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# UNIVERSITY OF ECONOMICS, PRAGUE
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## The transformation of the concept of the Westphalian sovereignty within the EU Common Foreign and Security Policy

(Master's Thesis)

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**Title of the Master Thesis**

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**Abstract**

The work overviews the formation process of the European integration after the end of the Cold war and also the evolution of the notion of 'the Westphalian sovereignty' in the framework of the maintenance of the EU CFSP. It is assumed that under the conditions of a political transformation of the category 'the Westphalian sovereignty' in the framework of the EU CFSP it is intensified and requires again as a special political and practical attention, as scientific elaboration in order to figure out the perspectives of the development of the EU as the whole. As the object of this work the category of 'the Westphalia sovereignty' and its evolution in the framework of the European integration processes are taken. The subject of the work is connected with the analysis of the phenomenon of the Westphalian sovereignty in the frames of building of common European defense and security policy of the EU. The main purpose of the work is closely entwined with the identification of significant peculiarities of the ongoing transformation of the CFSP and their influence on the category of 'the Westphalian sovereignty'.

**Key Words**

Westphalian sovereignty, EU Common Foreign and Security Policy, nation-state

**Název diplomové práce**

Proměna pojetí Vestfálského suverenity v rámci Společné Zahraniční a Bezpečnostní Politiky Evropské Unie

**Abstrakt**

Pracovní přehledy procesu tvorby evropské integrace po skončení studené války a také vývoj pojmu 'Vestfálského suverenity' v rámci údržby SZBP EU. Předpokládá se, že v podmínkách politické transformace v kategorii 'Vestfálského suverenity' v rámci SZBP EU je zesílený a vyžaduje znovu jako zvláštní politické a praktické pozornosti, jako vědecká zpracování, aby bylo možné zjistit, perspektivy rozvoje EU jako celku. Jako předmět této práce jsou převzaty kategorie "svrchovanosti Vestfálsko" a jeho vývoj v rámci evropských integračních procesů.Předmětem díla je spojena s analýzou fenoménu vestfálského suverenity v rámečků budování společné evropské obranné a bezpečnostní politiky EU. Hlavním cílem práce je úzce propojená s identifikaci významných zvláštností probíhající transformace SZBP a jejich vliv na kategorii 'Vestfálského suverenity'.

**Klíčová slova**

Vestfálská suverenita, Společná zahraniční a bezpečnostní politika Evropské unie, národní stát

# LIST OF ABBREVIATIONS

CFSP – Common Foreign and Security Policy
CSDP - Common Security and Defense Policy
EC - European Community, an alternate name for the European Economic Community (EEC)
EEAS/EAS - European External Action Service/ European Action Service
ESDP - European Security and Defense Policy (the former name of the EU CSDP)
EU – European Union
EULEX - The European Union Rule of Law Mission in Kosovo
EUPM - European Union Police Mission in Bosnia and Herzegovina
IGO - Intergovernmental Organization
IMF – International Monetary Fund
IR – International Relations
NATO - North Atlantic Treaty Organization
NGO - Non Governmental Organization
NOC - National Oil Corporation, the national oil company of Libya
UK – United Kingdom of Great Britain and Northern Ireland
UNMIK - United Nations Interim Administration Mission in Kosovo
UN SC - United Nations Security Council
USA – United States of America
WTO - World Trade Organization
WWII - Second World War

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**INTRODUCTION**

Nowadays globalization is regarded as a defining tendency of modernity and it contributes to the convergence of nations, people and states. This phenomenon leads to the strengthening of integration processes and the creation of the system of financial and economic, social and political, cultural ties on the basis of the newest telecommunication means and informational technologies. But in spite of a significant positive potential of the formation of institutional grounds of a steady development of humanity, today's globalization is seen more often as a challenge to modernity that, first of all, poses threat to the reconstruction of institutional basics of political and legal systems.

A radical reestablishment of the system of the world order that occurred after the WWII let to the intensification of the maintenance of the supranational elements in the framework of the European Communities (since 1993 the European Union (EU). So, the idea of the creation of the United States of Europe that emerged very often in different forms during the whole history of the continent is evaluated as threat to such categorically indivisible element of a state as sovereignty.

A traditional European concept of sovereignty is a unitarian principle that means that sovereignty is indivisible. In this connection, it is obvious that the EU of the beginning of the third millennium conceptually does not fit into the Westphalian political and territorial sovereign 'ideal'. The reconstruction of a traditional system of the international relations (IR) and the transformation of the role of its dominant elements, nation-states, expresses a political aspect of globalization. A traditional understanding of the role of a state and its main attribute – the state sovereignty is being changed. Under such conditions we can mention a sharp increase of the interest to the problem of the transformation (crisis, devaluation) of the state sovereignty in the modern political science.

Therefore, the category of the 'Westphalian sovereignty' (the Eurocentric entity of the measurement of independence of the IR actors, whose formation was due to a progressive Westphalian Peace Treaty 1648), is needed to be re-overviewed theoretically especially taking into consideration an active building of such structure as the EU Common Foreign and Security Policy (CFSP).

So, with no doubt it can be mentioned that the relevance of the topic of this work is determined by new historical conditions of the existence of sovereign states and the expediency of a theoretical rethinking of the concept of 'the Westphalian sovereignty' in the context of the analysis of political and legal nature of the EU CFSP as an institution. The

ratification of the Lisbon Treaty intensified the activity of the EU in the security and defense sphere through the establishment of the office of the High Representative of the EU for Foreign Affairs and Security Policy. It allows to speak about a final purpose of all EU member-states and the problem of the Westphalian sovereignty in the system of the conversions.

Under the conditions of the fall of bipolar system of the IR, a new geopolitical balance of power created the pre-conditions when the EU has become a significant power center. In order to create the CFSP as the basis for the international united representation, the member-states focused on the choice of approach combining very often the intestate and supranational dimensions that gave opportunity to some scientists to speak about the phenomenon of shared sovereignty and the erosion of the Westphalian concept of this category.

This work overviews the formation process of the European integration after the end of the Cold war and the evolution of the notion of 'the Westphalian sovereignty' in the framework of the maintenance of the EU CFSP. The hypothesis of the work is the assumption that a political transformation of the category 'the Westphalian sovereignty' in the framework of the EU CFSP requires as a special political and practical attention, as a scientific elaboration in order to figure out the perspectives of the development of the EU as the whole. The object of this work is the category of 'the Westphalian sovereignty' and its evolution in the framework of the European integration processes. The subject of the work is connected with the analysis of the phenomenon of the Westphalian sovereignty in the frames of building common European defense and security policy of the EU.

The main purpose of the work is closely entwined with the identification of significant peculiarities of the ongoing transformation of the CFSP and their influence on the category of 'the Westphalian sovereignty'. It is highly necessary to solve such tasks as: to define the concept of 'the Westphalian sovereignty'; to analyze the Kantian approach to the phenomenon of 'the Westphalian sovereignty'; to overview the realism and neo-realism theories of the IR and their definition of the Westphalian sovereignty; to give a brief overview of the constructivist's understanding of sovereignty; to figure out the main theoretical approaches of classic IR theories of the European integration (federalism, neo-functionalism, interstate approach) to the Westphalian notion of sovereignty; to give the definition of the CFSP of the EU; to overview the transformation of contractual basic of the EU CFSP; to figure out the main conceptual approaches of the French-German block and also to analyze the British vision of the transformation of the Westphalian sovereignty in the framework of the following maintenance of the CFSP.

Chronological frames of this work cover the period from 1993 till 2012. The lower limit is closely entwined with the ratification of the Maastricht Treaty in 1993 that established the European Union officially and expressed common willing of the member-states of the Union to building of common foreign policy. The upper limit is determined by the crisis in Libya (the case study) that became the first practical challenge for the EU CFSP after the ratification of the Lisbon Treaty that introduced the post of the High Representative of the Union for Foreign Affair and Security Policy.

As for the methods used in the work it should be pointed out that a comparative-historical method was applied. This method implies that the object is analyzed in the process of a staged development. So, the use of the principle of historisism allows us to trace the dynamics of the development of the idea of the united Europe in the framework of defense policy. Moreover, the methodology of dialectical materialism was used including the principles of dialectic understanding of the public processes, in particular the principle of objectiveness, the description and analysis of concrete situations, ideas, theories, their collation, explanation, critics and finally the synthesis of knowledge into a theory or hypothesis of development.

The tasks solving in the work required a complex use of as general scientific methods of analysis and synthesis, induction and deduction, the system approach, as special methods used in history, political science, geopolitics and other adjacent disciplines. This is determined by the interdisciplinary character of the research where the international issues are seen in their historical development. Among the methods of historical science used in this work the following methods should be mentioned: chronological method on the basis of which the resources are analyzed; comparative-historical method used in the evaluation of the category of sovereignty in different descriptive theories and trough the prism of the international legal order; benchmarking as the main method of the analysis of the documents and materials.

The category of the Westphalian sovereignty is shown in the work by two main IR schools – realism and liberalism as well as by the most recent researches relating to sovereignty – the neo-functionalism, federalism and intergovernmentalism.

An empirical basis for the research is:

a) The treaties of the EU, such as founding treaties of the organization those analysis allows to figure out as the agreement transformation of common foreign policy, the model of interaction of the EU institutional actors in the process of the decision-making, as common declarations of the member-states that express official position of the countries regarding a certain issue.

b) Official documents of leading member-states of the EU: the French Republic, the Federative Republic of Germany and the United Kingdom which show the level of preparedness of them to act in accordance with the logic of the CFSP withdrawing from their national sovereignty.

c) The works of the research centers that reflect the positions of the theorists on the issue of the Westphalian sovereignty under the condition of the building the EU supranational structures.

d) The main international treaties which established the principles of the Westphalian system of the IR including the regional agreements signed at the end of the Thirty Years War and also the documents that characterize the following political and legal set up of the Westphalian sovereignty.

e) The statements and speeches of the German, British and French politicians relating to the EU.

The research literature on the issues of the Westphalian sovereignty, its approaches and also the correlation of the elements and structure of the CFSP are huge according to its volume and diverse at its content. Sovereignty as the category and a fundamental issue of a legal and political practice has always drawn attention of the researches. That is why there are a multitude of the works on the questions of sovereignty, its essence and content written by Jean Bodin, Hans Morgenthau, Hedley Bull, Ernst Haas, Stephan Krasner, Kenneth Waltz. The publications in the magazines, such as Current Concerns, Globalization, EUROPEUM, Journal of European Public Policy, Political Studies were used in this work.

The CFSP has become one of the main issues discussed by the scientists all over the world. But the majority of these experts is descriptive relating to the subject of study or has the character of empirical researches of concrete foreign policy actions of the EU. The explanation to such situation can be found in the fact that the CFSP is a political phenomenon by itself: in case that partial coordination of the foreign policy took place in the framework of the European political collaboration in 1970-80's, integration that covers the security and defense policy became a real challenge not only for the actors of the world politics and the European countries but also for science as the whole.

So, taking everything into consideration it can be concluded that this work covers the analysis of the formation process and institutionalizing of military and political elements of the EU integration as well as the detection of the place of the Wesphalian category of sovereignty in this process in connection with the fact that during the last 20 years analytical frames for applied research of the CFSP have not been elaborated. This approach to

sovereignty allows to regard it as a political and legal category but not just as a legal or political separately.

