are enforced to adopt the legal acts that regulate this domain only if the Union empowers the state or it implements the EU’s acts. (The Treaty On The Functioning Of The European Union) At the national level state sovereignty, traditionally, is regulated by the Constitution.

1.2 General Review of the Study

Sovereignty represents one of the basic concepts of constitutional and international law that are related to the state power. During the humanity’s history people try to define the state power, to determine the holder of power. Nowadays, sovereignty remains the characteristic feature of power. However, both in the doctrine of constitutional law and in the political philosophy aspects related to the philosophical theory of sovereignty remain practically unaffected. Due to the fact that the whole theory of the sovereignty was elaborated only in the mid-16th century by Jean Bodin, the majority of researchers begin the studying of the history of the crystallization of the concept of sovereignty, starting from this period, neglecting the ideas and opinions expressed in the Ancient times and the Middle Ages. The possibility of determining the particularities of the theory and practice of state power at each stage of development of society manifests the importance of the research of this concept from the evaluative aspect, starting from Antiquity and ending with the Contemporary Period. In addition, classical theories of sovereignty represent the conceptual basis of sovereignty in contemporary acceptance, which determines the necessity to appeal to the origins of state power to determine the importance of theories promoted by great philosophers in the current construction of state power.

We should note that in the XXI century, the concept of sovereignty is in the process of cardinal changing. Actually, humanity is facing transformations that were unimaginable in the twentieth century that also influence the concept of state power. The capitalization of sovereignty in the evolutionary aspect allows us, on the one hand, to realize the experience of the great philosophers who help us understand the concept of state power in all its depth and complexity, and, on the other hand, to identify the foundations of state power at each age of development of the human community.

Nowadays, the existence of international organizations leads to the creation and promotion of the concept of collective sovereignty that leads to the reconsideration of the concept of state power as the absolute and perpetual power of a republic, as it was positioned by philosophers. Therefore, the timeliness of this study is manifested by the necessity to research the concept of sovereignty both through the prism of classical theories and the current practice of international relations.

This article aims to determine the philosophical base of the concept of sovereignty in each epoch of the humanity’s history in the background of the historical reality of that time and the determination of the practical applicability of classical theories in the contemporary period.

The theoretical implication of this study is manifested by the research of the theory of state power at the early stages of the development of the political thinking of humanity, as well as highlighting their actuality nowadays. The practical implication of this article manifests in the determining the current challenges of state power and systematizing the theory of sovereignty in the current period.

1.3 Literature Review

The history of sovereignty begins many centuries ago in Ancient Greece. Since Antiquity to the modern era, people were contemplated the best way of the social organization that would give to citizens the possibility to live a happy life. In this period of time were developed various theories about a person or state body that exercise or should exercise state power.

Plato and Aristotle, the Ancient Greece's philosophers, were first thinkers that reflected on the essence and the base of state power. Thinkers examined the concept of the form of government and the role of the state's leader in social order. These philosophers did not formulate the notion of sovereignty, but expressed of essence of this concept that would be developed later.

The Middle Ages comes with another political philosophy. In this epoch in the incipient form were outlined the most important theories of sovereignty, that were developed later. Saint Thomas Aquinas (1225-1274) developed the theory of papal sovereignty, according to with papa should be the most influenced person in the state and his power should be positioned above the royal power. So, this philosopher legitimated the church's power, in general, and the papal power, in particular. However, Saint Thomas Aquinas confused secular power with religious one. This vision mirrors the social organization of that time, the perception of church's role in state order and the struggle between papal and royal power. Another thinker of Middle Ages Marsilius of Padua founded the theory of popular sovereignty. According to him, state power belongs to the people, the idea that would be developed during the Enlightenment. Niccolo Machiavelli (1469-1527) culminated the formation of political thought of the Middle Ages with the elaboration of the concept of royal sovereignty. According to him, the personality of the Prince represents the conception of the entire state power. So, Machiavelli personified state power, the approach characteristic for totalitarian regimes.

Analyzing the development of the concept of sovereignty, we should mention the philosophy of Johannes Althusius, one of the most influential thinkers of the Modern Epoch. Thinker founded the theory of subsidiarity of state power. This theory shows another aspect of sovereignty manifested in the increasing the decision-making power of local bodies that should resolve the most important problems of citizens. So, the mechanism of state power goes from the bottom up, and not from the top down, as in the framework of the totalitarian regime. Another representative thinker of modernity, Hugo Grotius, founded the concept of state sovereignty. Thinker did not link the concept of sovereignty with the body exercising state power, stating that supremacy within society should belong to the state. This idea, in the interpretation of Thomas Hobbes, embodies the state as a mythical, fabulous creature, absolutely independent of the will of the people who compose it. The state becomes a body with its own will and interests, an almighty Leviathan, which is indifferent to the rights and interests of people.

The Enlightenment represents the new epoch in the formation of the concept of sovereignty. In this period human potential has been harnessed and namely the person becomes the center of the universe, art and philosophy. Based on the social contract theory created by Hobbes, John Locke (1632-1704) founded the popular sovereignty theory that met the strong opposition manifested by the foundation of the theory of national sovereignty elaborated by Charles Montesquieu (1689-1755). Despite the conceptual differences between the theory of popular and national sovereignty, people remain the main holders of power, which does not belong to the state leadership. The development of the concept of sovereignty mirrors the fight against absolute monarchy for the defense of human potential, fundamental and inalienable human rights. Despite the development of the theory of popular and national sovereignty, Georg Hegel supported the sovereignty of the monarch, stating that without the monarch there state could not exist. So, the thinker's vision could be catalogued as a continuation of the ideas of Machiavelli, who personified state power.

In contemporary epoch, the concept of royal sovereignty showed all the negative aspects, including the establishment of the totalitarian regime and total disregard for fundamental human rights, which led to the diminution of its importance within democratic societies. Actually, the conceptual difference between the theory of popular, national and state sovereignty disappears and the people are considered the plenary and plenipotentiary holder of state power. However, the foundation and the development of the international organizations such as the EU, UN, and over represent a new challenge for the concept of sovereignty, which determines the necessity of the awareness of the importance of this concept and updating it according to the current reality.

2. Methodology

This research paper is based on the analysis of various researches, mainly aiming to describe the essence of the concept of sovereignty from the prism of the political philosophy. In this research, we used the logical method with its operations such as analysis, synthesis, deduction, induction, generalization, abstraction for the consistent study all aspects of the thesis topic. In this paper, we analyzed critically the essence of the most important concepts of the philosophers relevant for our study. The application of the synthetic method gave us the possibility to identify the philosophical concepts developed by the great thinkers that helped us to support the proposed thesis. We could determine the common aspects of the classic and contemporaneous theories that form the actual concepts sovereignty by analysis of the theme from the general point of view. We applied the comparative research method by analyzing the specific aspects of the popular and national sovereignty and the development of these theories in

the political philosophy. So, we analyzed the similarities and the different aspects of theories developed by different thinkers, for example, Plato's and Aristotle's doctrine, the concept of people's sovereignty developed by Marsilius of Padua, Johannes Althusius and John Locke. Analyzing the subject from the historical point of view, we could determine the dominant tendencies of each epoch and the evolution of the concept of sovereignty from Antiquity to the contemporary period. The use of the systemic-structural method was manifested by the treatment of sovereignty as a dimension, a component part of the entire state structure.

Thus, we started by analyzing the definition of the sovereignty from the point of view of Ancient Greece's philosophers because in that period of time this concept has not fully crystallized. An important part of this research was dedicated to the question "Who is the holder of the supreme power in the state?" In order to find answer to this question, we analyzed the philosophy of the concept of sovereignty, the ideas of the most influential thinkers that founded and argued the ideas of papal, state, national and popular sovereignty. Another important part of this study is dedicated to comparative method that gives us possibility to determine advantages, disadvantages and the legal consequences of each theory. In addition, this research paper focuses on the forecasting some trends within the actual theory in the context sovereignty in the XXI century at the international level.

3. Results and Discussion

3.1 *The Genesis of the Concept of Sovereignty in Antiquity*

The concept of sovereignty has emerged together with the emergence of the state (Deleanu I., 1993, p.72), in the period of transition from the pre-state epoch to the state one. This concept could not be separated from the state power, referring to the person / category of persons who exercise public authority. So, sovereignty represents an inherent attribute of state power. On the one hand, this concept could not be found in pre-state society, the conceptual development of sovereignty is linked to the process of integration or reconciliation between the state and the community. (Hinsley F. H., 1998, p. 17) On the other hand, the idea of sovereignty is in continue development in each society where this concept appeared once. Modifications in the form of government and political regime directly affect the vision of the sovereignty of this state. Thus, the concept of sovereignty is in the permanent development. Each epoch comes with an alternative approach, a new definition of it that expresses the state order in this period.

At the beginning of the formation of sovereignty as political and judicial concept, it expressed the idea that there is supreme and absolute political authority in the political community. (Hinsley F. H., 1998, p.20) So, this concept is connected with the political domain of society. From the historical perspective, the sovereignty of state power represents the social and political phenomenon and the realization of social-economic life. The sovereignty as a practice of the exercise of state power appeared before its crystallization as a theoretical notion. The emergence of this concept was determined by the historical needs, reflecting the fundamental characteristics of the state: supreme authority exercised in a certain territory, the right to proper economic, social, political, military, administrative organization, to draw up and impose compliance to laws. (Ionescu C. 2014)

It is stated that the classical Greeks developed the idea of sovereignty, at least in the Aristotle's times it was present. Namely, the Greeks were the first who understood the meaning of this concept. (Hinsley F. H., 1998, p. 24) However, in Antiquity, especially in Greece, there was not developed all-encompassing definition of sovereignty. Thinkers studied the concept of the forms of government from which we could implicitly describe their vision of sovereignty. According to antic philosophers, the category of citizens that exercises state power depends on the form of government of the state. So, we can conclude that in the state where democracy represents the form of government, the power is exercised by all people or most of them. On the contrary, prince exercises all state power during the monarchy as a form of government. So, sovereignty is exercised by the aristocratic rulers or by all citizens. The Polis was seen as a community governed by law and not by people. Among Greek thinkers, Aristotle came closest to the concept of sovereignty when he suggested that it was preferable for superiority to be invested in this law than in any person within the community. (Hinsley F. H., 1998, p.24) Accordingly, we note that the supreme power in the Greek Polis was attributed to the law, but not to certain persons who exercise state power.

To establish the holder of state power in the vision of Greek philosophers, we should analyze the system of the forms of government described by thinkers. *Plato* divided all forms of government into just (ideal) and unfair (bad) forms of government. An aristocratic republic and an aristocratic monarchy were considered as fair state's forms. The unjust state's forms included timocracy, oligarchy, democracy, and tyranny. (Guceac I.,2004, p.95) Monarchy (one-person's government) and aristocracy (the rule of intellectuals) "the government of the best citizens" represents the best form of government that could be established in the state. So, we can conclude that during the monarchy and aristocracy the power is exercised individually or by a small group of people. During these forms of government, the state power is exercised by the political elites that include the best citizens of Polis. Another

form of government described by Plato is timocracy (“power based on honor”) in which state power belongs to a minority, formed by the people with military successes and brave. (Râbca E., Zaharia V. 2016, p. 56) So, during these forms of government sovereignty belongs to the military class in which is concentrated the complete state power. Oligarchy (“rule of the few citizens”) represents the form of government in which the state power is exercised by the rich persons (Nechaev, 2018, p.7) who can make any decision that concerns the life of the state. During the democracy, the power belongs to the majority of citizens of Polis. (Nechaev, 2018, p.7) So, apparently, in the description of democracy Plato approaches the concept of popular sovereignty because entire power is concentrated in nation. However, the democracy in the vision of the great thinker is the bad form of government that generates tyranny in which the power is arbitrary and individually. (Nechaev, 2018, p.7) We can conclude that in Plato’s doctrine the person or state body that exercises state power depends on the form of government established in society at a period of time.

Aristotle’s theory of the forms of government is close to that elaborated by Plato, with the difference that Aristotle classified the forms of government starting from the number of governors and the interests that are pursued in the process of governance. Aristotle distinguishes the following six forms of government: monarchy, aristocracy, and police as good forms of government and tyranny, oligarchy and democracy as bad forms of state organization. (Râbca E., 2016, p. 63-64) The doctrine of Aristotle allows a double interpretation. From the first perspective, the sovereignty belongs to the person or group of persons exercising state power. From the other perspective, we should focus on the plenary holder of power, in other words, in the category of persons in the interest of which state power is exercised (Stere C., 2016, p. 43). Within this interpretation, we can conclude that the Aristotle’s concept is approaching to the concept of sovereignty promoted in the contemporary era that positions the people as the holder of power, and the rulers are only representatives of their interests.

So, we can conclude that according to Ancient Greece philosopher the concept of sovereignty is related to that of the forms of government and the person or state body that exercises state power is the holder of sovereignty. In that period, there was no distinction between sovereignty and state power, the person or a group of people exercise state power, and the interest that was promoted. So, the theories of ancient thinkers represent the base of the concepts as state power, sovereignty and legitimacy of power that refers to the respect of the general interest of entire society.

Speaking about the terminological formation of this concept, we should note that the word “sovereignty” comes from Latin form of the word *super* (above). (Arseni A., 2019, p.31) It is considered that the first definition of sovereignty is that formulated in a text of the Roman juriconsult Proculus (sec. I C. E.): “*Liber autem populus est is, qui nullius alterius populi potestati est subjectus*”, which translates as: “the free and independent people are those who have not been subject to the rule of another people.” (Kondurov V., 2016,p.6) Thus, we should note that the development of the sovereignty in Antiquity finished with the terminological crystallization of this notion, which would be developed in the Middle Ages.

3.2 *The Emergence of the Concept of Sovereignty in the Middle Ages*

The development of the theory of sovereignty continued in the Middle Ages. The first mention of this word is found in the large workbook of the Monastery of Saint-Victor. (Kondurov V., 2016,p.6) Later, the sense of the word “sovereignty” has changed, meaning the situation of the man whom in social hierarchy is not subordinate to anyone. (Arseni A., 2019, p.31) In this sense this word was used for the first time in the 1283 year by Philip de Bonnamour, a French jurist who asserted that every baron is sovereign in his estate. (Kondurov V., 2016,p.6) We should note that the elaboration and theorization of the concept of sovereignty begins only in the Middle Ages when “*superanus*” was used to show the position of the king who is at the top of the feudal hierarchy. (Deleanu I., 1993, p. 72)

In this context we should note the specific aspects of the state organization in Middle Ages. In this epoch were established feudal hierarchical relationships between different levels of landowning classes, namely between a king, a noble class (which could include nobles, priests, and princes) and a peasant class. Historically, the king owned all the available land and he portioned out that land to his nobles for their use. The nobles, in turn, rented out their land to peasants. The peasants paid the nobles in produce and military service; the nobles, in turn, paid the king. Everyone was, at least nominally, in thrall to the king, and the peasants' labor paid for everything. During the feudal system peasant families who had for generations owned small farmsteads became renters, indentured servants who owed the landlords their allegiance, their military service and part of their crops. Just before the rise of the black plague in the 14th century, feudalism was firmly established and working across Europe. This was a near-universality of family-farm tenure by conditionally hereditary leases under noble, ecclesiastical or princely lordships who collected cash and in-kind payments from their subject villages. The king essentially delegated the

collection of his needs—military, political and economic—to the nobles. By that time, the king's justice—or rather, his ability to administer that justice—was largely theoretical. The lords dispensed the law with little or no kingly oversight, and as a class supported each other's hegemony. Peasants lived and died under the control of the noble classes. (Hirst, K. Kris, 2018)

We should mention that Christianity became the official religion of the Roman Empire in 391AD. With this protection, the church grew in numbers and influence and became the most powerful institution in the Europe. (The Church's Role in Feudalism) The beginning of medieval period was characterized by a sharp divide between religious and lay life. Religious and lay lives were equally hierarchical and the churchmen's power and authority were similar to that of the great lords'. (Rasheda Parveen, p.3) Every strata of society was wrapped into religious boundary. The activities of the soldiers and the knights were judged according to religious ideals. (Rasheda Parveen, p.9)

The church leaders were the most educated individuals in society. They were called upon to help the secular leaders as advisors on political, financial, judicial, and military issues in addition to spiritual matters. Most important the church with its structure helped to legitimize the feudal system structure. The church taught that God appointed the pope and kings (divine right of kings). This meant that each person was born into their divinely determined position in society. By the end of the Medieval period, the church was largest landowner in the Europe owning one-third of the land. With that much land, the church became very powerful and with power comes the abuse of power. (The Church's Role in Feudalism)

We should highlight that namely, in Middle Ages begins the sovereignty's conceptualization from the philosophical point of view. Analyzing this period in the idea's history, we should highlight the domination of the religious doctrine that influences the political philosophy. One of the first thinkers that elaborated the entire theory of sovereignty was *Saint Thomas of Aquino* Dominican monk and professor of philosophy and theology, founder of the positive right based on the natural right. According to him, the natural law is founded on the divine law. Thinker declared the pope of Rome as the representative of the divine life and head of the "Republic of Christ". (Arseni A., 2019, p.31) So, the pope of Rome might sanction monarchs, to elect Kings, and to release their subordinates from the obligation to obey the monarch. (Toma d'Aquino^{1994, p. 74}) From this consideration, we could highlight the whole social hierarchy. According to Saint Thomas of Aquino, the individual should subordinate to the monarch and the king should submit to the church. The theory of this thinker legitimizes the papal authority, which led to the conclusion that sovereignty belongs to representatives of the Catholic Church. (Vrabie G., 1992, p.69) This idea is based on the consideration that the Divine Order objectively limits the entire eventual power of the state, (Birmo A.,1978, p.61) which should be subordinated to the church. So, the king is the vassal of church and must obey its will, defend and help to achieve goals, in the fight against heretics. As a result, the state plays the role of executioner that should execute the enemies of the church. The sovereign's authority in the state could be explained by the biblical thesis "there is no dominion except from God". (Râbca E., Zaharia V. 2016, p. 80) The thinker claimed that the monarch's power has the supernatural source, as long as the sovereign never violates the authority of the church. (Bădescu M., 2002, p.25-28) In Christian conceptions, the temporal ruler (King, Emperor) is the Anointed by God for guidance for the common good. When the Ruler uses power in his own interest, he loses legitimacy, and God stirs up an adversary and replaces him. According to the opinion of other researchers, the concept developed by Sf. Thomas supports the view that the churches, the Pope, without having temporal sovereignty over Kings and emperors, could disapprove a worldly Dominion because of the abuses caused by sin. (Georgescu P. A., 2001, p. 78)

So, philosopher considered that the state which does not subordinate to the Church has an illegal character, losing its right to existence. (Râbca E., Zaharia V. 2016, p.81) Respectively, we should note that the thinker created the theory of divine sovereignty. However, divine sovereignty does not mean that God approves any form of government. On the contrary, thinker approves passive and even active resistance to the power that has become tyrannical if there are presented some conditions such as: tyrant violates vital interests of state, there is no other way to remedy this situation, insurrection expresses the opinion of the majority at least qualitatively, has minimal chances of success and does not establish the greater evil than it was until the uprising.

We should note that the philosopher developed another concept related to that of sovereignty - the concept of the legitimacy of state power, stating that legality does not constitute legitimacy, but legitimacy is the base of legality. (Birmo A.,1978, p.67) So, the legitimacy of state power is the basis for its legality. If the governors come to power as a result of the insurrection, this access to state power is illegal. However, if this insurrection is supported by the majority of the population, as a result of the expression of the will of the people, then this is the basis for the legality of the rulers' actions. However, the legality of the coming to state power of a despotic monarch does not form the legitimacy of his reign, because he abuses the rights entrusted to him by God.

So, the importance of the theory of Saint Thomas of Aquino is manifested in the foundation of the concept of papal sovereignty, which corresponds to the church's vision in the Middle Ages. However, the thinker realized the danger of the establishment of the totalitarian regime, which led him to legitimize people's right to revolution. So, this theory, on the one hand, presents sovereignty as a divine attribute that is monopolized by the church, in general, and the pope of Rome, in particular, and, on the other hand, is the beginning of the awareness of the role of man in society and his right to decide the state's fate.