# 1 THE THEORETICAL UNDERSTANDING OF THE CATEGORY "WESTPHALIAN SOVEREIGNTY"

## 1.1 Descriptive theory of the Westphalian sovereignty in the works traditionalists and post-positivists in the system of international relations

In the framework of a dualistic approach sovereignty can be defined as political and legal property of a state that expresses its supremacy in domestic affairs, self-sufficiency and independence in foreign relations. But these features have not always been an unalienable affinity of a state. "Casual notions of the Middle age monarchs on sovereignty boiled down to the task of overthrowing of the Pope's power"[1]. The Münster and Osnabrück agreements 1648 did not set up this legal quality of a state officially on paper but "…sovereignty, the supreme power over a certain territory became a political fact…"[2] The Westphalian/Vattelian concept of sovereignty established for the first time that a rule is the basis of the external recognition of sovereignty, "…based on the elimination of interference of the external sources of power as de jure, as de facto"[3] Historical meaning of this system implied that it was the first state-centric model of the world: sovereignty (the supreme power over a certain territory) became the attribute of a state but not of a monarch. According to Ole Holsti "this quality created the basis for the following political division in Europe"[4].

The Westphalian sovereignty is an absolute sovereignty of a nation-state. This principle of course is not immutable as the deviations from generally accepted tendencies occur on the basis of asymmetry of power, different interests and the absence of a final arbiter of the international relations (IR). As the basis of the analysis of the category of the Westphalian sovereignty the so-called "classical approaches"[5] are taken, they reflect the peculiarities and different interpretations of this concept best of all. The Kantian and Hobbsean traditions are regarded as "theoretic approaches which flow out from philosophy, history and law and proceeded from, first of all, faith for the use of common sense"[6]. Of course, the Great debate in the international relations between political realism and political

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[1] Jackson, R. (2007), Sovereignty, Policy Press, P.11.
[2] Morgenthau, H. J. (1948), 'The Problem of Sovereignty Reconsidered', Columbia Law Review, Vol. 48, No. 3, pp.341-365.
[3] Krasner, S. D. (2001), 'Sovereignty, Foreign Policy', No. 122, pp.20-29.
[4] Osiander A. (2001), Sovereignty, International Relations and the Westphalian Myth, the IO Foundation and the Massachusetts Institute of Technology, P.261.
[5] Bull, Hedley and Klaus Knorr and James N. Rosenau (eds.) (1969), International Theory: The Case for a Classical Approach, Contending Approaches to International Politics: Princeton, P.21.
[6] Bull, H. (1969), International Theory: Princeton, P.37.

idealism focused on, first of all, such notions as the national interest, power and the balance of power, legal institutions and norms of moral behavior but it does not mean that the representatives of different approaches did not touch the category of sovereignty. Basing on the Westphalian system of the IR and proceeding from it the principle of sovereign equality of states, these theories worked out a different understanding of this concept.

First the term "sovereignty" was set up in the theory of Jean Bodin and later on of Thomas Hobbes that pointed put that power should not belong just to one source that is free from external and internal compulsion. The theory is aimed at demonstrating necessity of power to belong to a state and was called as "the doctrine of the state sovereignty"[7]. Bodin claimed that sovereignty is an absolute and constant power of a state. Later it was developed into the doctrine of legal sovereignty proposed by J. Austin who argued that all laws are considered as the attributes of a sovereign who does not submit to any authority except society.

Realists or the Hobbesian tradition in the IR theory defined the Westphalian sovereignty as the complex of the state interests and also freedom in their implementation by the means of control over the apparatus of decision-making and decision-taking. It became the source of the decentralization of the international law as the consequence of the absence of hierarchy in the Westphalian system that imposes liability for domestic and external affairs.

So, the Hobbesian theory of the IR defined "the national sovereignty as a source of decentralization of the international law, its weakness and ineffectiveness". The supporters of this approach took the idea of Hobbs that the relations between the sovereign states are defined by natural conditions in which chaos is a rule and an order is an exception. According to point of view the interactions between the sovereign states are antithetic and mutual relations are seen as zero-sum game. In this respect "the world is not more that the period of recovery before the next war"[8]. In this situation there is no chaos and no anarchy.

The popularity of the realistic theory is connected with, firstly, the fall of the League of Nations and the out-break of the WWII and later on the Cold war that let to a deep crisis of the idealistic approach to the analysis of the IR showing the illusion of the efforts to build a new international order based on the supremacy of universal values and common interests of states, legal solution of conflicts and the creation of the system of collective security.

The realists consider that this system make the states recognize sovereignty as the means of survival. "The states are sovereign because there is no hierarchy in the system of the

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[7] Newman, M. (1997), Democracy, Sovereignty and the European Union, Hurst & Co, pp.5-6.
[8] Bull, H. (1969), International Theory: Princeton, P.27.

IR"[9] and this hierarchy could "implement certain circumstances or protect"[10]. Sovereignty let to the fact that the states "have decided by their own how to combat the external and internal issues"[11]. For the realists sovereignty implies that the states are responsible for what happens as in their territories, as in the framework of the international system that is defined by the term of anarchy".

Thomson proposes a traditional realistic definition of sovereignty as "the ability of a state to exercise its power relations in the last resort, to have right to declare war." In accordance with the internal law, formal legal quality of states can not deny the fact that they are differentiated by its territory, population, natural resources, economic potential, social stability, political authority, armament and finally by its age. These differences are summarized in actual inequality of states. The most important is that in all aspects of the international order the main mean of its support on different stages of historic development of the IR was power and, first of all, military power.

Neo-realists in the framework of the system approach add the definition of sovereignty putting stress on the interactions of states that determines their dependence on each other and limits sufficiency. But for neo-realists the states are just the elements of the system which sovereignty implies an obvious quality. For neo-realists the principle of sovereignty lays in the basis of the IR. They base their main positions on the idea about the international system that developed step by step after making the Westphalian peace in Europe in 1648. They apply to the works of Bodin, Machiavelli, Hobbes, Wolf and so on. Russo saw a state as a living organism pointing out that sovereignty is "the heart of a state" and its death can be caused by the death of sovereignty. Therefore, there is no necessity for an organism to put limits by its own will.

At the same time the neo-realists tent to see sovereignty as taken for granted neglecting a historical character of this concept. Neo-realists defined sovereignty as "self-sufficiency, the main system-building elements of the world politics in the interactions with each other"[12]. For Waltz sovereignty means that a state "determines itself how it will solve the external and internal issues including also whether it will seek for help by the others [states]

[9] Biersteker, T., Weber C. (1996), State Sovereignty as Social Construct, Cambridge University Press, P.143.
[10] Grieco, J. (1998), 'Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism', International Organization, 42 (3), pp.485-507.
[11] Waltz, K. (1979), Theory of International Politics, Addison-Wesley, P.107.
[12] Ibid. P.87.

and limit its freedom through taking circumstances. "The states formulate their strategy, their course and the rest that their activity is aimed at"[13].

The idea of the sovereign state is a key aspect for structural theory of Waltz. It is highly important to mention that the notion "sovereignty" does not imply full freedom in actions meaning that "sovereignty" and "dependence" are not opposite by the meaning. Sovereignty is the principle, in accordance with it a state acts as a separate element of the international system. Dependence shows to what extend other actors of the IR influence the decision-making of this state.

Later on the neo-realists tried to combine all rest elements of sovereignty – population, territory, power and the external recognition into the whole common actor – a sovereign state. Kenneth Waltz wrote: "A State is sovereign and it means that it decides itself how it will cope with external and internal issues". Actually, it means that the states are sovereign because there is no more "supreme" international power that they should submit to, so the states stay in the center and define the definition of sovereignty. Neo-realists do not research sovereignty in connection with the state theory. It can be explained by the fact that their attention is drawn by the system theory that covers the international politics as the whole and the states are just the elements of the system which are taken independently from domestic peculiarities and their sovereignty is taken for granted. For neo-realists the principle of sovereignty lays in the basis of the IR. The representatives of this theory in comparison with other paradigms traditionally do not tend to doubt concerning the preservation of a system-building role of sovereignty.

The Kantian tradition of the IR, on the contrary, does nor overview sovereignty as an integral part of a state pointing out that universal direction of the IR actors to cooperation will lead gradually to a complete lose of this element. They do not present a thought-out theory of the state sovereignty stressing on the creation of the system of collective security. However, liberal theories can answer many questions connected with the CFSP: why do not the member-states hasten with the fulfillment of taken obligations ("theory of public goods")[14], why is economic integration more successful than military and political ("theory of interdependence")[15], why does the EU present itself as "soft power in the world politics and develop mostly non-military instruments of reacting to the security challenges"[16].

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[13] Ibid.

[14] Hill, C. (1996), The Actors in Europe's Foreign Policy, London: Routledge, P.3.

[15] Olson, M., Zeckhauser, R. (1996), 'An Economic Theory of Alliances', The Review of Economics and Statistics, Vol. 48/3, P.2.

[16] Nye, J. (2004), Soft Power: The Means To Success in World Politics, New York: Public Affairs Press, P.5.

The followers of the Kantian theory of the IR are sure that the international society of democratic states is able to settle down all emerging conflicts between its members with support and pressure from the side of public opinion by peaceful means, by the means of legal regulation, the increase of the number and role of the international organizations which contribute to the expansion of mutually beneficial cooperation and exchange. One of the most foreground topics of an idealistic approach is the creation of the system of collective security on the basis of voluntary disarmament and mutual renunciation of war as the instrument of the international politics.

The representatives of an idealistic approach point out that the states are not only the sole but also not the most important international actors. A wide understanding of an actor and optimistic evaluation of the international cooperation predetermine a positive attitude of the liberals to the European Union and its institutions and let the researches base their ideas on this theory. The liberals have not overviewed the questions of security and defense by explaining the European integration as the result of the post-war democratization[17], economic recovery[18], globalization[19] and "the mean of overcoming anarchy"[20]. Moreover, they are criticized very often as they are not able to represent an overall theoretic revaluation of the concept of sovereignty.

Nowadays the positivist paradigm is regarded as an alternative to neorealist and neoliberal understanding of sovereignty. Post-positivism or a critical school of the IR theory is a generic name for such theories, as post-structuralism, feminism, postmodernism, neo-marxism, social constructivism. Justifying its own name (critical school) post-positivism impugn evidence of traditional concepts including sovereignty.

Under the condition of globalization the notion of sovereignty loses any meaning as its carrier (a state) is disappearing itself. A state transfers its competencies slowly to the level of the subnational formations (federal subjects, regions, provinces), transnational institutions and individuals which are not controlled by a state. A state is deprived of the traditional concept of sustainability of the national spatial boundaries. Moreover, the post-positivists see sovereignty not only as a disappearing phenomenon but also a harmful element of modernity. Such statement is explained by an idea that a state puts the majority of important issues into the security sphere and by doing so, it creates quasi-legitimate basis for combating any

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[17] Olson, M. (1982), The Rise and Decline of Nations, P. 32.
[18] Milward, A. (1992), The European Rescue of the Nation-State, P.17.
[19] Weiss, L. (1999), Globalization and National Governance: Antinomy or Interdependence? P.62.
[20] Martin, L. (1993), Coercive Cooperation: Explaining Multilateral Economic Sanctions. P.113.

opposition. We would like to overview the main positions of one of the most interesting theories of a critical school of the IR – constructivism on the concept of sovereignty.

Many constructivists put emphasis on the decrease of a territorial factor and sovereign statehood. For example, Alexander Wendt stresses that sovereignty is based on a fixed complex of rules which reflect concrete expectations and understanding between subjects. The constructivists claim that the main IR problems are not determined by interests, power of states but on the contrary by norms and principles which political leaders follow to. That is why sovereignty depends on culture in general. Negative consequences of the absence of supreme power over states can be overcome with the help of the international regimes, law, norms, economic interdependence and so on.