Namely during this period of time began the struggle between secular and church power. This struggle for supreme power in the state was especially manifested during the reign of Philip the Fair. This conflict escalated because Philip's rupture with Boniface VIII Pope of Roma. In February 1296 he issued the bull *Clericis laicos*, prohibiting lay taxation of clergy without papal approval. Both Edward I and Philip, affronted by this threat to their authority and their treasuries, responded with retaliatory measures, forcing Boniface to retreat and, in July 1297, to proclaim the legitimacy of clerical taxation without the pope's permission when the ruler attested its necessity. New grounds for dispute developed in 1301, when Philip arrested Bernard Saisset, bishop of Pamiers, as a suspected traitor. In December 1301 Boniface suspended Philip's right to tax ecclesiastics and summoned the French clergy to Rome to discuss the king's governance and the state of the French church. Saisset was permitted to go to Rome, but Boniface's other measures encountered immediate resistance. Philip had a papal bull burned and ceremoniously invoked curses on any of his sons who dared subordinate the kingdom to any power other than God's. In 1302-1303 he rallied public support in a large assembly. He issued his own grand ordinance of reform, which included remedies for administrative weaknesses enumerated by the pope. Boniface's plans to issue a personal sentence of excommunication against Philip were forestalled when Nogaret appeared in Anagni and seized Boniface on September 7, 1303. Two days later townsmen of Anagni freed the pope, who died the following month. (Ladner, G. B., 2020)

So, these events showed, on the one hand, the confrontation between the state and the church authorities, secular and church power and determined the reevaluation of the whole construction of state power. Before this conflict, the church legitimized the power of the monarch, which caused the emergence of the concept of papal sovereignty. The confrontation between Philip IV and the Pope of Rome determined the necessity of argumentation and legitimation of the secular power exercises by monarch, which was no longer dependent on the Pope of Rome. These reasons determined the formation of the philosophical theories that argued the secular sovereignty, namely, the theory of royal, national and people's sovereignty.

Another philosopher who contributed to the development of the concept of sovereignty and outperformed the theory of popular sovereignty of the Enlightenment is *Marsilius of Padua*. (Klimenko O., Mirzoev A., 2016, p.23) The thinker considered that the source of political power is the people. The government emanates from populace. Thus, the prince should govern, respecting the law and people's will. The head of State could be punished if he derogates from the citizens' will. The philosopher states that the Pope of Rome and the clergy do not have the authority to govern, establish laws and punish. So, punishment against heretics could be pronounced only by civil courts. (Capcelea V., 2004, p. 96)

The specific aspects of the ideas of Marsilius of Padua are manifested in the fact that his philosophy is based on the theory of social contract. As a result, the political power and the state emanate from the will of the people, (Capcelea V., 2004, p. 96) that have the right to issue laws mandatory for everyone, even those who govern. Every citizen may participate in the legislative process. However, the law could not be adopted by one person (the monarch). (Paduansky M., 2014, 105–107, 124–129, 138) The thinker's theory was inspired by the political experience of Padua, his hometown, in which legislative power was exercised by the Local Council, a body that was elected and appointed executive power. This state order was considered by Marsilius of Padua the most righteous. (Klimenko O., Mirzoev A., 2016, p.23) Analyzing the best form of government, the philosopher argued that elected monarchy represents the form of state organization that expresses the citizens' will. So, the people should choose both the state body that will exercise state power and the monarch as the head of state.

We should note some changes in the role of religion within the state and its influence on the state's leadership. The church from the plenary holder of power becomes a state structure that no longer has the right to judge, punish and dictate its own rules. These changes are evident because of the creation by Marsilius of Padua of the concept of the secular state, in which state power should be separated from the church one. On the other hand, the people from the subordinate of the monarch obliged to respect divine law become the holder of state power, free to create state bodies and legitimize their activity. Power within this state belongs to the people, who choose state bodies. Namely, the expression of the will of the people legitimates the whole mechanism of state power. The practical importance of the doctrine of Marsilius of Padua is the foundation of the representative democracy, in which on the one hand, the entire state power is concentrated in the people, and, on the other hand, the bodies appointed by

the people are obliged to respect the will of the majority of citizens. It should be noted the foundation of the concept of the rule of law, which is manifested by positioning the law above the bodies that exercise state power. The doctrine of the thinker founds both the concept of the legality of power, which should be exercised in accordance with the legal provisions, and that of legitimacy, which is manifested by the choice and representativeness of state bodies. We could conclude that the approach of Marsilius of Padua represents the first attempt for awareness of the importance of the person's role within the state. Thinker noted the tendency to diminish the authority of the papacy and the monarchy by increasing the importance of the citizens in the governance process.

The thinker that founded and developed the concept of the royal sovereignty in the Middle Ages is *Niccolo Machiavelli* (1469-1527). The philosopher understood the essence of the concepts of sovereignty and the relationship of forces within the state without developing them into fully political theory. (Lungu D., 2013) However, from the Niccolo Machiavelli's doctrine we could deduce the philosopher's vision of sovereignty. Machiavelli believes that states should act in the best interest of the masses, and as such should behave in a manner, which will benefit the state. Accordingly, he expressed his view that the sovereign of the state should not allow private interests to overrun public interest. (Leung, J., 2012, p.3-4) So, thinker considered that state interests are the most important ones and legitimizes the absolute monarchy. According to philosopher's point of view, the absolute monarchy is the best form of government, which is expressed by the subjectivity of prince that should not obey the rules of morality or religion if he wants to gain power. To achieve this goal, the person is entitled to take any actions, to remove his opponents. Machiavelli considered that prince should govern, should create a strong state and this goal could be achieved using any methods considered necessary by the prince. This philosopher did not consider that the people's status within the state deserves to be investigated or that the state could be created to ensure the welfare of all citizens.

Beginning from those exposed above Machiavelli concluded that state's interests are considered the justification of the application of violence towards people. (Machiavelli N., 1998, p.63) He also viewed a strong state as an organic whole, with the utmost control over its own domestic affairs as well as its foreign affairs. For Machiavelli, domestic affairs dominated the priority of the state. According to philosopher's point of view, states should behave and form decisions with public interest as the first priority in mind, and as such should act in a manner, which will benefit the state. According to Machiavelli, it is imperative to have a strong centralized government. (Leung, J., 2012, 3-4) In his view, "a sagacious legislator of the republic ... whose object is to promote the public good, and not his private interests, and who prefers his country to his own successors should concentrate all authority in himself.", (Machiavelli, 1950, p. 138) So, Machiavelli in his theory personified state power that is embodied in the monarch's figure with absolute power. (Klimenko O., Mirzoev A., 2016, p.24) According to the philosopher, the prince embodies the whole state and his will could prevent civil strife and feudal fragmentation. For the philosopher, there is no difference between state power and the person of the prince, between the absolute power of the monarch and state sovereignty.

Therefore, the whole concept of royal sovereignty summarizes in the creation of a powerful despotic state in which the Prince's power to action cannot be limited by law, religion or morals. Prince is free to take any actions to maintain state power. Machiavelli's state is characterized by stability, but it relies on blood, repression, fear and usurpation of power. For many dictators, this state is an ideal that had been translated into practice. Within this state formation, the life of man has no price, and people's role is limited to absolute and unconditional submission.

3.3 *The Crystallization of the Concept of Sovereignty in the Modern Epoch*

Analyzing the development of the concept of sovereignty, we should mention the *Jean Bodin's* (1530-1596) theory. This philosopher is considered the father of the actual concept of sovereignty. Thinker elaborated another concept of the organization of the state, which is based on the rational method. The Jean Bodin's theory expected the development of the science of Law of the modern period. Philosopher founded the secular theory of natural law. Thinker's theory focuses on the concept of sovereignty. (Georgescu Ş., 2001, p.49) According to the philosopher's point of view, the state appeared independently of the people's will, under the influence of various factors such as climate and soil. We should emphasize the circumstances of the formation of this doctrine, because in the conditions of antagonisms between secular power and papal power, Jean Bodin argued the laic sovereignty.

We should note that in the XVI century the royal power reached its apogee during the governorship King Francis I (1515-1547). The king was the first monarch who finally subordinated the church to secular power, receiving the right to appoint all French bishops to the posts. The pope recognized his right to receive most of the French church revenues. Francis I, further, completely refused to convene the States-General. They were not convened in his presence even once. The King forbade the Parliament to interfere in state affairs, except for court cases subject to its jurisdiction as the supreme judicial chamber. The king personally delved into all the details of state

administration. All central administration was concentrated in the Royal Council, which was divided into departments. In foreign policy, French absolutism sought to seize foreign territories. (France of the XVI century) Internecine wars between Catholics and Protestants and a bloody struggle for power characterized the reign of Henri III, who inherited the throne after Francis I. So, this reality led the thinker to argue the necessity of granting to the monarch unlimited powers, which would prevent the unfolding of civil war. We could conclude that the governorship King Francis I, according to the philosopher, represents the best political regime that could be established in the state.

Jean Bodin considered that state represents the totality of families that are conducted by sovereign. In this state model the leaders of families have the quality of citizens. Defining the Republic as “a government based on the natural laws”, Bodin makes legislative power the essence of the state: “where there is no legislative power there is no republic”. (Georgescu Ș., 2001, p.49) So, the republic represents the best form of government because it is based on the natural laws, which should be transposed into practice by its adoption by Parliament. From that exposed above, we can conclude that the Parliament is the most important state body because this government authority should transpose natural laws into state legislation. Another consideration that could be deduced from the Jean Bodin’s theory is that the legislative power forms the republic as a form of government. This idea founds the democracy as a political regime, because the principles of the functioning of the Parliament as a state body presuppose the necessity to debate the legislative bills, which prevents the establishment of an absolute monarchy in which all state power is concentrated in the monarch as a public authority. Bodin supported the hereditary monarch as the form of government. The philosopher believed that only the monarchy could ensure the overcoming of social and religious confrontations in France at those times. (Râbca E., Zaharia V. 2016, p.88)

Jean Bodin was the first thinker who formulated the notion of sovereignty that, according to him, represents the absolute and perpetual power of a republic to elaborate and to repeal laws, (Capcelea V., 2004, p. 98) declaring and ending wars, appointing officials, establishing justice. (Voiculescu M., 1992, p.60) Analyzing this definition, we could note, on the one hand, that the philosopher realizes the necessity of the existence of the separation of powers in the state because Bodin analyzes the importance of the Parliament and the separation between the monarch’s and the Parliament’s power. On the other hand, thinker does not note the importance of executive power. Philosopher do not pay attention to the consideration that law laws remain ineffective if they are not transposed into reality. Plus, Jean Bodin does not analyze the distribution and management of finances within the state, a function that is not included within the legislative duties.

So, the theory of Bodin, writing in the time of Henry III of France (1551- 1589), describes sovereignty as an absolute, unlimited power, which established law but was uncontrolled by it, and, in an ideal system, was vested in the king and was possessed by divine right. (Buttlowa 1929) In the fight in England for regal instead of papal sovereignty this doctrine of sovereignty by divine right was developed at Cambridge, but after the fight had been won regal sovereignty was discarded for Parliamentary sovereignty. (Mattern J., 1928)

Thinker highlighted the most important characters of sovereignty, what are characteristic of state power in contemporary epoch. Jean Bodin began with the consideration that in each state should exist the supreme power which is characterized by certain traits that stand out in any state. The permanence of state power is one of the characteristic features of sovereignty. State power is established for a period of time, which is not determined in advance, and the sovereign could not be established for the determined period of time. (Râbca E., Zaharia V. 2016, p.81) Actually, this characteristic is preserved despite the choice of state dignitaries who exercise public functions for a certain period. Sovereignty belongs to the people; therefore the nation remains the permanent sovereign of the state, the reign of which is not limited in time. The absoluteness of state power is manifested in the fact that the sovereign (the person or persons who create the laws) cannot be subject to these laws, the behavior of the sovereign is superior to laws and inaccessible to legal regulations. So, his will and actions could not be limited by legal provisions. (Râbca E., Zaharia V. 2016, p.81) The importance of the sovereign increases because his will could not be limited by law. Bodin was convinced that subjecting the sovereign to any kind of statutory right would undermine the essential significance of the idea of sovereignty consisting in the power to command everyone and in all aspects. (Georgescu Ș., 2001, P. 49) We should mention that this idea contravenes to the concept of the rule of law, according to which the law should govern. From these considerations we could deduce that the thinker considered that the law could not be illegal, if it emanates from the Sovereign power. In present triumphed the vision according to which the law could be declared invalid, if it was adopted with non-compliance with the legislative procedure. In these aspects the philosopher legitimizes the totalitarian regime, which arises when sovereign abuses of the entrusted power. Plus, state power is indivisible and unitary. The author considered that state power should be exercised by a person or state body. (Râbca E., Zaharia V. 2016, p.81) Therefore, the thinker did not admit the fragmentation of state power, the concept present in the contemporary doctrine of constitutional

law. However, the philosopher specified the existence of at least 2 state bodies, Parliament and the head of State. We should note that sovereignty is unconditional and continuous. This character represents the sovereign's right to solve social political problems, without obligation to coordinate his decisions with other persons or institutions. (Râbca E., Zaharia V., 2016, p. 81)

Thus, Jean Bodin becomes the author of the secular theory of sovereignty, making the King an independent sovereign, which led to the separation of states from papal power. (Arseni A., 2019, p.32) So, the monarch was subordinated only to natural laws that represent the eternal laws given by God. Thinker started that the monarch responds only before God to it, the idea that undermines the ecclesiastical power. (Georgescu Ș., 2001, p. 49)

We should note that Bodin developed some ideas dominant in the political thinking of Middle Ages. Thinker continued the development of the idea of personification of state power developed by Machiavelli. The philosopher concentrated all state power in the personality of the Prince despite the understanding of the role of the Parliament within the state and its legislative prerogatives. So, the sovereign (monarch) had very broad prerogatives that included legislative, judicial functions, solved problems related to war and peace, appointed civil servants. The only limitation of the sovereign's power is the fact that the King did not have the absolute right to decide on the use of the state budget. For example, for the introduction of new taxes and duties, the monarch had to ask the consent of the State-General. However, the monarch's power is approaching unlimited one, only representative body had the right to vote for the approval of the state's tax policy. The unlimited powers of the sovereign imply the exclusion of any protection of people from violation of the law. Bodin states about the right to property that should not be violated, but this appears to him as a moral requirement addressed to the sovereign. (Georgescu Ș., 2001, p. 49) The state power, in general, and the monarch's power, in particular, is practically unlimited. This shows that the philosopher was adept of totalitarianism as a political regime. The thinker did not notice the danger of granting unlimited power to state bodies. As a finality of the implementation in practice of Bodin's theory, it will represent the totalitarian state approaching to that of Machiavelli.

However, Bodin legitimated the right to revolution. Thinker considered that the people should obey to the monarch's orders, but they may kill the tyrant. In exceptional situations, when it is necessary to make urgent decisions, absolute power belongs to the monarch, who has the "right to the last decision", which is a dominant feature of the sovereignty. (Schmitt K., 2000, p.18-20) We should note the link between ideas of the Aristotle and Bodin, that refer to the state construction. Both thinkers considered that family represents the sovereign state. (Klimenko O., Mirzoev A., 2016, p.25) So, the ideal of the family is connected with moral norms, the respect of private property and sovereignty. (Klimenko O., Mirzoev A., 2016, p.25) Jean Bodin approaches the concept of the legitimacy of state power, as the development of the ideas of Saint Thomas Aquinas stating that this power is based on natural laws, the violation of which leads to the loss of the legitimacy of state power. (Shumkov D., 2002, p.46)

The importance of the theory developed by the great philosopher is manifested in the elaboration of the concept of legitimacy and theoretical system of categories and notions focused on the concept of sovereignty that will be developed and perfected by the great philosophers of modernity. (Klimenko O., Mirzoev A., 2016, p.25)

A conception essentially different from that systematized by Bodin appears in the beginning of the seventeenth century, being formulated by *Johannes Althusius* in the work "*Politica methodice digesta*" (1603). Althusius developed the Aristotle's theory describing the man as a social being, naturally inclined towards mutual solidarity and reciprocity. Sovereignty, according to the thinker's point of view, belongs to the people. It is imprescriptible and resides inalienably in the popular community in which cannot exist the absolute personal power. The people could delegate power, but they cannot give it up. Sovereignty emanates from the people. The prince has no authority other than that with which he is invested by the people. So, people delegate their power to prince the power continuing to be intrinsically and substantially preserved by the people.

According to the thinker's point of view, sovereignty is not absolute. Althusius formulated the principle of subsidiarity, which is the base of the decisional process. The decisions must be taken at the lowest level, by those who are directly affected by their consequences. Thus, even the smallest political units should possess substantial autonomous powers, having the representatives at higher levels of power. So, Althusius believed that at each level of society there should be two state bodies: one of them represents the lower communities and other represents the superior level. Bodies that form the first level of power hold as much prerogatives as they could exercise for the people's benefit. The superior level of state power is limited by the first level. Each level shall designate its representatives at low and high level, based on the delegation of power, which may be withdrawn.

We should note the substantial difference between the subsidiarity and decentralization. The phenomenon of decentralization expresses the situation when the local bodies are the holder of the authority granted to it by the

central power. Subsidiarity represents the distribution of power when the local level delegates to the upper level the responsibilities and tasks that it cannot assume, solving the problems that are included in its competence. Subsidiarity represents the sharing of competences based on the criterion of the sufficiency or inadequacy: each level of authority keeps those competences for which it has sufficient power.

According to Althusius' point of view, sovereignty represents the level of power that has the large authority, decision-making, and enforcement powers. The sovereign is the person who has more power than others. The exercise of power is realized if the power is recognized and given to him by people. At each level there is an "exchange of authority", more precisely a differentiation of bodies, a sharing of powers from the lowest level to the highest one.

So, we can conclude that Johannes Althusius attributes the legislative power to the people that are holders of sovereignty. The people in their actions are constrained by its conscience, divine and natural right. Although the power of the people is not considered unlimited, it is the highest authority because cannot exist the greater power than that which belongs to the people. (Georgescu Ş., 2001, p. 49)

Another thinker that developed the theory of the state sovereignty was *Hugo Grotius*, the founder of natural law, based on the human intellect and people's tendency to live in the peaceful society. (Bădescu M., 2002, p. 34). The thinker is one of the founders of the theory of the social contract according to which people form a civil society that represents the expression of their free will. Society arises as a result of an awareness of the vulnerability of people living in isolation. People draft 2 contracts: the first contract of free association, and that of submission. Consequently, people should unconditionally submit to state power, "steadfast in order to ensure public peace". State power "acquires a superior right over people and their property, as extent as it is necessary to achieve the specified goal." (Grotius H., 1968, p.193)

From those exposed above, we can conclude that the state could prohibit anyone to resist, in order to ensure peace and public order, because otherwise it would not achieve its purpose. If everyone could oppose to state's will, the existence of the state will be endangered. These considerations explain the existence of laws and punishments to defend the state's power (Capcelea V., 2004, p. 106) that form the concept of sovereignty. (Popa N., Dogaru I., 2002, p.105) "It is called a sovereign power whose acts are so independent of another authority that they cannot be annulled by the judgment of another human will." (Grotius H., 1968, p.162). Grotius sought the answer to the question: whom does the sovereignty belong? In thinker's opinion, the sovereignty belongs to the state. (Popa N., Dogaru I., 2002, p.105)

However, people may choose the form of government that they prefer, but from the moment they have passed on their rights to the governors, they lose the right to control or sanction the governors. State conductors must obey the natural law and keep promises they made, that represent the principle of natural law. In monarchical states, the people delegate irrevocable the exercise of their rights and the people should submit to the will of the monarch. (Bădescu M., 2002, p. 37).

Grotius denies the theory of people's sovereignty, according to which people could punish kings whenever they misuse their authority because the king's power is based on the people's will. By designation of the sovereign people ceded the right to rule them, withholding no part of this right. (Capcelea V., 2004, p.107) Grotius considered that, on the one hand, sovereignty resides in the king's person as in its keeper, but, on the other hand, it always remains in the people just as in a whole in which it is part and its ruler. So, the prince governance is the governance of people. In the conception of the great philosopher, the sovereignty of the people should be limited, and the king, even deposed, may rule, because the parties are obliged to comply with the contractual provisions, according to which people cede the right to dispose of themselves.

The main merit of Grotius is that of formulating the concept of state sovereignty. Thinker showed that the state with its legal organization could manifest its sovereignty within its territory, in front of its citizens. The state authority cannot be manifested outside the state's borders. (Bădescu M., 2002, p. 39). Respectively, sovereignty appears as a relative element that could be integrated into the system of international law, which takes precedence over domestic law. In relations between sovereign states should be applied the principle of equality. (Capcelea V., 2004, p. 110)

The brilliant thinker of humanity *Thomas Hobbes*, in his work "Leviathan" elaborated the concept of the sovereign power of the state that transcends the will of the people that compose it. To understand the fullness and complexity of the ideas of Thomas Hobbes, we should analyze the political context of Thomas Hobbes' ideas. English philosopher lived in the period of great political and social transformations (Popa N., Dogaru I., 2002, p. 152, 155), which manifested in the outbreak of the civil war waged by Parliament against the partisans of the King, Cromwell's victory, the abolition of the monarchy and the beheading of King Charles I Stuart. These events meant

the unleashing of uncontrollable anarchy, which suggested the idea of a return to the “natural state of humanity”. (Georgescu Ș., 2001 p. 53) Political problems were for the philosopher of great actuality and even urgency because of the events that prepared the bourgeois revolution of 1648. (Popa N., Dogaru I., 2002, p. 152, 155) The central problem of this author’s politico-legal research is the possibility of overcoming social violence and saving (preserving) the state. (Râbca E., 2016, p. 92)

Philosopher is the founder of the theory of social contract, according to which the state appears as a result of a voluntary act, by which each man undertakes to each other to invest a third party (future sovereign) with the right to govern it. People draft two contracts. They consent to create a society, to associate, by drafting the first contract. The second contract consigns the transfer of people’s rights to the sovereign. So, the state becomes the holder of sovereignty, as a result of drafting these contracts. State’s sovereignty is absolute, indivisible and inviolable. (Popa N., Dogaru I., 2002, p.156) Each person must obey the sovereign’s will and cannot use his own force against him. However, the holder of sovereignty is not obliged to respect the law. (Capcelea V., 2004, p. 120) We should note that Thomas Hobbes personified state power, which should be concentrated in the personality of prince during the absolute monarchy as a form of government.