For constructivists sovereignty is not objectively existing reality that spreads its influence in the world step by step. They see sovereignty as a norm that spreads only due to a certain type of the international system contributes to it. The spread of the state sovereignty is not of the same time as it can be expressed in different forms. The constructivists argue that a state can no longer be regarded as not only sole but a dominant actor of the IR also. Strengthening of interdependency and the processes of globalization lead to the emergence of fundamental tendencies in the world politics. The activity of actors in different ethnic, religious, cultural and professional groups are autonomizing. Under such conditions the state sovereignty is undermined by 'splitting' of the loyalty of individuals between three spheres – state, transnational and socio-cultural network. Very often a state contributes actively to the disruption of the main principles of the basis of its legitimacy – sovereignty, territoriality, political representation by making concessions in relation to a group identity.

The theories based on the ideas of political realism and geopolitical theories of the IR tend to neglect influence of the principles of functioning of the sovereign power on the formation of the international system that becomes more interdependent. In this connection many experts overview globalization as an overcoming nation-state tendency.

The realists and the Hobbesian tradition of the IR theory define the national sovereignty as the complex of the state interests and the freedom of their implementation through control over the apparatus of the decision-making. The neo-realists went further by claiming in the framework of the system theory the creation of interdependence in the implementation of the state sovereignty that flows out from the process of cooperation (war or peace) of the main actors of the IR. However, strategic collaboration of the states, especially in the sphere of defense has always been a challenge for the realists who had to find the explanations for it. And one of the most primordial issues was the European integration. The

idealists, on the contrary, have not paid much attention to the concept of sovereignty because they regard the international cooperation as the most essential direction of the activity of the states.

**1.2 The theoretical aspects of the evolution of the Westphalian sovereignty in the framework of the integration theories (neo-functionalism, federalism, intergovernmentalism)**

In the framework of transformation and development of the EU a few of the theories of the European integration dominate and they represent the notion of sovereignty in the framework of functioning of the second pillar differently. As it has already been discussed in the previous chapter, a classical understanding of the concept of the Westphalian sovereignty is an absolute sovereignty of a nation-state. This principle, of course, is not immutable as the deviations from the generally accepted tendencies occur on the basis of asymmetry of power, different interests and the absence of a final arbiter of the IR. "The Westphalian concept of sovereignty should be supported by self-enforcing equilibrium"[21]. The competition between the states is the main driving force of the Westphalian system of the IR was. It means that the driving actors should recognize that alternative international system coincides with their national interests. The EU member-states used their international legal sovereignty, the right to sign the international agreements and create the supranational institutions, so they unified parts of sovereignty which constitute the Westphalian concept and by doing so they reflected the concept of pooled, "shared sovereignty"[22] partially by their actions.

In 1995 David Held firstly formulated the problem of divided or limited sovereignty: "The administration of states in the conditions of serious complication of the international system…is connected with the division of their sovereignty between a multitude of national, regional and international organizations and with its limitation that is determined by nature of this multitude itself"[23]. Significant part of the theory of "the limits of the state sovereignty" has its roots in the geopolitics. In the work "America's Strategy in the World Politics" and "The Geography of the Peace" one of the first American geopolitics Spykman points out 10 criteria on the basis of which it should be defined the geopolitical powerfulness of a state. They are: the territory of a state, the nature of borders, population, fossil fuels, economic and technical development, financial power, ethnic homogeneity, the level of social integration, political stability, the national spirit. According to Spykman, if a state is evaluated lowly by these criteria, it should join common union and lost the part of its sovereignty in favor of the

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[21] Krasner, S. (2004), 'The Hole in the whole: sovereignty, shared sovereignty, and international law', Michigan Journal of International Law, Vol. 25, P.11.

[22] Newman, M. (1997), Democracy, Sovereignty and the European Union, Hurst & Co, P.5.

[23] Held, D. (1995), Democracy and the Global Order: From the Modern State to Cosmopolitan Governance. Stanford, P.83.

world geopolitical order. In this case a state has to give up from one of the main criteria of sovereignty – autonomy.

After the end of the Cold war many experts tended to believe that the Westphalian system of the IR came to its end that gave impetus to a vast array of the theories of the European integration. According to Spinelli, "the nation-states lost their natural rights from the moment when they could not guarantee political and economic security of their citizens"[24] that defines a federation positively as the variant for safe unification.

Federalism is seen as "an intellectual reaction" to two world wars waged by the European countries in the first part of the XX century. As the main problem of the IR and the main reason for conflicts the federalists consider the decentralization of sovereignty that inevitably leads to distrust, mutual threats, competition and violence. In accordance with this theory an absolute sovereignty of the nation-states let to the efforts to achieve the domination of ones over the others because each of them is threatened by powerfulness of another one that leads to constant fight. "The only way out from this situation is a federation"[25]. Moreover, by achieving the aim to create "the union without the strength to unification" the federative system protects the system from overtake of power by a political group.

In the center of the federalism theory are political institutions which act as a starting point for the development of integration. The European federalism as ideology has not had a certain scientific school and this concept is aimed mostly at becoming a concrete project with its own purposes. Federalism implies the transference of a part of sovereignty to a central level. So, according to federalism the statement on the divisibility of sovereignty is understood as the concept of the state system that is characterized by the constitutional formation where power is divided between several levels of administration. "Self-restraint of sovereignty by integration" has not inspired many people on practice because in the framework of the functional approach Europe took step by step as for the basis the amalgamation of the elements of constitutional (a federation should be created by a united constitutional act) and sociological ( a federation should gain public support) approaches.

Functionalism also is based on the notion that a state serves as the mechanism of the satisfaction of people's needs and public prosperity. And progressive methods of the European integration are based on the emergence and interactions of technocratic bodies ad

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[24] Rosamond, B. (1990), Theories of European Integration, P.23.
[25] Newman, M. (1997), Democracy, Sovereignty and the European Union, Hurst & Co. Ltd, P.15.

hoc that leads to the establishment of the international agencies.[26] Functionalism sees the international cooperation as a way to the achievement of a political purpose – the integration of states into deeper community through gradual extinction of their sovereignty. Such approach contributed to the dominance of this concept. The main task of the European integration, according to neo-functionalism, is "the creation of the supreme body of administration without distracting baggage of the national interests with the opportunity to function as the sponsor of the future integration".[27] Like in a pluralistic theory for the neo-functionalists a state is proved by competing needs of different groups. Therefore, the extinction of sovereignty and at the same time deepening of integration could not occur if it is not advantageous because the states would not refuse from even a part of sovereignty in favor of unprofitable affair. E. Haas set out the notion of "shifting loyalties"[28]. It is said that integration should be started by the foreign economic activity of a state that inevitably will lead to gradual transference of political power of sovereignty to a supranational level. The most important factor is to maintain solidarity de facto[29] through spill-over. "Actually, the restriction of sovereignty to zero is possible only through spill-over with its pronounced expansive logic"[30].

According to Monnet, supranational institutions can consolidate ideas and make them go into effect, in the sphere of "real politics"[31] and by doing so the institutions can contribute to real and long-term changes. The work of Haas overviews supranational politics as "an external side of modern processes, as the stage before achieving the statehood"[32]. That is why the neo-functionalists assume that the international community can gain the features of domestic political systems. Add to that, the institutions of a regional level will need to have a direct access to social groups through specially created mechanisms.

According to D. Mitrani, the League of Nations failed because the states saw threat to their sovereignty. He proposed to contribute to cooperation between the states at problem-

[26] Kurt, Ü. (2009), Historical Outlook to the EU from the Functionalist Perspective: Europe of Monnet, Schumann and Mitrany, Boğaziçi University in Political Science and International Relations, P.5.

[27] Rosamond, B. (1990), Theories of European Integration. L., P.51.

[28] Risse, T. (2004), 'Neo-Functionalism, European Identity, and the Puzzles of European Integration, The Disparity of European Integration. Revisiting Neofunctionalism in Honour of Ernst B. Haas', Special Issue of the Journal of European Public Policy, 23.11, P.2.

[29] Rosamond, B. (1990), Theories of European Integration. L., P.53.

[30] Stemplowski, R. (2006), Indivisible Sovereignty and the European Union, Eaton D. (ed.) The End of Sovereigny? Transatlantic Perspective, Lit Verlag Hamburg, P.238.

[31] Rosamond, B. (1990), Theories of European Integration. L., P.53.

[32] Haas, E. (1964), Beyond the Nation-State. Functionalism and International Organization. Stanford, Calif.: Stanford University Press, P.71.

solving that was in the sphere of common interest and connected with their concrete economic, social and scientific-technical needs. Pragmatic benefits form such collaboration should give impetus to the states which would create the preconditions for political cooperation.

Beginning from the 1960's the state-centric point of view on the processes of the international cooperation has become the main opponent of the neo-functionalism. Straight-line "theoretical" argumentation in favor of the creation of a federative superstate also gave place to more objective theories of the international cooperation that reflected the first practical steps of integration. S. Hoffmann pointed out that the national interests are the interlacement of ideas and ideals, precedents and experience, personal and group interests. He claimed that the international system that presents the complex of sovereign states and is based on the principle of the national self-determination creates more conditions for the differences between the states but not their consolidation. At the level of "low" politics the states are ready for integration but the level of "high" politics requires some concessions of the part of the national sovereignty where the states are not aimed at compromising their authority.

The interstate approach overviews a state as a key center of the decision-making process that acts on the basis of the national interests. According to the statement that security and defense are the most essential national interests of a state, the supporters of this approach make a conclusion that an effective national politics in the foreign policy sphere is practically impossible. However, there are many other points of view on the possibility of the elaboration of the foreign and defense policy at the supranational level on the basis of common identity.

The theorists of this approach see integration as the intergovernmental regime defined by the interaction of interests at the international and national levels which influence the decisions taken by the governments on the delegation of authority to the supranational level. As the decisions on the CFSP remain at the intergovernmental level and the agenda is not relevant into domestic policy debates, the use of the theory as an analytical framework is doubtful. However, it can help to explain the positions of the governments in the negotiations on the CFSP and also success and failures of integration through these positions.

So, in the terms of federalism the Westphalian sovereignty is regarded as a divisible category and the part of it is delegated to the federal (supranational) level with a view to the achievement of the purpose of building of a federal state. However, federalism is not only analytical but more normative, close to political philosophy theory: it explains why the states

should make military-political alliance, but it does not explain why they agree voluntarily to limit their sovereignty in this sphere.

Neo-functionalism is considered as an empirical-analytical theory and does not purport to establish global causative ties focusing on the explanation of the logics of integration. The direction determines the transformation of the national sovereignty as gradually moribund category in the process of the creation of the supreme body through "spill-over". However, automatic spill-over of one of the areas for cooperation into another one is not seen as possible under the condition if it is not beneficial to all participants. The states would not refuse from sovereignty and even of a part of it in favor of an unbeneficial deal on their point of view. So, "a common idea, purpose, interest which are connected with their concrete economic, social, science and technical needs are needed"[33].

The intergovernmentalists totally disagree with these approaches. The supporters of the state-centric position on the processes of the international cooperation support fully the idea that the concept of the Westphalian sovereignty is immutable. Liberal intergovernmental approach as the theory of the delegation of the state competences focuses not on an absolute 'split-into' and the blurring of the national sovereignty in favor of the supranational structures of the EU but on a partial delegation of the part of competences and obligations to a new political level that does not have any world analogies.

So, taking everything into account it can be concluded that none from above mentioned theories is able to explain completely the phenomenon of the CFSP. Moreover, the majority of them do not explain not the CFSP but its absence that is why any researches based on just one of these theories will be inevitably opposed by other theories or by the practice of the European integration itself. However, each of the theories could be used for the explanation of particular aspects of the CFSP and for partial understanding of its logics. Therefore, "the Wesphalian sovereignty" is a political and legal category that reflects the connection between the existing institutional political and legal conditions of an individual livelihood, the activity of society, a state and the national interests specified by the tendencies of social and economic, political and cultural life and by the logic of the development of the IR. Institutional and legal structure of the Westphalian sovereignty is forming in the context of the national and international legal order as the result of a political and legal process that occurs on global, regional and national levels.

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[33] Rethinking European Union foreign policy, Ben Tonra [et al],  Manchester University Press, P. 160.

**1.3 The criteria of the Westphalian and post-Westphalian sovereignty**

The problem of sovereignty has always been one of defining factors in political, economic, religious spheres and been regarded as an undisputable peculiarity of a nation-state being the subject of the world processes. Under no circumstances can be imagine now another system of organization of the relations in the world. During many centuries the Westphalian system of the IR has provided independence of the national formations between the states and been an official prove of the rights and duties of the heads of states in relation to their people and other states. In order to overview the transformation process of the Westphalian sovereignty in the framework of the EU CFSP it is highly pivotal to identify the main criteria of the Westphalian and post-Westphalian sovereignty. We can distinguish five most significant and indispensable criteria of the Westphalian sovereignty, such as territoriality, state-nation model, the rule of the international law, the principle of legal equality between states and non-intervention of one state in the internal affairs of another state.

Firstly, the sovereignty of the nation-states can be expressed through the control over a certain territory: "Land was the principal factor of production in the feudal world and its control yielded both economic and political power."[34] Territorial link of society to a concrete place was an essential factor not only in the sphere of economy but also in the relations between states. The protection of the territories became the main duty of a state as thereat to the territorial integrity was seen as the challenge to public order and state power with territorial determination of society. After the Westphalian peace a state got monopoly to decision-making in the frames of its own borders. At the international level it implied the principle of non-intervention into domestic affairs of other states. Even though by the XIX and especially the XX century industrialization became more primordial than land, still territorial aspect of authority preserved its significance.

Secondly, the world consists of sovereign nation-states implying that there is no unified supreme power and no principle of universalism or the hierarchy of governance. The concept of a nation-state is connected with the form of the self-determination and formation of a nation on a concrete territory and this form expresses itself the will of a nation. So, under such circumstances, a state can be regarded as the most important actor on the international arena and in the domestic affairs. However, nowadays there are a lot of critics of this criterion

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[34] Valaskakis, Kimon (2000)  Westphalia II: The Real Millennium Challengeю. Available at: http://www.paricenter.com/library/papers/valaskakis01.php

of the Westphalian sovereignty. It is said that the right of nations to self-determination counter the state sovereignty and territorial integrity as two basic principals of classical and modern international law.

Thirdly, the Westphalian system established the principle of the international law and the use of diplomacy in the IR, so the compliance of agreements became the most important element of this practice and the international law and regular diplomatic practice became the attribute of the relations between states. "International Law was a form of delegated authority which could be taken back by repealing the treaty which transferred that authority."[35] Add to that, the world is regulated by the international law that is understood as the law of treaties of sovereign states between each other. In this context, sovereign states are the subjects of the international law and they are the only internationally recognized subjects. As only sovereign states are the subjects of the international law, they are regarded as recognized actors in the world.

Fourthly, the main idea of the principle of the equality between states can be found, on the one hand, in the intention to protect independence and freedom of states trough fair proportional distribution of territory and citizens between them and, on the other hand, to oppose the strengthens of some states to gain the world's hegemony and their efforts to change the balance of power. It is the so-called compromise between the principle of sovereignty and the principle of common interest. In the functioning process such system forces each actor limit its expansionist strengthens in order to prevent the situation when such limitation would be imposed this actor by the others. Therefore, the notion of equality between states gained wider meaning and it implies any a) distribution of power, b) the politics of a state or group of states aimed at constraining the ambitions of another state through agreed opposition of the states which could be potential victims of such ambitions, c) the coalition of the great power when they get together to temper the ambitions of one of these great powers.

Finally, the principle of non-interference in the internal affairs of another country was set up in the end of the XVIII century by Emerich de Vattel and Christian Wolff as the continuation of ideas of the Westphalian sovereignty. A state which sovereignty is recognized by the others belongs to other sovereign states and gains a kind of immunity from interference. So, internal sovereignty remains untouchable. In the framework of this concept sovereignty is seen as universal value, autonomous moral principle. A state is sovereign only

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[35] Ibid.

on the ground of the fact that it is a state itself. From the perspective of the Westphalian sovereignty a state should minimize the limitation of sovereignty imposed by external environment. The strongest supporters of the Westphalian sovereignty are traditionally weak or decaying states which see in it the guarantee of non-interference into their internal affairs even if the domestic political processes raised disagreement of other states.

However, in no way should we forget that the principles of the Westphalian world which were based on the sovereignty of states and which considered the violation of the international borders by the international structures as aggression are becoming the thing of the past and are replaced by the so-called post-Westphalian criteria of sovereignty.

As for the first criterion of the Westphalian sovereignty – territoriality - nowadays we can observe the situation when the state borders are becoming more and more invisible and rather formal that is caused by growing interdependence of the countries. As the result, transparency of borders establishes the problem of identity in the modern world. It makes the states react actively to the events in other countries, especially to the conflicts. It leads to the transformation of another criterion of the Westphalian sovereignty – non-interference into domestic affairs. Any efforts to interfere into internal issues of a state make other states (even the states which are not the subject of force action) protect sovereignty and combat weakening of the role of state using all possible means (police and military measures). Along with the transparency of the state borders we can mention the growing significance of domestic political regions – administrative and territorial segments of a state. One of the brightest examples of such tendency can be found in today's role of the Euroregions and the concept of 'Europe of the Regions'.

Concerning a central position of a state as an actor it should be pointed out that the non-state actors are emerging as the new setters of the global order. The states are no longer the sole actors both on the international arena and in the domestic affairs as the non-state actors are able to put pressure and assume de facto governance functions that before was the prerogative of the states only. The IGO's such as the UN, IMF, World Bank, WTO, OECD European Commission etc. and the United Nations as well as the NGO's are directly related to the decrease in the dominance of the states and their governments which legitimacy is in question. Special Interest Groups which are aimed at lobbying and influencing the decision-making process that is considered as the state's competence are challenging an exclusive position of a nation-state in perspective of the Westphalian sovereignty.

Speaking about the supremacy of the international law we can conclude that this principle that gained boost from the formation of the Westphalian sovereignty has even

strengthened during the centuries. However, this transformation can pose a negative meaning to the state sovereignty: "Concepts such as human rights, environmental protection, ethnic self-determination, sustainable development are beginning to trump state sovereignty in the court of public opinion and are invoked to justify interventions in the affairs of sovereign states"[36].

So, taking all above mentioned criteria both of the Westphalian and post-Westphalian sovereignty into consideration we can conclude that the concept of sovereignty of the states has gone through significant transformations which were caused by the changes in the IR. This transformation process is closely entwined with the integration of the European countries that can be considered as experiment with sovereignty. Formally united Europe fulfills the criteria of a sovereign community with the only exception that the EU is not recognized as a state neither by the international community, nor by the Europeans themselves.

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[36] Valaskakis, Kimon (2000) Westphalia II: The Real Millennium Challengeю. Available at: http://www.paricenter.com/library/papers/valaskakis01.php

**2 CONCEPT OF THE EU COMMON FOREIGN AND SECURITY POLICY**

Nowadays it is officially proclaimed that the EU member-states are aimed at deepening and strengthening of integration in the field of the foreign affairs and security policy. However, many experts draw attention to the question of preserving/losing the state sovereign competences in favor of the supranational level in the security and external issues. Some of them point out that the members of the Union meet the core of *the criteria of the Westphalian sovereignty*. Firstly, the EU member-states continue to be the main carriers of sovereignty and preserve their role of the source of political legitimacy of the integration process. The participation of a state in this process should be seen as the implementation the competences of its sovereignty. The process of transgressing of the competences of the state power to the EU is characterized by special nature of a state. The decision of a state is the basis for this process. By that a state preserves its competences. It implies that the EU members still obtain sovereignty, so they can be regarded as the most important actors on the international arena.

Secondly, all member-states preserve and obtain certain historical territory that satisfies the criterion of territoriality. Thirdly, the Union is based on the principle of equality of the actors. Fourthly, as for the criterion of non-interference into domestic affairs it can be said that the members of the EU accept such situation that can be evaluated as interference. It can be argue that the member-states gain influence at the supranational level of the Union in return to admitting such interference. In such a way, involvement and active position of a member within the EU integration processes becomes one of the requirements of the preservation of sovereignty of this member-state.

Finally, the Westphalian sovereignty is impugned by some international agreements in general and regional treaties such as the treaties of the European Union. In the framework of these treaties certain competences of the state sovereignty are delegated to the supranational bodies or other subjects of the same state. As the example we can mention the Maastricht Treaty 1992 as the agreement of such 'supranational' nature of the European integration.

As the basis for analysis of the transformation of the Westphalian sovereignty and its criteria in particular the EU Common Foreign and Security Policy has been chosen. The most objective and logical way to trace the development of the EU integration in this sphere is to overview how the state sovereignty of the members has been transforming through the treaties of the EU in relation to the CFSP beginning from Maastricht and ending with the Lisbon treaties.

**2.1 The definition and evolution of the EU CFSP negotiated after the Cold War (1990's – 2000's)**

"Multilevel" European Union has always implied "multilevel" foreign policy with consequent weakness – plurality of the decision-making centers and the concurrence of the priorities and national interests of the member-states. As the result it was decided about the creation of common foreign policy that will imply a full integration and supranationalism, 'one voice' and automatic alignment of the positions concerning the IR. "The transformation of the terminology from the Community to the Union assumed the notion of unanimity, togetherness, commonality"[37].

In my opinion, thinking on the applicability (or inapplicability) of the concept of sovereignty in a very difficult and unique case as the EU could be efficient concerning the overview of the system of the international agreements on the establishment of the EU. The Maastricht Treaty put into use such notions as Common Foreign and Security Policy, "general interest"[38], "common positions"[39] according to which the member-states of the EU should coordinate their actions in the international organizations and at the international conferences and also carry out the national foreign policy. But the object of joint actions is defined by the Council of the EU consisted of 28 ministers from each state that reduces the decisions of the Union to the intergovernmental level through the qualitative majority voting. Herewith the decisions were taken in majority cases unanimously, so that any EU member-state could veto it. At the same time the responsibility for the intergovernmental decision-making in the defense sphere lays on the Western European Union that does not prejudice the interests of NATO member-countries. Politics of each country in particular should not contradict to the Union's politics as the whole. However, the CFSP does not have the right to cause damage to the foreign policy of particular countries and their commitments concerning the membership in NATO and other organizations.

With the introduction of the notion "the CFSP" the relations with the USA that by the way supported the European initiative remained at the same level that was specifically mentioned in the agreement: "The responsibility for decision-taking in the defense sphere lays on the Western European union that does not infringe the obligations of NATO member-

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[37] Newman, M. (1997), Democracy, Sovereignty and the European Union, C.: Hurst & Co. Ltd, P.4.
[38] Article J2. (1992), The Treaty establishing the European Community, Maastricht, Official Journal, 29 July. Available at: http://eur-lex.europa.eu/en/treaties/dat/11992M/htm/11992M.html
[39] Ibid.

states"[40]. It is obvious that the CFSP does not coincide with "the method of the Community"[41].

The spheres of the intergovernmental cooperation where the member-states preserve their sovereign rights fully imply that there could be no legal personality if there is no single sovereign right. Some decisions taken in the framework of "the second pillar" should be carried out by the organization that does not belong to the EU and is not connected with its basic treaties – the Western European Union that is based on operative and material opportunities of NATO.

The start to the formation of the CFSP as one of the most significant pillars of the EU was given by the Maastricht Treaty on the creation of the EU entered in force on 1 November 1993. The Treaty introduced such terms as the CFSP in accordance with which the EU member-states should have coordinated their actions in the international organizations, at the international conferences and also at the implementation of the national foreign policy. Even the principle of subsidiarity does not influence the condition of the state sovereignty of the EU member-states because it defines uniquely the national competences (the sovereign rights) as a rule and the competences of the Community as an exception.