We should pay attention to the relationship between the citizens and the sovereign. The people in this relationship have an active role; they are not passively subjected to omnipotent political power. So, namely people decide to create the society, to designate the sovereign and to create the state. In addition, Thomas Hobbes introduces the concept of authorization, which refers to the fact that the citizens are the authors of the political will that is explained by the sovereign. In other words, the sovereign is allowed by people, and he acts on behalf of citizens. Therefore, the will of the sovereign expresses the will of the people. (Popa N., Dogaru I., 2002, p.156)

So, the importance of the thinker’s theory is manifested in the concept’s substantiation of the sovereignty of the state that functions as an independent body. However, the Prince embodies the entire state power. As a result, the philosopher’s theory could be positioned as the one based, on the one hand, on the ideas of Machiavelli who personified state power and considered that the entire state power belongs to the prince and the theory of Grotius according to which sovereignty belongs to the state, without being related to the body that holds power.

3.4 Comparison between the Theory of Sovereignty in Thomas Hobbes and Jean Bodin’s Philosophy

The ideas of these great philosophers aimed to legitimize the secular state power at the expense of papal power. However, each thinker argued a different model of state organization. Thomas Hobbes legitimizes the totalitarian regime, stating that people creating the state transfer their rights to the sovereign, being obliged to obey the monarch’s will unconditionally. Jean Bodin, on the contrary, considered that the state occurs independently of the people’s will. Thinker argued that democracy is the best political regime. The main character of democracy in the philosopher’s doctrine represents the election of all state bodies by the people. Both thinkers considered that state power should be unlimited. However, the main difference between these two theories consists in conceptualizing the whole construction of state power. Thomas Hobbes’ state represents the almighty body independent of the people’s will in which do not exists the separation of state’s power. Despite the fact that according to Jean Bodin’s point of view the civil laws could not limit state power, thinker approaches to the conceptualization of the separations of powers in the state. Bodin starts the primary role of Parliament in the exercise of state power and determines the monarch’s position within the state bodies.

We should note that both thinkers personified state power. For them, the whole state power is concentrated in the personality of the prince who is the head of state. The practical realization of the thinker’s ideas would have the same finality. It would be created the despotic state, as a realization of Thomas Hobbes’ ideas or the state in which the monarch has unlimited power and governs with the Parliament, according to Jean Bodin’s theory. However, the people’s position within Jean Bodin’s state would be better than that of the citizens of Thomas Hobbes’ state because according to Jean Bodin’s ideas the people have the right to the revolution that could be exercised against the rule of a tyrant. The role of people within the state differs substantially. Jean Bodin argued the necessity of the election of state bodies and the people’s right to revolution, which limits the dictatorial tendencies in society. Thomas Hobbes, on contrary, developed the concept of the totalitarian state, which could control the confrontations present in society.

We could conclude that despite the legitimization and argumentation of the secular power of the monarch, philosophers promoted various methods of exercising state power, the totalitarian and the democratic one which leads to the emergence of conceptual differences between the theories promoted by these philosophers.

3.5 *The Emergence of the Theories of National and People's Sovereignty in John Locke, Jean-Jacques Rousseau, and Charles Montesquieu's Philosophy*

We should analyze the political-social context in which the brilliant thinkers such as Voltaire, Charles Louis Montesquieu, Jean-Jacques Rousseau, Denis Diderot lived for a better understanding of their ideas. These philosophers lived in the Enlightenment epoch. For this intensive period of humanity's thinking is characteristic the appeal to reason as the major criterion of understanding the world and society, popularization of knowledge, which should bring benefit to the entire society. In addition, we could note the tendency presented in the Enlightenment to systematize the knowledge accumulated during the humanity's development. In this period, France becomes the cultural center of the world. Thinkers wanted to find the principles of man's natural life, searching for the natural religion and law. We should mention the criticism and denial of positive law, formed during the historical development of humanity, in favor of natural law. French philosophers such as Voltaire, Charles Louis Montesquieu, Jean-Jacques Rousseau, Denis Diderot argued the ideas of rationalism, the development of political-social ideas and religious tolerance. Their primary goal was the progressive development of humanity and the creation of rational society. Indeed, these considerations highlight a link between the ideas that dominated the political thought of the Enlightenment and those promoted by the great thinkers, who founded the concept of natural and inalienable human rights, perfectly blend into the context of the French Enlightenment Society of the XVIII century.

Certainly, *John Locke* (1632-1704) is one of the most important thinkers of Enlightenment whose doctrine represents the base of the actual democratic regime. In his writings, John Locke expressed the social and political aspirations of the English bourgeoisie of his time. The "Two Treatises of Government" written by the great thinker is considered as the basic texts of modern democratic doctrine (of constitutionalism, parliamentarianism, the supremacy of law) and the main foreshadowing of modern liberalism. The capital significance of John Locke's work for modern political thought and will is connected with the ideal of eliminating arbitrariness and establishing a rule-based civilization. (Popa N., Dogaru I., 2002, p. 162)

According to Locke's doctrine, the emergence of the state finds its basis in the theory of social contract. As a result, the transition to civil society took place, following a consensus by which people wanted maximum security and freedom. The essence of his theory Locke expressed thus: "man in the natural state is a reasonable and free being, eager to live well. For this, he voluntarily renounces, by contract, of some of his claims and prerogatives in favor of the state, which owes him respect and protection." (Locke J., 1999, p.54) Philosopher observes that people gave up their natural state and made up civil society in order to get maximum protection. It transitioned from the natural state to the civil State based on a contract. People could denounce the contract underlying this agreement if those who hold the power do not fulfill the obligation assumed. As a result, people making up the state keep the freedom to end the contract if the state leadership does not respect their rights and cannot grant them the security, violating the obligations assumed by concluding this contract. Definitely, the principle of any association can only be common consent. As a result, the state relies on the free consent of each, being concluded in the absence of any constraint. (Georgescu Ș., 2001, p. 58) People consent to go out of the natural state in order to find in the state legal security, prosperity and welfare. People agree with others to unite in society in order to enjoy each one, in safety and peace, of what belongs to them—life health, freedom, wealth—in order to be more safe from harm and insult.

So, the state represents a product of the social contract, which results from the expression of the will of the people. (Râbca E., 2016, p.98) From Locke's point of view, "social contract" is not an act of alienation, but the compromise, which makes the people true depositary of the general interest. (Locke J., 1999, p. 54)

Beginning from those exposed above, we should note that John Locke developed the theory of people's sovereignty. The elaboration of this concept represents the counterargument to the manifestations of despotism in the realization of state power. (Arseni A., 2019, p.32) The theory of popular sovereignty is linked with the theory of social contract, according to which the people entrust the realization of state power to the legislative Assembly, appointed by election. The author also imposes the conceptualization of political power as the right to legislate and the right to exercise the applicative-legal activity. (Râbca E., 2016, p. 97) As a result of this delegation, the people remain sovereigns and could end the social contract; remove or overturn and/or change the composition of the Parliament. Plus, people have the right to revolution. (Râbca E., Zaharia V. 2016, p. 125)

The most important aspects of the people's sovereignty manifests in the people's right to revolution. So, people could denounce the contract underlying this agreement if those who hold the power do not fulfill the obligation assumed. As a result, people making up the state keep the freedom to end the contract if the state leadership does not respect their rights and cannot grant them the security, violating the obligations assumed by concluding this

contract. Definitely, the principle of any association can only be common consent. As a result, the state relies on the free consent of each, being concluded in the absence of any constraint. (Georgescu Ș., 2001, p. 58)

So, the people's obligation to obey the governor's will is closely related to the government's compliance with the social contract's provisions. Thinker considered that people do not transfer the sovereignty of the leadership by establishing the legislative and executive power. If the rulers violate the people's rights, they could use force to replace the governors. However, the governance could resort to coercive means to ensure that citizens comply with the rules established for the achievement of the common good. (Popa N., Dogaru I., 2002, p.168) We should highlight that John Locke considered despotic power to be unacceptable. (Capcelea V., 2004, p.124) Thus, J. Locke, the author of political liberalism, laid the beginning of the transition from the monarch's to the people's sovereignty and the legitimacy of power. (Arseni A., 2019, p.33)

3.6 The Concept of Popular Sovereignty in Jean-Jacques Rousseau's Philosophy

Jean-Jacques Rousseau (1712-1778), the French philosopher of Enlightenment, played an important role in the development of the concept of the "people's sovereignty". In the work "On the Social Contract; or, Principles of Political Right," the great thinker systematized and finalized the conceptual development of the concept of popular sovereignty. The thinker stated that the popular will could be expressed only by the whole collectivity of people and tends to achieve the common good. According to this theory, all people are equal because everyone has his own "piece" of sovereignty. So, sovereignty belongs to the people, as a result of the individual wills. However, the realization of popular sovereignty always requires the expression of the will of the majority of citizens. Only in this way the individual "parts" of sovereignty form a complete entity, which allows the achievement of the common good. (Popa N., Dogaru I., 2002, p.186)

We should highlight that the theory of the people's sovereignty formulated by Jean-Jacques Rousseau positions the people as a concrete entity, which is formed from the people who live in a certain territory, associated in the state. So, all members of this state are equal in rights, and sovereignty should be divided into equal "parts" which belong to all citizens. As a consequence, sovereignty should be exercised by all citizens, being made up of the sum of their wills. (Arseni A., 2019, p.36) "Sovereignty, which expresses the general will, cannot be alienated, because the will cannot be transmitted." So, sovereignty is inalienable and indivisible. (Jean-Jacques Rousseau¹⁹⁵⁷, p.102-103) Therefore, each citizen has his own original right to take part in the exercise of sovereignty, which is manifested in the right to issue laws and supervise their execution. People could participate directly in the exercise of state power, or, if this is impossible, through representatives who are controlled by them. (Guceac I., 2001, p. 122) We should note that the exercise of sovereignty does not inhibit the establishment of representative institutions (Arseni A., 2019, p.36), which are formed as the result of free elections. So, the governors are directly linked with their voters. (Jean-Jacques Rousseau¹⁹⁵⁷, p. 103) In conclusion, sovereignty, according to Jean-Jacques Rousseau's point of view, could be expressed only by the people's will and governors are "simple mandates" of people. (Deleanu I., 1993, p.50)

The great thinker considered sovereignty as the basis of freedom and equality of citizens, because people are the holders of "sovereignty" and the state's rulers are only the officials who are subordinate to people and could be revoked. (Jean-Jacques Rousseau¹⁹⁵⁷, p.99) We should highlight two features of sovereignty: inalienability, because only one authority could exercise the power in the determined territory; indivisibility because sovereignty could not be divided between individuals who form the state population.(Drăganu T., 1998, p.207). The philosopher considered that sovereignty cannot be alienated, being the expression of the general will. (Jean-Jacques Rousseau¹⁹⁵⁷, p.114-116) As his predecessors, Jean-Jacques Rousseau personified state power because the people form the concrete entity that leads us to the imperative mandate in exercise of sovereignty. (Arseni A., 2019, p.38)

3.7 The Legal Consequences of the Theory of Popular Sovereignty Developed by Jean-Jacques Rousseau

Thinker considered that the common will which forms the concept of sovereignty should be realized directly by the people. As a result, the realization of sovereignty through representative bodies contradicts to the essence of the concept of popular sovereignty. However, other researchers considered that the exercise of sovereignty does not involve the establishment of representative institutions. These scientists argued the possibility of establishing direct or semi-direct democracy. If in the ideal state developed by Jan-Jacques Rousseau are formed the representative bodies, the elected deputies are directly related to the imperative will of the voters. (Noțiuni generale privind suveranitatea)

The Romanian researcher Ion Deleanu noted the following consequences of the practical realization of the concept of popular sovereignty: a) the trustee does not express his own will, being forced to voice the will of those who mandated him (electoral body in a constituency), b) his conduct in the assembly of deputies may not be other than

that expressly prescribed by the constituents; c) the deputy must report periodically to his constituents on the actions interpreted in the mandate's exercise; d) voters may withdraw his mandate on the grounds that the trustee has not complied with the given prescriptions or because he has exceeded them; e) the holder of sovereignty, the people, may amend or annul any decision of the representative assembly, if it does not correspond to their will, through a referendum. (Deleanu I., 1993, p.37)

We should note that the deep analysis of these consequences highlights at least two considerable shortcomings: the inability of the deputy to represent the general interests, being forced to act within the interests of a particular constituency; the restriction of the freedom of action of the deputy leads to his subordination to the will of his constituents. (Noțiuni generale privind suveranitatea)

We should note some specific aspects of the legislative process in the Jean-Jacques Rousseau's point of view. Thinker considered that a law represents the act, which is adopted or sanctioned by the people. The author proposes the establishment of citizens' assemblies, the control body independent in relation to governors, through which could be controlled the governor's activity. However, Jean-Jacques Rousseau establishes the unlimited domination of the social-state organism over the person, stating that the common will is always fair. We could conclude that according to the thinker's theory, the individual does not have any rights in relation to the sovereign. So, Jean-Jacques Rousseau approaches to the state's foundation elaborated by Hobbes. (Râbca E., Zaharia V. 2016, p.96)

3.8 The Concept of National Sovereignty in Charles Montesquieu's Philosophy

The brilliant Illuminist, Charles Montesquieu (1689-1755) developed the concept of popular sovereignty elaborated by Jean-Jacques Rousseau. The substantial difference between the theories of these thinkers consists in the introduction and use of the category of nation in the political philosophy. Thus, the thinker elaborated the concept of national sovereignty. (Montesquieu Ch., 1964, p.11)

The concept of sovereignty is closely related to the form of government and the political regime established in the state. According to Montesquieu's theory there are three forms of government (Popa N., Dogaru I., 2002, p.117) "the Republican, the monarchical and the despotic government. The republican government is that in which all people or only a part of them hold the supreme power; the monarchical government is that in which the person rules individually according to established laws; whereas, in the despotic one, the prince governs with no law and rules, according to his own will". (Montesquieu, 1964, p. 11) Republican government could be of two types, democratic, when the supreme power belongs to all people, and aristocratic, when power is held by a part of the people. When all people rule, this political regime represents the government of the people, by the people, in the interest of all people that is best form of organization of state power. (Popa N., Dogaru I., 2002, p.117) The aspects that could not be managed by all people should be managed through their representatives. In the republican government (democratic or aristocratic), "it is a fundamental principle of this government that the people designate their representatives". (Montesquieu, 1964, p. 18)

So, beginning from that exposed above, we could conclude that the concept of national sovereignty manifests only during the republican government because during the monarchical and the despotic government the sovereignty belongs to the herd of state. Only democratic or aristocratic forms of government allow the exercise of state power by representatives of the people, which is the manifestation of the essence of national sovereignty.

We should highlight that national sovereignty is characterized as indivisible and imprescriptible. According to the thinker's point of view, the nation is an abstract entity. So, the establishment of direct democracy as the political regime is practically impossible. This theory justifies the necessity to appoint representatives by universal suffrage. As a result, sovereignty is exercised in the name of nation. Thus, the deputies appointed by the nation become its general representatives who do not translate the general will, but form the body that creates the general will. The mandate of governors becomes general, representative, free and irrevocable one. (Noțiuni generale privind suveranitatea, 2019)

3.9 The Legal Consequences of the Theory of National Sovereignty Developed by Charles Montesquieu

This conception has some practical consequences, such as 1. national representation in its entirety becomes the mandatory of the nation, since sovereignty is one, indivisible and inalienable; 2. the decisions of deputy should not be ratified by the nation; 3. deputies, as representatives of the entire nation, cannot be revoked by their voters and they are not obliged to account for them; 4. the deputy does not need the instructions from the electoral body, he proceeds according to his intimate conviction. (Deleanu I., 1993, p. 38)

The concept of national sovereignty has some negative implications including: - exclusion of any organized legal subordination of deputies to voters; - the possibility of the deputy to slide towards arbitrariness and voluntarism; - the transformation of the electoral body into an instrument for appointing the deputy; - transformation of the

representative assembly into the exclusive depository of national sovereignty, having the omnipotence to decide on behalf of the nation, infallible interpreter of the general will; - replacing the general will with the will of the party to which the deputy belongs and complies in principle. (Deleanu I., 1993, p. 39)

We should conclude that during the Middle Ages and Modern Epoch were formulated the most important classical theories of sovereignty which contributed to the formation of sovereignty in the current acceptance. In this period of time we could note the transition from the sovereignty of the church to the royal one, which triumphed with the elaboration of the theory of popular and national sovereignty. Therefore, this modification mirrors the transformation in the people's role in society. Respectively, the man from the servant becomes the souvenir capable to exercise state power, appoint representatives and choose the form of government and political regime that best corresponds to his aspirations.

4. The Actual Concept of Sovereignty in the XXI Century

4.1 The Actual Concept of Sovereignty in the XXI Century at the International Level

Actually, the concept of sovereignties is facing new challenges. We should analyze the concept of sovereignty in the context of the joining various international organizations. Analyzing the sovereignty through the prism of the international law, we could conclude that sovereignty as “*indivisible, unlimited and illimitable*” power that was described by Hobbes does not exist. “*It may be said that each nation is independent of every other and that international law is not a limitation upon any of them because it is self-imposed, but the facts of life limit external sovereignty. So far as there are international law, treaties, conventions, and the League of Nations, all national sovereignty is limited in international relations. In the same way internal sovereignty has its limits. Both the states and the nation in the United States are limited by bills of rights. If sovereignty must be independent and unlimited there is no such thing as sovereignty*”. (Willis, Hugh Evander, 1929)

It should be mentioned that actual political philosophy does not position sovereignty as an absolute and unlimited power, denying the characteristic approach to classical philosophy. We should highlight the difference between the internal and external sovereignty. The internal sovereignty is the state's right to decide on the organization of political, economic, social, cultural life and other areas that are included in the concept of the internal affairs of a state. The internal sovereignty manifests in the field of international relations, in the state's right to conclude treaties and to join international organizations. So, according to the doctrine of international law, sovereignty represents the supremacy and independence of state power in the sphere of internal and external relations. (Guceac I., 2014, p.30) At the same time, state sovereignty is a quality of state power to be supreme in the territory of the state and independent from any state or international body, a characteristic expressed in the right of the state to resolve its internal and External Affairs freely, provided that the corresponding rights of other states and the norms of international law are respected. (Guceac I., 2014, p.83)

In this context we should mention the declaration of Kofi Annan the UN secretary-general pronounced at 18 September 1999. According to him “*State sovereignty, in its most basic sense, is being redefined—not least by the forces of globalization and international co-operation. States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty—by which I mean the fundamental freedom of each individual, enshrined in the charter of the UN and subsequent international treaties—has been enhanced by a renewed and spreading consciousness of individual rights. When we read the charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them*”. (Annan, K., 1999) This statement was pronounced by the UN Secretary General in analysis of the concept of sovereignty in the context of the humanitarian interventions of the XX century and forecasting the change in the sovereignty's meaning in the XXI century. From those exposed about, we could conclude that humanitarian crises, violations of human rights, genocides show that the sovereignty of the state is not absolute one.

So, we should mention that the humanitarian intervention or the responsibility to protect in the actual terminology represents the actions of the international community regulated by Chapter 6 and 7 of the United Nations Charter that could be taken if there are presented the threat to the peace, the security of humanity and acts of aggression. According to the one of the definitions of this concept, the humanitarian intervention represents actions undertaken by an organization or organizations (usually a state or a coalition of states) that are intended to alleviate extensive human suffering within the borders of a sovereign state. Such suffering tends to be the result of a government instigating, facilitating, or ignoring the abuse of groups falling within its jurisdiction. This abuse often takes the form of deliberate and systematic violations of human rights, including forced expulsions, ethnic cleansing, and, in the most extreme cases, genocide. (Bell, D., 2019) In these situations, the international community intervenes in the internal affairs of the state in order to save the categories of the population subjected to persecution. So, the

people's particular interest is positioned as one more important than the interest of governors who abuse their power.