The Maastricht Treaty gave a very pivotal new element for domestic structure of the EU. According to the Article 3b "In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community"[42]. As the basis of this principle the idea that the decision-making should be fulfilled at maximum possible low level it was taken. This approach allows solving the problem on the protection of the sovereign rights of the member-states relating to each concrete case. The use of the principle of subsidiarity makes the national and supranational boundaries more penetrable for the national political decisions, overcoming boundaries does from 'above' – from the side of the EU and from 'below' – from the side of the European regions.

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[40] Ibid. Article J2.

[41] Foreign policy aspects of the Lisbon treaty, HC 120-1, House of Common Foreign Affairs Committee, third report of session 2007-8. Available at: http://books.google.ru/books?id=VTPsntlnb28C&pg=PA21&dq=eu+foreign+policy&hl=ru&ei=UjvETfSENuP Q4wb_2cCYBQ&sa=X&oi=book_result&ct=result&resnum=8&ved=0CE4Q6AEwBzgU#v=onepage&q=eu%2 0foreign%20policy&f=false

[42] The Treaty establishing the European Community (1992), Maastricht, Official Journal, 29 July. Available at: http://eur-lex.europa.eu/en/treaties/dat/11992M/htm/11992M.html

"Signing the Amsterdam Treaty put the EU governments in front of new challenges, such as how to motivate the electorate to agree on the following division of domestic sovereignty"[43]. Unlike the Maastricht Treaty it was specified that the CFSP from that moment becomes the prerogative of the Union as the whole and its members should support the CFSP. A significant decision that contributed to the fact that the EU foreign policy gained a huge legal capacity and specialization by the establishment of a new office – the High Representative for the CFSP (Javier Solana since 18 October 1999) who should coordinate the implementation of agreed CFSP. The second decision was closely entwined with the establishment of a new defense structure of the EU – Political and Security Committee (PSC). The third decision was about the creation of EU rapid reaction forces that should participate in the process of the settlement of regional conflicts without NATO assistance that became a practical implementation of the CFSP. The group of armed forces known as Euro corps including Germany, France, Belgium, Luxembourg and Spain became the model for the creation of rapid reaction forces. Created in 1992 the Euro corps is equipped with the most modern weapons and presents a combat-ready military structure in the Western Europe.

The so-called Nice Treaty 2001 set up the decision aimed at strengthened cooperation meaning carrying out joint actions on the basis of agreed determination. This strengthened cooperation is connected with the CFSP and by doing so the EU gave impetus for the implementation of a long-term strategy of the development of the CFSP.

The Amsterdam Treaty marked a significant shift. It was mentioned that from that moment the CFSP has been considered as the prerogative of the Union as the whole and its members should support the CFSP jointly and severally. Since June 1999 the CFSP started including a military element – the European Security and Defense Policy (ESDP). This newness is connected with the fact that with the help of the CFSP and ESDP it is planned to create a new decision-making body in the sphere of the international politics and security. It implied the accession of one more actor in their 'club' and this presence would create a new configuration of their interactions.

So, as we see the EU member-states agreed on a partial rejection of sovereignty. The Article J2 of the Amsterdam Treaty adds such notions as "common strategies", "general guidelines" which the states should follow to in the process of the CFSP development and implementation. Although principal decisions require unanimity as it was before, still the so-called executive decisions can be taken by the majority of voices and by the expansion of the

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[43] Wallace, W. (1999), 'The Sharing of Sovereignty: the European Paradox', Political Studies, XLVII, P.506.

scope of the procedure of the qualitative majority voting concerning the CFSP field (that would mean the emergence of real common foreign policy of the EU and accordingly real transference of a part of sovereignty in this area from the national to supranational level.

The Amsterdam Treaty claimed the EU competences, such as carrying out of humanitarian sanctions and the peacekeeping operations. On the basis of unanimity the EU can take such political decisions which authorize the WEU to conduct these operations. By nature the elaboration of the strategies has an intergovernmental character. Moreover, it is necessary to point out that the role of the main institution, central for the decision-making – the Council of ministers was limited by the Amsterdam treaty. On the contrary, The European Council gained right to take decisions within the Union. If the European Council takes decision on the strategy unanimously, it actually strengthens the intergovernmental approach of the CFSP as sovereignty remains at the national level and the EU can be regarded as a consolidative actor of the IR. Despite all the above mentioned changes, there is not much has been changed. P. Marshall described the EU as "an important world object that can cope with its obligations"[44].

The Nice Treaty[45] entered into force on 1 February 2003 set up new tasks in the framework of the CFSP which were conducted by the Council on the basis of qualitative majority instead of unanimity (Article 24). The procedure of signing and using the international agreements of the Union with the third countries and the international organizations was specified (Article 24). Political Committee that served as a special intergovernmental body was replaced by the Committee on the CFSP with more broad competences (Article 25). Add to that, the Nice Treaty defined the CFSP purposes: the protection of common values, the main principles, independence and integrity of the EU in accordance with the main principles of the UN Charter, strengthening of the EU security in all its forms, the preservation of peace and the international security according to the Helsinki Final Act, the promotion of the international cooperation, the contribution of the development of democratic principles and the principles of civil society, respect for human rights and freedoms. In the Article 12 the methods of the CFSP are described, they are: the definition of the main principles and common directions of activity, the elaboration of common strategy, position and actions.

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[44] Laeken Declaration, the Future of the European Union SN 273/01 (2001), Laeken, 15 December. Available at: http://www.eurotreaties.com/laeken.pdf
[45] Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts – Declaration on the European security and defense policy (2001), 26 February. Available at: http://www.ena.lu/

Under the Nice Treaty one more indulgence in connection with the definition of the national sovereignty. Despite principal decisions required unanimity as before, the so-called executive decisions could be taken by the majority of voices. The expansion of the scope of the procedure of the qualitative majority at the voting in the CFSP field would potentially mean the existence of a real common foreign policy of the EU and therefore a real transfer of a part of sovereignty from national to supranational level. But, on the contrary, the European Council gained a formal right to take decisions in the EU.

In accordance with the Treaty establishing a Constitution for Europe (TCE), the EU is considered as "a legal entity that has its own personal legacy (Article 1.7. of the Constitution)"[46]. And as we know only state can obtain such quality as sovereignty. The crisis that occurred after the failure of the project of the Constitution for Europe at the referenda is determined significantly by the lack of common direction and understanding of unified Europe. For the first time, the main achievements of the EU Constitution were connected with its symbolic significance, in the notion of "constitution" itself, in the use of the so-called state terminology ("the European law", "the Minister of Foreign Affairs of the EU and so on) and in the symbols (anthem, flag, motto). All these achievements should contribute to the creation of the sense of the European identity among the population.

The project of the Treaty of the Constitution for Europe 2003 concerning the perspectives of common defense of the EU goes further. For example, the Article 40 sets out "the principle of collective defense in case of external aggression against the EU member-states"[47]. The introduction of such formulation would logically solve the question on the following development of the Western European Union. The ambiguity of the situation of the WEU remains even nowadays because despite its integration into the EU that finished formally already in 2001, this Union still continues to exist as mostly virtual and a separate from the EU institution. The basis for such existence is, first of all, the fact that the Article of the Brussels Treaty 1954 on collective defense of the WEU member-states in case of external aggression has been abrogated in 2011.

In other words, the supporters of a radical use of changing the character of the EU and adding it by a full-pledged military element by the beginning 2004 were in the minority. The problem for the EU member-states is connected with the fact that there is no consensus on the expediency of joint defense among them. A traditional idea that the main 'supplier' of defense in case of external

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[46] Treaty establishing a Constitution for Europe (2004), Official Journal of the European Union, 16 December, Vol. 47. Available at: http://eurlex.europa.eu/JOHtml.do?uri=OJ:C:2004:310:SOM:EN:HTML
[47] Ibid.

aggression is NATO still dominates.  That is why there is no necessity to double its functions into the EU.  The sense of a small possibility of external aggression plays role too and as a consequence it contributes to concentrating on more urgent and pivotal issues of domestic defense of the Union prevail.

The main method of achieving mutual trust in the EU is reliance on the mechanisms of elaboration of consensus. This mechanism equalizes the status and competences of all member-states. However, in practice France and Germany traditionally define integration and even dominate in it. Moreover, nowadays the qualitative majority voting in the Council of Ministers is limited by the establishment of a new version of a well-known Ioannina compromise 1994. If a certain number of the states which are against a decision, a voting does not take place and the negotiations are conducted further. It gives opportunity to a few countries to slow down the decision-taking even if these countries make up blocking minority.

The peculiarities of control in the CFSP sphere are determined by the deficit of legitimacy of the European structures and the lack of jurisdictional control by the Court of Justice. As the Union does not have right to issue legally binding acts for the third countries in the framework of the CFSP and regulate their activity, legal settlement of this field has mostly conciliatory character. Even if the Council, Commission and Parliament have right to control the implementation of a particular position of political actions, a general control over the CFSP implementation can be authorized only by the European Council.

The subjects and controlling actors in the CFSP area are predominantly intergovernmental and the bodies are specially established by these organizations which act in a close interconnection with the national governments. The European Council, the Council of the EU in the form of the Political and Security Committee (PSC), the Military Committee of the EU (EUMC), the High Representative for the CFSP, the Military Staff of the European Union (EUMS), the Directorate-General for the External Relations (DG RELEX) play the most essential role.

**2.2 The category of the Common Foreign and Defense Policy in accordance with the provision of the Treaty of Lisbon**

The Lisbon Treaty symbolizes the introduction of the office of the High Representative of the Union for Foreign Affairs and Security Policy. But the process of the distribution of high diplomatic posts highlighted the contradictions of interests of some European countries.

In the opinion of a famous British expert community "Open Europe", 96 percent of the provisions of the project of the Constitution 2004 were transferred to a new treaty that set out the changes into the Treaty on the EU and the Treaty on the EC. For the formulation of the CFSP the EU has the instruments, such as "the powers of the institutions laid down by the Treaties for the exercise of the Union competences"[48]. However, the establishment of the office of the High Representative of the Union for Foreign Affairs and Security Policy became the most important achievement of the Lisbon Treaty. After the Lisbon Treaty entered into force on 1 December 2009, the European Council appointed Catherine Ashton as the High Representative of the Union for Foreign Affairs and Security Policy. Moreover, she is the head of the Foreign Affairs Council and carries out the CFSP.

The CFSP is implemented by the High Representative and the member-states with the use of the national means and the Union's means. When the international situation requires operative actions from the side of the Union, the Foreign Affairs Council takes all necessary decisions which reflect the purposes, conditions and validity. "Compliance with these rules shall be subject to the control of independent authorities"[49]. "In cases which require urgent settlement the High Representative on her own initiative or on request of a member-state call for extraordinary meeting of the Council for 48 hours or in case of an absolute necessity for more short term"[50]. Add to that, "the adoption of legislation by the Council excluded"[51].

The EU states coordinate their actions in the international organizations and at the international conferences and the High Representative deals with this coordination. The member-states which are not the members of the UN Security Council accommodate their positions on a question and inform the other EU members. "If the Union defines its position

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[48] Article 25 of Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon (2007), Official Journal of the European Union, 17 December. Available at: http://www.consilium.europa.eu/uedocs/cmsUpload/cg00014.en07.pdf

[49] Paragraph 1, Article 25 of Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community.

[50] Article 30. Paragraph 1. Ibid.

[51] Article 31. Paragraph 1. Ibid.

on a question included into the UN Security Council agenda, the EU countries-participants petition for the invitation of the High Representative to present the EU position"[52]. "Diplomatic and consular representatives cooperate in order to provide the implementation of the decisions concerning the CFSP"[53].