In this study, we should analyze some aspects of the humanitarian intervention because the application of the articles of Chapter 7 of the UN Charter allows the violation of the sovereignty of the state and the application of the armed force to restore the peace and security of humanity. We should highlight that "*Humanitarian intervention constitutes a calculated and uninvited breach of sovereignty (state rights) in the name of humanity (individual rights). In the post-Cold War era, however, this conception of sovereignty as sacrosanct came under sustained attack. It was argued that despotic leaders should not be able to hide behind the shield of state sovereignty and that the international community had an obligation to intervene to stop the widespread abuse of human rights*". (Bell, D., 2019)

In his declaration Kofi Annan noted four aspects of humanitarian intervention which need to be considered with special care. "*First, "intervention" should not be understood as referring only to the use of force. And yet the commitment of the world to peacekeeping, to humanitarian assistance, to rehabilitation and reconstruction varies greatly from region to region, and crisis to crisis. If the new commitment to humanitarian action is to retain the support of the world's peoples, it must be—and must be seen to be—universal, irrespective of region or nation. Humanity, after all, is indivisible.*" (Annan, K., 1999) So, the UN secretary-general does not admit an uneven approach to humanitarian crises and genocide situations that are common for several international crises. Each humanitarian intervention represents a violation of the sovereignty of the state, as well as the principle of non-interference in the internal affairs of the state, which determines the necessity of the development of standards accepted by the international community that will not allow the application of double standards.

Kofi Annan highlight that "*traditional notions of sovereignty alone are not the only obstacle to effective action in humanitarian crises. No less significant are the ways in which states define their national interests. The world has changed in profound ways since the end of the cold war, but I fear our conceptions of national interest have failed to follow suit. A new, broader definition of national interest is needed in the new century, which would induce states to find greater unity in the pursuit of common goals and values. In the context of many of the challenges facing humanity today, the collective interest is the national interest.*" (Annan, K., 1999) So, the international interests which are manifested in the defense and promotion of the human's rights should prevail over the interests of the state leadership that blatantly violates fundamental human's rights.

The UN secretary-general argued that "*in cases where forceful intervention does become necessary, the Security Council—the body charged with authorizing the use of force under international law—must be able to rise to the challenge.*" (Annan, K., 1999) So, namely UN plays the most important role in the authorization of the humanitarian intervention and this international organization should act promptly and uniformly in the situation of the existence of the threat of peace and security of humanity.

Kofi Annan argued that "*when fighting stops, the international commitment to peace must be just as strong as was the commitment to war. In this situation, too, consistency is essential. Just as our commitment to humanitarian action must be universal if it is to be legitimate, so our commitment to peace cannot end as soon as there is a ceasefire. The aftermath of war requires no less skill, no less sacrifice, no fewer resources than the war itself, if lasting peace is to be secured*". (Annan, K., 1999) So, the role of the international community does not finish simultaneously with the finish of the war and UN should do everything possible to lessen the consequences of war.

We can conclude that at actually humanity is facing with the modification of the concept of sovereignty that is transformed from the absolute and unlimited power of the state over the territory and its own citizens into one limited by international commitments, treaties, provisions of international law, the guarantee the respect to fundamental human rights. Therefore, the UN Security Council sanctions humanitarian intervention, which is an exceptional measure undertaken by the international community in the case of flagrant violation of human's rights and threats to the peace and security of humanity. Despite the fact that humanitarian intervention violates the state's sovereignty, the application of force in this case is absolutely legal, if it is carried out in compliance with the provisions of the UN Charter because it defends the interest of ordinary citizens persecuted by the state leadership. Accordingly, the "individual sovereignty" defined by the UN secretary-general becomes more important than the sovereignty of the state which undertakes acts of genocide and mass killings.

4.2 The Concept of Sovereignty in EU

The concept of sovereignty in EU should be analyzed both thought the prism of the sovereignty of the state members of community and the "sovereignty" of the EU organization as the complete entity.

We should note that the philosophy of the EU is based on the two concepts that explain the actual construction of the EU, namely supranational and intergovernmental theories. According to one of the definitions, a supranational union represents a type of multinational political union, where negotiated power is delegated to an independent authority by governments of member-states, which actions in the interest of community. The international community includes the members from different states. The supranational organization is founded because of some benefits that it gives to each member-state by setting trade-related standards that help to maintain economic stability in all member-states. The structure of the supranational organization allows the development of political and economic standards that are respected by member-states. Another theory that refers to the construction of the EU is intergovernmental theory. According to one of the doctrinal definitions intergovernmentalism represents the theory of European integration as a type of multinational political union in which states play a more important role in decision-making process in comparison with supranational theory. In international relations, scientists who develop this theory treat states, in general, and national governments, in particular, as the main actors of the integration process.

The supranational and intergovernmental character of the EU is regulated by the Treaty on the Functioning of the European Union, which in the articles 3-5 establish the EU's competence. According to this treaty, "*the Union shall have exclusive competence in the following areas: a) customs union; (b) the establishing of the competition rules necessary for the functioning of the internal market; (c) monetary policy for the Member States whose currency is the euro; (d) the conservation of marine biological resources under the common fisheries policy; (e) common commercial policy.*" (Treaty Roma 1957) According to article 2 of this Treaty "*only the Union may legislate and adopt legally binding acts*" in this domains "*the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts*". (Treaty Roma 1957) This competence shows the supranational construction of the EU because in the domains established by treaty states do not have de right to legislate.

Beginning from that exposed above, we should note that in the doctrine of European law crystallized two different opinions which refers to the concept of sovereignty within the European Union. According to one point of view, the legislative process at the level of the European Parliament violates the sovereignty of the states, because in the areas mentioned in the articles 3-5 of the Treaty on the Functioning of the European Union the national Parliament do not have de right to legislate. We should note that the right to legislate is one of the most important state's prerogatives and the manifestation of national sovereignty of the state, which is limited in the member states' of EU. According to other savants, the actual construction of the EU does not limit the state's sovereignty. This point of view is based on the fact that the right to join the International Organization is one of the state's exclusive prerogatives. So, namely state decides to join the EU, having the right to leave the International Organization, as Britain did. These researchers argue that the State cedes to the International Organization only certain strictly limited competences and the state's sovereignty remains unlimited by the EU's construction. We adhere to the point of view according to which the sovereignty of EU member states is not limited by the implementation of the legislative process at the community level, because states through elections appoint their representatives in the European Parliament and membership in the International Organization is a right, an expression of the sovereignty and free will of the state.

Analyzing the concept of the sovereignty in the actual construction of the EU, we should analyze the process of the accession to EU, during which the sovereignty of all states, members and candidate states is perfectly respected because states should ratify the agreement to accession to the EU according to their constitutional rules. This is not a formal prerogative because Norway, for example, twice gave up joining the European community. The sovereignty of the candidate state is respected until the last stage of accession, especially when public opinion considers that the negotiated conditions of accession are not satisfactory. (Coşlet N., 2020)

We should note that among the conditions of accession to the EU is the compliance to the *acquis* of EU. This condition may seem as a very restrictive one and may be an obstacle to the exercise of sovereignty in the economic and legal fields. The candidate must accept not only the treaties' regulations but also the whole legislation of the EU. It should be noted that the candidates have always achieved a transition period for adapting the state to their new economic and legal situation. Plus, the introduction of the single European currency represented another attack on the sovereignty of the state, because coin minting of the national currency was traditionally the responsibility of the state as a manifestation of its sovereignty. (Coşlet N., 2020)

Actually, in the community's law appears the concept of the "strategic sovereignty". The emergence of this concept is based on the fact that European countries are increasingly vulnerable to external pressure that prevents them from exercising their sovereignty. This vulnerability threatens the European Union's security, economic health, and diplomatic freedom of action, allowing other powers to impose their preferences on it. To prosper and maintain

their independence in a world of geopolitical competition, Europeans must address the interlinked security and economic challenges other powerful states present – without withdrawing their support for a rules-based order and the transatlantic alliance. This means creating a new idea of “strategic sovereignty”, as well as establishing institutions and empowering individuals that see strategic sovereignty as part of their identity and in their own interest. Most fundamentally, the EU needs to learn to think like a geopolitical power. (European Sovereignty) The emergence of the concept of strategic sovereignty of the EU is determined by the deepening of the supranational tendencies of this organization. The concept of strategic sovereignty is manifested in several areas including security, health, climate, economic and digital fields.

Therefore, actually within the EU could be identified two trends related to the concept of sovereignty. On the one hand, states transfer the defining powers to supranational bodies for the proper functioning of the International Organization and for the development of uniform policy in the areas established in the Treaty on the functioning of the EU. On the other hand, there is created the concept of strategic sovereignty of the EU, which is seen as a superpower capable of promoting its own interests, based on the unity of the legislation of the member states. Respectively, we could note the transfer of the states’ competence to the supranational bodies and creating a new concept of sovereignty that allows the promotion of the interests of the member states of the community.

4.3 The Concept of Sovereignty in the Actual State’s Constitutions

Actually, the concept of sovereignty is the component part of the constitutional law, in general, and the state’s national regulation, in particular. The absolute majority of the state’s constitutions regulate the mechanism of the exercise of state power and the plenary holder of this power. In this study, we would like to analyze the constitutional regulation of sovereignty, to determine the holder of supreme power in state and to highlight the difference in the regulation of this aspect in contemporaneous state’s constitutions.

The Basic Law of the Federal Republic of Germany adopted on May 23, 1949 in article 20 regulates the form of government and the political regime of this state. So, according to 1 and 2 paragraph of this article: “(1) *The Federal Republic of Germany is a democratic and social federal state. (2) All state authority is derived from the people. It shall be exercised by the people through elections and other votes and through specific legislative, executive and judicial bodies.*” (Basic Law for the Federal Republic of Germany) We should note that Germany adopts the concept of popular sovereignty, according to which all state power emanates from the people. Namely, people are the holders of the supreme power in the state. According to 4 paragraph of article 20 “*All Germans shall have the right to resist any person seeking to abolish this constitutional order if no other remedy is available.*” (Basic Law for the Federal Republic of Germany) However, people could defend their right to hold the state power and to govern by any legal methods. If these methods are ineffective, the people may defend the constitutional order by force. This mechanism represents an effective means of fighting against the tendencies of the establishment of the totalitarian regime and the dictatorship.

According to the constitution of the Republic of France, adopted on October 4, 1958 art. 2 “*The principle of the Republic shall be: government of the people, by the people and for the people.*” (Constitution of the Republic of France) So, this principle embodies the Aristotle’s idea of polity, the form of government, during which the entire state power is exercised by all people or by the majority of them in the benefit of all state citizens. Article 3 of French Constitution regulates the state’s sovereignty. According to this article, “*National sovereignty shall vest in the people, who shall exercise it through their representatives and by means of referendum. No section of the people nor any individual may arrogate to itself, or to himself, the exercise thereof. Suffrage may be direct or indirect as provided for by the Constitution. It shall always be universal, equal and secret.*” (Constitution of the Republic of France) We should highlight that this article uses both the notion of national and popular sovereignty, which were formulated by Jean-Jacques Rousseau and Charles Montesquieu. However, the concepts that were developed by these thinkers form the classical theory of sovereignty. Actually, there is no difference between the concept of popular and the national sovereignty because beyond the conceptual terminological differences the essence of these theories remains the same - the people are the holders of the supreme power in the state.

We should mention that in the concept of sovereignty in the legal order of the Republic of Moldova is regulated by 3 constitutional acts: Declaration of the sovereignty of the Soviet Socialist Republic of Moldova, The declaration of independence of the Republic of Moldova, Constitution of the Republic of Moldova. Declaration of the sovereignty of the Soviet Socialist Republic of Moldova adopted on June 23, 1990, declares at art. 1 that “*The Soviet Socialist Republic of Moldova is a sovereign state. The sovereignty of the S. S. R. M. is the necessary condition of the existence of the statehood of Moldova*”. According to the art. 2 “*The bearer and source of sovereignty is the people. The higher representative body of the power of the Republic realizes sovereignty in the interests of the entire nation. No part of the people, no group of citizens, no political party or public organization,*

no other form of organization may assign the right to exercise sovereignty". (Declaration of the sovereignty of the Soviet Socialist Republic of Moldova) According to The declaration of independence of the Republic of Moldova adopted on August 27, 1991, "*The Republic Of Moldova is a sovereign, independent and democratic state, free to decide its present and future, without any external interference, keeping with the ideals and aspirations of the people within its historical and ethnic area of its national making*". (The declaration of independence of the Republic of Moldova) We should note the regulation of the Constitution of the Republic of Moldova with in the art. 1. paragraph 1 regulates the state power. According to this national document "*The Republic of Moldova is a sovereign, independent, unitary and indivisible state*". (Constitution of the Republic of Moldova) So, we could conclude that the Republic of Moldova adopts similar acts that refer to the regulation the principle of national sovereignty, following the implementation in practice of the classical theories of sovereignty developed by Locke, Rousseau and Montesquieu.

Analyzing the concept of sovereignty in the USA constitutional law, we should note that in the U.S. Constitution the concept of sovereignty is not expressly regulated. The essence of the idea of "popular sovereignty" was developed by politician Thomas Jefferson, who considered that the government's goal should be the guarantee of human rights. According to him, state's power emanates from the consent of the people. If the form of government is harmful to this purpose, the people have the right to abolish it and establish a new government. (Arseni A., 2019, p.34) We should mention that according to the Declaration of Independence of U.S. the sovereignty belongs to people. "*We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness*" (Transcript of the Declaration). So, the phrase that governors derive "*their just Powers from the Consent of the Governed*" shows us that peoples are holders of the state power. According to American scientists, the concept of sovereignty "*follows, therefore, both by principle and by authority, that under the United States Constitution, the doctrine of sovereignty in the United States is that doctrine which defines sovereignty not as independent, unlimited, indivisible power to compel obedience and freedom from liability, but in the narrow sense of the power to delimit personal liberty by social control or to protect personal liberty against social control; and which makes this power reside not in the organs of government, nor the Constitution, nor Divine Law, nor even in the states or nation (although all of these are juristic personalities), but in the people as a whole as organized at present in our dual form of government which is manifested in the fact that states and nation are not sovereign within their respective spheres but are merely exercising for the time being those sovereign powers which the people have seen fit to delegate to each of them for exercise.*" (Willis, Hugh Evander, 1929) Therefore, we come to the same conclusion that sovereignty belongs to the people, and state bodies only exercise the powers conferred to them by the people.

In this study, we would like to analyze the concept of sovereignty in the states in which is established the monarchy as a form of government. The constitution of Belgium, in which as a form of government is established the constitutional monarchy, regulates the state's supreme power in the article 33. According to this regulation, "*All power comes from the Nation. They are carried out in accordance with the procedure established by the Constitution.*" (The Belgian Constitution, 2014) So, we could claim that the regulation of sovereignty in the constitution of Belgium is similar to the constitutions of other states mentioned above. Another example of the state in which the monarchy is the form of government and the official religion is Islam is the Morocco. The specificity of this state is manifested by the regulation of the official religion that allows the positioning of the Morocco as an Islamic state. Analyzing the historical development of states in which state power was not separated from church power, we note the application of the concept of divine sovereignty, according to which power emanates from God and is exercised by prince. According to the Morocco's Constitution of 2011 "*Sovereignty belongs to the Nation which exercises it directly, by way [voie] of referendum, and indirectly, by the intermediary of its representatives. The Nation chooses its representatives from among the institutions elected by way of free, honest [sinceres] and regular suffrage.*" (Morocco's Constitution) Despite the fact that Morocco is an Islamic State with monarchy as a form of government, its constitution declares that the supreme power in the state belongs to the people.

We should highlight that the state's form of government (monarchy or republic) or the political regime (the presidential, parliamentary or semi-presidential republic) does not influence the concept of sovereignty. In France that is the semi-presidential republic, in Germany that is parliamentary republic, in the USA that is presidential republic, in Belgium, that is the constitutional monarchy as a form of government, in Morocco, that is the Islamic

state with monarchy as the form of government the sovereignty belongs to people. So, all conceptual differences that arise as a result of the different attributions of state's bodies and the different co-report especially between the executive and the legislative power do not influence the concept of sovereignty because all states in which the democracy is established as a political regime regulate that sovereignty belongs to people.

5. Conclusions

We should note that sovereignty is the basic concept of the constitutional law that is present in each society, organized politically. The crystallization of the concept of sovereignty begins with the formation of the first state organizations and continues at present. The brilliant thinkers of humanity contemplated about the origins of the state power and the person/ body that should hold the entire power in state. Each epoch comes with another theory of sovereignty, which, on the one hand, mirrors the correlation of powers in the state and, on the other hand, demonstrate place and role of the people within the state. Thus, the emergence of the concept of sovereignty begins in Ancient Greece when Plato and Aristotle researched the forms of government existing in that period of time and determined the holder of state power. However, these influential thinkers did not elaborate the entire theory of sovereignty, formulating this theory only tangentially. The terminological formation of the notion of sovereignty is linked with the development of the Antic Roman Empire.

The evolution of this concept continued in the Middle Ages being a means of the legitimating of the church power, in general, and the power of Pope of Roma in particular. So, Saint Thomas Aquinas promoted and argued the church's view of state power by positioning the Pope of Rome as a holder of the entire state power, which comes from God. This approach shows, on the one hand, the influence of the church on the state leadership, the confusion between the secular and the church power, and, on the other hand, it mirrors the position of the people in society, who must unconditionally obey to the orders of the church and the King practically having no rights. The philosophy of Marsilius of Padua shows us the emergence of the democratic ideas of the popular government. The thinker started that people should hold state power that is exercised by the elected bodies. This idea laid the foundation of the popular and national sovereignty that triumphed over the political thinking of humanity during the Enlightenment. We should note the modification of the people's role within the state, who from the servant became the holders of state power. However, the theory of the royal sovereignty reflected the domination of the totalitarian tendencies within the state which are manifested in the growth of the royal authority at the expense of the rights and social position of the people. So, the "war" between royalty and the church power was won by secular power. However, this victory of royal power did not lead to an improvement of the people's position within society and did not bring an increase in their well-being.

We should highlight that the entire theory of sovereignty was elaborated only in the Modern Epoch by Jean Bodin. This thinker created a theory of secular sovereignty which is concentrated in the power of prince. The most important difference of this theory from those exposed above is the elaboration of the notion of sovereignty and the characteristic features of this concept that remain actually at present. One of the most important theories of sovereignty was developed by Johannes Althusius who promoted the concept of popular sovereignty and developed the idea of subsidiary of state power which is explained by the creation of state bodies at the central and local levels.

We concept of state's sovereignty was developed by Hugo Grotius and Thomas Hobbes. Hugo Grotius in elaboration of the theory of sovereignty did not start from the identification of the state body that exercises state power, but stipulated that all power belongs to the state itself which is the sovereign within its borders. The originality of Thomas Hobbes ideas is manifested in the creation of the concept of the state as an almighty body independent of the will of the people in which the supreme and unlimited power belongs to the prince. So, we should note the beginning of the "war" for power between the personal government and democratically one, between the popular and the national sovereignty, supported by John Locke and Jean-Jacques Rousseau and the royal one developed by Hobbes. In this "war", as a result of the Great French Revolution won the concept of popular / national sovereignty depending on the constitutional system adopted by the state and the representative or imperative mandate of the deputies, which signified the triumph of human rights and fundamental freedoms. So, the formation of the classical theories of sovereignty ended with the formation of all-encompassing theories of popular and national sovereignty, which represent the base of contemporary constitutionalism.

Actually, appear the new aspects of the concept of sovereignty. This no longer represents the unconditional and unlimited power of state power over a territory and citizens of this state. Now, the exercise of the state's sovereignty is linked with the state's obligation to guarantee and to respect the human rights and fundamental freedoms. The UN may authorize the military forces of the state or coalition of states to enter the territory of another state if its leadership undertakes acts of genocide, war crimes, crimes against humanity and threatens the

peace and security of humanity. So, the people's well-being and the respect of human's rights become more important than compliance with the state's sovereignty and the power of the state over the territory and its citizens. Despite the violation of sovereignty by humanitarian intervention, its implementation is legal if the UN Security Council authorizes it in accordance with the provisions of the UN Charter.

In the XXI century the specific of the state's sovereignty is manifested by the cession of the state's competence to community bodies within international organizations, for example, the EU. So, this leads to the emergence of the concept of strategic sovereignty that is held by the EU, but it is not exercised by member-states of this organization.

Beginning from those exposed above, we could conclude that from ancient times to the present, the concept of sovereignty has been and remains one of the most polemized theories which mirror the entire structure of the state's organization. At present, in political philosophy is presented a tendency towards the revaluation of sovereignty, which is adapted to the conditions of contemporary reality.

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