The European Parliament also takes part in the process of the CFSP elaboration. The High Representative consults regularly with the Parliament regarding the most essential aspects and main directions of the CFSP. Moreover, the High Representative informs the Parliament about the implementation of these directions in the framework of the CFSP. The Representative must concern that the Parliament's position is taken into account. The Parliament can apply with demands and recommendations to the Foreign Affairs Council and the High Representative. Add to that, "twice a year it can conduct the debates on the CFSP implementation"[54].

It can be concluded that the Committee on Foreign Affairs has the most primordial role in the European Parliament concerning the CFSP. The Political and Security Committee also is regarded as one of the most important bodies connected with the CFSP and its purposes are closely entwined with

- "overviewing of the international environment in the areas concerning the CFSP
- preparation of conclusions for the Council and the High Representative on the request or on its own initiative
- monitoring of the implementation of agreed policy"[55].

The European policy in the security and defense field that gained a new "name" – the Common Security and Defense Policy (CSDP), formerly known as the European Security and Defense Policy (ESDP) is a key element of the CFSP. The CSDP provides the possibility of operative actions based on civilian and military means. The CSDP includes phased elaboration of the Union's common defense policy that is aimed at organizing of common actions as soon as the European Council takes decision unanimously on this issue. In this case the European Council recommends the member-states to take decision in accordance with constitutional norms of each of them. "The CSDP does not contradict to NATO common security and defense policy"[56].

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[52] Article 34. Ibid.
[53] Article 35. Ibid.
[54] Article 36. Ibid.
[55] Article 38. Ibid.
[56] Article 42, Paragraph 1-2. Ibid.

In the framework of communitarian foreign policy the Declaration Concerning Primacy 2007 was signed and it set out "the principle of supremacy of the EU law, whose main sources are founding treaties and the Charter of Fundamental Rights of the EU 2000 concerning domestic law"[57]. This document gives the EU also the status of legal entity that simplifies its relations with the third countries and the international organizations.

So, taking everything into consideration it should be pointed out that the Lisbon Treaty allows to use such notion as "the international relations of the Union" which form own separate group of public relations in whose framework the Union elaborates and carries out its foreign policy. "The main directions of the foreign policy of the EU are connected with the foreign trade"[58], "the contribution to economic development of developing countries"[59].

The international legacy of the EU is the reflection and continuation of domestic competence of the Union as the edition of a normative act on a concrete question lead to the emergence of the right to conclude the international agreement on this matter. "The legislation in the area of the high politics in majority of cases requires the implementation of the norms into the national legislation"[60]. Herewith the EU as the actor of the IR can issue one-sided measures, such as the edition of normative acts, for example, "the Council Regulation (EC) of 26 February 2001 creating a rapid-reaction mechanism" meaning the system of urgent financial aid for the EU partner-countries, economic sanctions (against Yugoslavia). Among joint EU actions include the conclusion of the international agreements (the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Russia, Eastern Europe, the Southern Caucasus and Central Asia of the other part), the participation at the international conferences (the UN Conference on Environment and Development 1992), the membership in the international organizations (the membership in the WTO with broad competencies) and also diplomatic affairs with the countries in the framework of the implementation of the ambassadorial law (the functions of the European embassies are issued by the representatives of the European Commission as the main executive body of the Union). The sphere of the CSDP includes any issues in the IR which do

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[57] Declaration concerning primacy (2007), Official Journal, 17 December. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12007L/AFI/DCL/17:EN:HTML
[58] Protocol 9 on common trade policy of the Lisbon Treaty, Part III. The Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon (2007), Official Journal of the European Union, 17 December. Available at: http://eurlex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:en:HTML
[59] Protocol 20 on cooperation for development purposes. Ibid.
[60] Goetschel, L. Europe as International Actor: Maximizing Nation-State Sovereignty, Working Paper Series #6.3. Available at: http://www.ces.fas.harvard.edu/publications/docs/pdfs/PSGE_WP6_3.pdf

not cover the foreign policy competences of the EU. The intergovernmental bodies – the Council and the European Council have a key place at the decision-making.

The Lisbon Treaty broke an established balance of power between separate institutions of the EU. Aside from the controversies on budget issue, the European Parliament insisted on a serious alteration of the procedure of the appointment to the higher diplomatic positions outside the EU and to some administrative offices. Moreover, the process of the distribution of high diplomatic positions highlighted the contradictions of interests of some European countries. It was conditioned by the fact that the number of the European External Action Service (EEAS or EAS) was planned to increase from three to six thousand. According to the agreement with the European Parliament 60 percent of all officers of this extended sphere would represent common European structures (the Directorate-General for External Relations, merged into the European External Action Service in 2010) and 40 percent – the national diplomatic services.

By creating the European foreign policy service Europe made a significant step on the road of strengthening of its identity in the world. However, the first steps of the EEAS show that it will be difficult to go forward for the Europeans themselves and be more flexible from the contradictions and frictions than the EU by itself. Nowadays the EU foreign policy is not united but common. If being united means a distinctive feature of a subject of the IR, then being common implies the coordination and harmonization of the foreign policies generated by different political systems in the framework of the EU. Even the establishment of the position of the High Representative of the Union for Foreign Affairs and Security Policy has not given the CFSP one shape and one voice. Even in the Treaty establishing a Constitution for Europe that should symbolize the victory of the integration process on the continent by itself, the communitarian foreign and security and defense policy is put under dependence on the priorities of the member-states.

Also it is highly important to take into consideration the issues with the implementation of the principle of 'double majority' that replaced the principle of unanimity. According to double majority principle the main decisions of the Union should be taken by at least 55 percent of the member-states which represent at least 65 percent of the EU population. In the CFSP sphere it means that the bigger states will dominate in the coalition with the smaller countries oriented to them. Moreover, the EU countries decided to transfer the issues of the formulation of common foreign policy to the European Council but not to the Commission. As a result, the governments of particular countries gained opportunity to

influence common foreign policy. It allowed the member-states to defend their interests as it was before regarding common foreign policy just like derivative from their concerns.

So, taking everything into account we can conclude that as the result of the establishment of the Lisbon Treaty the mechanism of the decision-making in the CFSP field underwent significant changes. The EU centralized its representation on the world stage by the introduction of the position of the High Representative that will allow to provide succession in the foreign policy. In connection with the fact that in the Lisbon Treaty the functions of the President of the European Council and the High Representative are divided, they will have to overcome this disadvantage in the process of practical activities.

As the voting system by the majority of voices is not issued for the CFSP, it is obvious that the member-states preserve authority in this area as before. Moreover, the Lisbon Treaty confers the EU legacy and the Union gains legal capacity in the sense of the international law. The Treaty implies to obligation concerning common defense for the member-states. Therefore, we can point out that the EU CFSP presents the international regime whose strategic task is to maximize 'external' sovereignty of the member-states under the conditions of economic integration. This regime serves as the source for the countries acting in accordance with its logic. A noticeable decrease of influence of driving European countries after the WWII (for example, the UK fight for the Falklands, the problems of Germany with the recognition of independence of Croatia and Slovenia) was indemnified by this structure.

# 3 "THE WESTPHALIAN SOVEREIGNTY" THROUGH THE PRISM OF THE FOREIGN POLICY OF LEADING EU MEMBER-STATES

It is highly important to overview the positions and the main guidelines of the driving member-states of the EU meaning France, Germany and the United Kingdom in order to analyze and understand better the way how the concept of Westphalian sovereignty is seen by these countries relating to the question of the EU CFSP. All EU member-states can be divided conditionally according to how they see the process of refusing from a part of sovereign competences in favor of the supranational level of the Union and how they evaluate the future development of the CFSP. There are two main groups of the EU members: firstly, the countries which obtain an active position in relation to deepening and strengthening of the CFSP by proposing new strategic projects of the future Europe. Such projects might be seen from the perspective that these countries agree or at least are not against to withdraw from 'independence' in the decision-making in the foreign affairs, security and defense spheres. They are: France, Germany, Benelux and Italy – the countries which gave the boost to that is known now as the EU from the very beginning of integration.

In comparison with the first group of the member-states the second group is not so active and even skeptical to some extend relating to the need to develop the CFSP further. Under no circumstances do these countries want to lose their sovereign competences. For example, a Eurobarometer survey of EU citizens in 2009 showed that the lowest support for the membership in the EU (generally speaking) was in the UK, Latvia and Hungary[61]. Moreover, in 2004 some members of the European Parliament from Poland, Sweden, Denmark and the UK established a group called 'Independence and Democracy' that was aimed at lobbying the rejection of the proposed Treaty establishing a Constitution for Europe. Of course, it can be argued that there are the so-called eurosceptics among politicians within the national political parties in each member-state but the UK is traditionally regarded as the strongest opponent of proposed reforms of the CFSP.

So, we would like to analyze how the EU member-states both from the group of the pro-activists and eurosceptics, namely France and Germany – from the one side and the UK – from the other side relate to the development of the CFSP by using *the criteria of the Westphalian sovereignty* mentioned in the first chapter.

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[61] http://en.wikipedia.org/wiki/Euroscepticism

**3.1 Conceptual approaches of Germany and France to the category Westphalian sovereignty in the process of building the European Union's CFSP**

After the fall of bipolar world Germany and France as many other countries had to review a vast array of the foreign policy priorities but the idea of the preservation of the status of great power with the help of unifying Europe remained a cornerstone of the external and internal policy of both states.

If there is any country whose self-conviction in its own mission as great power is regarded by this country as more important rather than real facts which can prove this feeling it is definitely France. The project of building of united Europe on the principle of equality of sovereign national states formulated by Charles de Gaulle became a key element of this strategy in the end of the XX-beginning XXI century.

The implementation of common foreign and security policy contradicted directly the French Constitution 1958 in which it was said that "the fulfillment of the foreign policy of the V Republic was an exclusive prerogative of the President"[62]. However, socialist François Mitterrand, neo-gaullist Jacques Chirac and neo-conservative Nicolas Sarkozy shared de Gaulle's faith of a special mission of France in the world[63] and were active supporters of integrative processes in Europe

Initially socialist Mitterrand saw the European common market only as "an organized basis for the monopoly of capitalism"[64]. But after the end of the Cold war and a global transformation of the existing system of the IR Mitterrand had to confirm that unifying processes in the center of Europe can not be ignored: "Only by an exceptional way of the acceleration of integrative processes the Community has a chance to react adequately and timely to political changes in the Eastern Europe"[65]. It was decided that it was more effective to head a new turn of uniting movement in Europe than to watch it from the sidelines. In the framework of a new Euro-enthusiastic approach people started speaking more and more about

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[62] Article 5 The French Constitution of October 4, 1958 (1958), The National Assembly in the French Institutions. Available from : http://www.assemblee-nationale.fr/english/8ab.asp

[63] Moisi, D. (1981), Mitterrand's Foreign Policy: The Limits of Continuity, Foreign Affairs. Available at: http://www.foreignaffairs.com/articles/35854/dominique-moisi/mitterrands-foreign-policy-the-limits-of-continuity

[64] Tekin, B.Ç. (2008), France and European Integration: An Uneasy Relationship, İstanbul Ticaret Üniversitesi. Available at: http://www.iticu.edu.tr/yayin/dergi/s13/131-146.pdf

[65] Riding, A. (1989), Mitterrand Backs Europe Integration, The New York Times, December 08. Available at: http://www.nytimes.com/1989/12/08/business/mitterrand-backs-europe-integration.html?pagewanted=all&src=pm

the idea that "France is our Motherland, Europe is our future"[66], "stronger Europe, more powerful France"[67].

It can be concluded that the contribution of the Socialist party into the notion of "the European foreign policy" is pretty insignificant. In 1994 a new mostly defensive strategy of France was adopted: "…the renunciation of war, the use of conventional and nuclear weapon will continue to be prevalent principles of the doctrine…"[68] As a result, a new threat to security of the country on the European continent was defined: "a regional conflict that touches the interests of France"[69] but the counter mechanisms to it in the framework of the EU were not mentioned.

The establishment of united Europe became a priority task for France at the Chirac presidency also. In 1998 in Saint-Malo Chirac and Blair signed the document that for the first time let the EU act without NATO mandate. France, in its turn, first refused from a traditional principle of "conducting of military operations by the national military forces only"[70]. In the beginning 2007 neo-conservative Nicolas Sarkozy won the presidential elections in France. His pre-election campaign was based on the task to build "a new European politics"[71]. "The building of Europe is a foreground direction of the foreign policy of France. It is determined by the fact that France will not be able to react timely and effectively to the challenges of the modern time without Europe"[72].

The main reason for the French support of the course aimed at "the CFSP establishment"[73] is traditionally considered the idea that political integration influences positively economic cooperation (the so-called spill-over but vice versa). Moreover, the

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[66] Tekin, B.Ç. (2008), France and European Integration: An Uneasy Relationship, İstanbul Ticaret Üniversitesi. Available at: http://www.iticu.edu.tr/yayin/dergi/s13/131-146.pdf

[67] Holm, U. (2009), Sarkozysm: New European - and Foreign Policy into Old French Bottles?, DIIS Working Paper, P.32. Available at:
 http://kms1.isn.ethz.ch/serviceengine/Files/ISN/110572/ipublicationdocument_singledocument/eb45749c-6fdd-466f-8582-ec0f7ea134a6/en/WP2009-30_Sarkozysm_web.pdf

[68] Tiersky, R. (1995), The Mitterrand Legacy and the Future of French Security Policy, McNair Paper, August. Available at: http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA421940

[69] French White Paper on Defense (1994), (Livre Blanc Sur la Defense 1994). Available at: http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA421940

[70] Mahncke, D., Ambos A., Reynolds C. (1975), European Foreign Policy: From Rhetoric To Reality?, P.I.E.: College of Europe studies, P. 57.

[71] Holm, U. (2009), Sarkozysm: New European - and Foreign Policy into Old French Bottles?, DIIS Working Paper, P.32. Available at:
http://kms1.isn.ethz.ch/serviceengine/Files/ISN/110572/ipublicationdocument_singledocument/eb45749c-6fdd-466f-8582-ec0f7ea134a6/en/WP2009-30_Sarkozysm_web.pdf

[72] Sarkozy's speech to the French ambassadors (2007), 27 August. Available at: http://www.ambafrance-uk.org/President-Sarkozy-s-speech.html

[73] Lakomy, M. (2011), French Foreign Policy and the EU's CFSP, CEJISS, February. Available at: http://cejiss.org/sites/default/files/cejiss_5_2_lakomy.pdf

positioning of France as great power with a unique destiny allows viewing the CFSP as the mean of the protection of the European interests from unipolar dominance of the USA. Sarkozy was sure that if the EU wants to stay as the community of the richest countries of the world, Europe should not rely at its defense on the will of Washington.

Interesting that France has never supported the enlargement process of the EU but suddenly in autumn 2007 Sarkozy claimed that the Republic was not going to hinder the enlargement of the Union by adding the countries of the Balkan peninsular. "If we want the enlargement – I am for – it is necessary to create new institutions before the enlargement. The Lisbon Treaty…It is the question of sequence, honesty and logic"[74]. "This pragmatic break"[75] is determined by strengthening of the role of the executive power that was promised by the Lisbon Treaty. That is why the refusal of Ireland to ratify the treaty caused resentment in France. Nicolas Sarkozy pointed out that 'no' of Ireland means the will of the Irish people go out of the EU"[76].

However, under no circumstances should we deny the fact that at the beginning of presidency Sarkozy claimed some slighting statements concerning Germany (in the form of unilateral initiatives, such as the Union for the Mediterranean) are not enough understandable taking into account Sarkozy's idea to continue building of the united Europe. Rapprochement occurred only in 2009 when the leaders showed in the least sought to develop the CFSP because of the world financial crisis.

The results of the elections of the President and the High Representative for Foreign Affairs and Security Policy disappointed as well. In spite of the fact that Sarkozy supported openly Tony Blair as a candidate at a final moment he did not persisted on his position. It leads to the situation when politicians who are not well-known to a wide public became the heads of Europe that undoubtedly ease the governance of common European affairs for France and Germany. Moreover, the concept of the protection of the national interests still plays a significant role.

The position of Sarkozy regarding the USA was claimed officially at the 45th Security Conference in Munich. He said that unipolarity (hegemony of the USA) has become the

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[74] Ibid. P.149.

[75] Holm, U. (2009), Sarkozysm: New European - and Foreign Policy into Old French Bottles? DIIS Working Paper, P.32. Available at:
 http://kms1.isn.ethz.ch/serviceengine/Files/ISN/110572/ipublicationdocument_singledocument/eb45749c-6fdd-466f-8582-ec0f7ea134a6/en/WP2009-30_Sarkozysm_web.pdf

[76] Jeanjean, S. (2011), The EU and French Foreign Policy Shift Under Sarkozy, Bilgesam. Available at: http://www.bilgesam.org/en/index.php?option=com_content&view=article&id=366:the-eu-and-french-foreign-policy-shift-under-sarkozy-&catid=70:ab-analizler&Itemid=131

international problem since 1989. Paris criticized very often a key article of the Washington Treaty[77] as an ineffective instrument of providing of security of the European members of NATO. In connection with this, France initiated the project of the constitutional treaty according to that it was planned "to establish a range of positions and institutions, in particular the post of the minister of the foreign affairs and the European rapid reaction forces - the EU multinational military forces"[78].

During 6-months presidency in the EU in 2008 France presented the concept "Europe without borders"[79] which main purposes were connected with combating terrorism, non-proliferation of weapons of mass destruction, anti-crisis management under the initiative of Europe. The achievement of these aims was expected to carry out with the help of such organizations as NATO, the UN and the African Union. Moreover, it was stressed that the role of NATO in this context is the defense of Europe and NATO but not Europe of defense or NATO. 'The White Paper' of France in the edition of 2008 offers the creation of the same document at the European level[80].

It is said that the EU in comparison with the USA and NATO has enormous opportunities "to cope with global challenges including such means as diplomacy, peacekeeping, administrative, legal and also humanitarian aid"[81]. That is why France intensifies strengthens on the creation of the European tactical groups "(nowadays there are more than 20 such groups)"[82].

Despite all above mentioned facts the role of NATO at providing of the European security remains a key factor. A primordial task of the North Atlantic Alliance is to react to "hard security challenges" while the EU takes responsibility for the so-called "soft security issues". So, France sees the EU as soft power.

So, after the end of the Cold war it was principally important for France to find a right balance between political and financial security. The vision of Europe as a state-like formation does not respond to the national interests of France. No one denies the fact that "after 50 years of the European integration such indefeasible features of the Westphalian

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[77] Article 5 of the North Atlantic Treaty, Washington D.C. (1949), 4 April, NATO library. Available at: http://www.nato.int/cps/en/natolive/official_texts_17120.htm

[78] Defense Agency (EDA).

[79] Lakomy, M. (2011), French Foreign Policy and the EU's CFSP, CEJISS, February, P.151. Available at: http://cejiss.org/sites/default/files/cejiss_5_2_lakomy.pdf

[80] The French White Paper on defense and national security (2008). Available at: http://www.ambafrance-ca.org/IMG/pdf/Livre_blanc_Press_kit_english_version.pdf

[81] Ibid.

[82] Headline Goal 2010 approved by General Affairs and External Relations Council on 17 May 2004 endorsed by the European Council of 17 and 18 June 2004. Available at: http://ue.eu.int/uedocs/cmsUpload/2010%20Headline%20Goal.pdf

sovereignty as an autonomous development inside of a state and independence in the foreign affairs were replaced by the norms of the European law (acquis communautaire) which in turn are based on the supremacy of the national legislation and a direct effect of the Community's norms"[83]. However, nowadays France continues to criticize other EU members because of their unwillingness to sacrifice their national interests in favor of the CFSP and also France does not want to compromise in the sphere of maintaining of the CFSP insisting on the interstate approach and by doing so it refutes common approach of the Community.

Common strategy of the French foreign policy can be summarized as the strengths to influence the IR and the decision-making process at a global level through common European institutions in order to achieve a two-pronged purpose: France is the leader of the united Europe and the European Union is one of the poles of power in multipolar world. So, as we see, common European policy is used by the French diplomacy as an instrument of the preservation of influence of the country on the international arena. Moreover, the course of the country aimed at adopting the Gaullism policy in the modern time is clearly seen.

Of course, in the framework of the concept of great power adopted from de Gaulle, France has a special vision of transformative processes of the European integration by seeing the deepening of commitments of states and enlargement as personal services. Moreover, by viewing the EU as an instrument through which France can participate actively in the international affairs and influence the European and world politics not only contributing to the increase of the EU authority but also satisfying its own national ambitions. So, the transformation of the state sovereignty in the EU framework is possible only if it is beneficial for the national interests of France when the country enjoys undisputed political leadership in the Union and at the same time is does not harm the French-USA relations.

The recognition of a leading role of the USA and NATO on the European continent is similar for Germany also. New aspects of the German position concerning NATO came out clearly at the governance of "the red-green" coalition that was headed by the chancellor Gerhard Schröder. The center of the foreign policy interests of Germany started offsetting slowly to the side of the EU second foreign policy pillar. The task to elaborate the EU CFSP started been seen by Berlin as a necessary element of the transformation of NATO into "a balanced Euro-American alliance". A successful implementation of this project was supposed by the government of Germany as a pivotal precondition for the fulfillment of more interdependent policy.

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[83] Dr. Jois Ignacio Torreblanca, Sarkozy's Foreign Policy: Where do European Interests and Values Stand? Available at: http://ecfr.eu/page/-/documents/Torreblanca-Sarkozy-Foreign-Policy.pdf

Herewith, since the middle of the 90's first after the postwar period Germany started using its military forces outside its national borders including the sphere of responsibility of NATO, in particular in Cambodia, Somali and Bosnia. It is crucial that the concept of sovereignty of Germany is closely entwined with the defense of the country. According to Basic Law for the Federal Republic of Germany (Constitution) on 23 May 1949, the Chapter X-a is connected with defense of the country. The Article 115-b says: "After declaring the state of defense the right to issue orders and command the armed forces is granted to the Federal Chancellor"[84]. The Gründgesetzt of Germany does not permit the military use of Bunderwehr outside the country. The actions contradicted to the Constitution together with anti-American position of Schröder caused sharp critics in the German political circles, herewith not only from the side of the representatives of conservative forces but also by the SPD (the Social Democratic Party of Germany). The perspectives of the implementation of the CFSP project were posed at threat. The EU was divided into two camps concerning the most important topic – the relations with the USA. "This split showed the failure of hopes of Berlin to synchronize the EU enlargement and deepening of the integration processes"[85].

As it was expected, a new government came into power in autumn 2005 that is called the government of "a grand coalition" headed by Angela Merkel (the Christian Democratic Union of Germany). It gives favor to more pro-Atlantic in order to restore the disturbed balance between atlanticism and europeism and to return a traditional role as a facilitator between Washington and Paris to Berlin.

Among a multitude of issues which Merkel inherited from the previous government are the reforms of the German army and defense spending. Germany is the only EU country whose armed forces are subordinated to the NATO command structures. It takes the third place among the NATO members according to the quantity of the armed forces (after the USA and Turkey). However, in terms of the ratio of military spending to GDP Germany has one of the last places in the Alliance. Only 15 percent of spending is determined for direct military preparations.

From the very beginning Merkel government claimed that "the rescue of the project of the European constitution is one of the most significant foreign policy priorities of

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[84] Das Grundgesetz der Bundesrepublik Deutschland vom 23. Mai 1949 (BGBl. S. 1), zuletzt geändert durch das Gesetz vom 21. Juli 2010 (BGBl. I S. 944). Available at:
http://www.bundestag.de/dokumente/rechtsgrundlagen/grundgesetz/index.html
[85] Deutschland braucht eine kompetente Aussenpolitik, CDU Deutschlands, Politik A-Z, Aussenpolitik. Available at: http://www.cdu.de/doc/pdf/az_aussenpolitik_191104.pdf

Germany"[86]. During the German presidency in the EU this issue became the central one. However, the hopes for serious breakthrough in this question were significantly undermined not only by deep discrepancies in the positions of particular countries but also as the result of uncertainty of domestic situation in the EU leading countries. For example, in France and Great Britain where the president and the prime-minister were changed in 2007, "the foreign policy issues took a back seat temporarily"[87].

Nowadays a wide vision of defense is considered as the basis for the definition and tasks for Bundeswehr. The German experts point out that the modern defense can not be reduced to the aggressor's army rebuff in the framework of the territory of this state or of the NATO block. According to the Defense Policy Guidelines (Die Verteidigungspolitischen Richtlinien), "defense includes the prevention of conflicts and coping with them through joint international strengthens"[88]. So, defense of Germany should be provided and protected in any place of the world, in particular by using Bundeswehr.

In this connection one of the principles of the security policy of Germany is the principle of joint provision of security that requires to coordinate and agree on the actions of ensuring own security with the partners and allies of Germany. It is stressed that Germany is interested in strengthening of the capabilities of the EU security and defense policy in order to maintain stability on the continent.

On the assumption of the integration policy conducted by the today's German government, it can be pointed out that the German approach to the following 'eurobuilding' is characterized by the goals to a coherent strengthening of the EU structures. Germany is to conduct of enough flexible and balanced policy that is aimed at the maintenance of 'common European federation' that integrates existing regional, national and territorial communities on the basis of the principle of 'unity in diversity'. It means that the project of the united Europe that develops in the direction to 'the federation of states' can be considered mostly as the German model. Actually, today's Germany proposes more and more actively to the united Europe  the basic principles of own federative model, such as: a real self-governance over the territories, cooperative character of the relations between a center and regions, subsidiarity, focus on historically developed culture and specifics and so on. In contrast to it, France offers

[86]  Values-based European Politics Challenges for Germany's Council Presidency (2006), November 29. Available at: http://germanhistorydocs.ghi-dc.org/sub_document.cfm?document_id=3755
[87] Deutschland braucht eine kompetente Aussenpolitik, CDU Deutschlands, Politik A-Z, Aussenpolitik. Available at: http://www.cdu.de/doc/pdf/az_aussenpolitik_191104.pdf
[88] Defense Policy Guidelines (2003). Available at: http://merln.ndu.edu/whitepapers/Germany_English2003.pdf

'a restrictive approach' to the process of the 'eurobuilding' that implies the support of a vertical and strict unitarian policy in the maintenance of the united Europe.

It should be said that objectively Paris and Berlin hold the key of the future united Europe. During the whole integration history its success has depended on the intensity of the German-French relations. Leading positions of the European integration are traditionally similar to each other. The CFSP widening and the transformation of sovereignty are not an unrealizable activity. It is important also not to disserve the relations with the USA and NATO by such actions.

**3.2 The vision of the United Kingdom of the Westphalian concept of sovereignty within the CFSP**

The category of sovereignty in the framework of the national system of Great Britain was described traditionally by the principle of sovereignty of the Parliament. The absence of codified written constitution confers the supreme legislative body of the country with absolute power that spreads as to domestic, as to external politics of the UK. On the international arena the priority of obligations of the Western Europe to the USA in the security sphere is regarded as immutable by the UK. According to John Major "the transatlantic collective defense proved its effectiveness during the Cold war, so new challenges in the security sphere in the framework of bipolarity should define the areas of cooperation of the EU"[89].

The position of Great Britain concerning the European Community has always been isolationist and the country changed its principles only once in 1973 when it became the member of the Community. The accession was due to the desire to prevent growing economic lagging behind the reality of the UK in comparison with a continental Europe. The provision of the inviolability of the British sovereignty has always been the main argument against integration of Great Britain. However, there is one more tendency connected with the aim to gain a central place at the formation of the European politics.

At the beginning the EU common foreign policy was seen by London only as "the sphere of cooperation but not as integration"[90]. As the British Foreign Secretary Douglas Hurd claimed: "The foreign policy should remain the prerogative of the national states"[91]. "The decisions connected with risk for the survival of our armed forces could be taken only by the national governments accountable to the parliaments"[92] but not to the majority of voices within the EU. That is why in Maastricht Great Britain insisted on the principle for the CFSP that implied "agreement and action together if possible"[93]. However, after signing the

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[89] Mr Major's speech to the Conservative Group for Europe on 22nd April 1993. Available at: http://www.johnmajor.co.uk/page1086.html

[90] The United Kingdom Government's Memorandum of 2 March 1995 on the treatment of European defence issues at the 1996 Intergovernmental Conference. Available at: http://www.europarl.europa.eu/igc1996/pos-en_en.htm

[91] "European Community (Developments)", speech of the Secretary of State for Foreign and Commonwealth Affairs Mr. Douglas Hurd, European Community Document (1990), 11 June, Vol 174. Available at: http://hansard.millbanksystems.com/commons/1990/jun/11/european-community-developments#S6CV0174P0_19900611_HOC_158

[92] The United Kingdom Government's Memorandum of 2 March 1995 on the treatment of European defence issues at the 1996 Intergovernmental Conference. Available at: http://www.europarl.europa.eu/igc1996/pos-en_en.htm

[93] Dryburgh, L. Understanding Adaptation: UK Foreign Policy and the CFSP 1990-2001, Defense Studies Department, King`s College, London, P.6. Available at: http://www.ies.be/files/repo/conference2008/EUinIA_I_4_Dryburgh.pdf

Maastricht Treaty on February 1992 on the creation of economic, monetary and political union a multitude of debates and arguments occurred on the topic of its ratification by the Chamber of Commons. In May 1993 they ended up with the victory of the supporters of Maastricht. John Major managed to win due to the threat to dissolve the Parliament and call snap elections which results could contribute to leading positions of the opposition.

At the same time in the framework of supporting the so-called "special relations" with Washington "the European security is not possible without active and defining participation of the USA[94] and "there could be no the CFSP without the USA military forces as it poses threat to the isolation of the European Community"[95].

In 1997 the positions of the Labor Party that replaced the Conservative Party became clear already during the pre-election campaign. The Manifesto 1994 supported "an active development of the CFSP"[96] but in comparison with a conservative view it saw the appearance of the High Representative for the CFSP of the EU as out of date paying a lot of attention to the Western European Union as an acceptable alternative to the idea of granting defensive functions to the EU. Giving the task of the insurance of a territorial integrity and security in Europe to NATO, Great Britain provides a supportive role for the WEU in the form of the participation in the conflicts settlement, peacekeeping and humanitarian operations. In the White Paper on the defense issues it was stressed that Great Britain "has fears concerning the assumptions to subordinate the WEU to the EU or that is even worse to unity both organizations"[97].

When Tony Blair came into power he started shifting focus regarding the position of the UK to the CFSP by stressing the importance of collective actions in this field taking into account the failure of the EU in Kosovo. This constructive position allowed London to affect the following evolution of the second pillar. In particular, the formation of the status of the High Representative of the EU for Foreign Affairs and Security Policy was elaborated under its significant influence.

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[94] "Foreign Affairs and Defence", speech of the Secretary of State for Foreign and Commonwealth Affairs Mr. Douglas Hurd, European Community Document (1990), 8 November, Vol. 180. Available at: http://hansard.millbanksystems.com/commons/1990/nov/08/foreign-affairs-and-defence#S6CV0180P0_19901108_HOC_255

[95] "United States of America", speech of the Secretary of State for Foreign and Commonwealth Affairs Mr. Douglas Hurd, European Community Document (1990), 24 October, Vol. 178. Available at: http://hansard.millbanksystems.com/commons/1990/oct/24/united-states-of-america#S6CV0178P0_19901024_HOC_55

[96] 1992 Conservative Party General Election Manifesto, Conservative Party Manifestos. Available at: http://www.conservativemanifesto.com/1992/1992-conservative-manifesto.shtml

[97] The United Kingdom Government's Memorandum of 2 March 1995 on the treatment of European defence issues at the 1996 Intergovernmental Conference. Available at: http://www.europarl.europa.eu/igc1996/pos-en.htm

The British presidency in the EU in January-June 1998 became a primordial milestone of the development of the European politics of the UK. In October 1998 the prime-minister Blair claimed that Great Britain changed its course by supporting defensive elements of the EU that should not undermine the existing institutions of NATO in Europe. Herewith, The United Kingdom insisted on "the attraction of the NATO members to the joint defensive actions that contradicted the idea of the creation of the European common army"[98]. At the British-French meeting at the high level in Saint-Malo in December 1998 the sides came to a common opinion on a necessity to develop the EU second pillar in the framework of the European Council. For the implementation of this purpose France and Great Britain claimed that "the Union should have the capacity to act as autonomy "[99] and "to strengthen the military potential"[100]. Herewith, it was specified that with the intensification of solidarity between the EU member-states an updated NATO should be the basis for collective defense of its members.

These assumptions were supported by NATO at the anniversary summit that took place in Washington on 23-24 June 1999 where the Berlin obligations 1996 concerning the WEU are transferred to the EU (the agreement was called 'the Berlin plus') in order to give to the EU the access to collective means and capabilities of NATO for the operations that the EU does not take part in.

A well-know journal "The economist" compared a possible victory of the Tory at 2010 elections with 'the catastrophe'[101] for the membership of Great Britain in the EU that presented its intentions exclusively as "the zero-sum game"[102] implied the autonomy of the country in external and internal affairs or the lose of sovereignty in favor of the supranational structures of the EU. In the framework of the pre-election manifesto the conservatives claimed: "the Lisbon Treaty contains a multitude of the so-called 'ratchet clauses'[103] which in the future will let the EU expand its competences without the adoption of new documents"[104]. In order to prevent such scenario the conservatives called for: "We will amend the European

[98] Informal European summit Pörtschach, 24-25 October 1998, Rutten M. From St-Malo to Nice. European defence: core documents, Shaillot Papers (2001), May, pp.1-3.
[99] Joint Declaration, British-French summit St-Malo, 3-4 December 1998, Rutten M. From St-Malo to Nice. European defense: core documents, Shaillot Papers (2001), May, pp.8-9.
[100] Ibid.
[101] Not playing their games, The Economist (2010), 31 March. Available at http://www.economist.com/node/15814599?story_id=15814599
[102] The European Union Bill A Federal Trust Briefing. Available at: http://www.fedtrust.co.uk/admin/uploads/EU_Bill_Briefing.pdf
[103] 1992 Conservative Party General Election Manifesto, Conservative Party Manifestos. Available at: http://www.conservativemanifesto.com/1992/1992-conservative-manifesto.shtml
[104] Ibid.

Communities Act 1972 (the purpose was to correlate the domestic law of the UK in accordance with the European law"[105] and also "to establish the main norms of the incorporation of the EC treaties into the national system by the adaptation of a corresponding act by the Parliament"[106]) to any other following treaties which touch the questions of power relations and competences gain agreement through adjustment at referendum"[107].

Antipodal euroviews of the Liberal-Democratic Party in the framework of formed coalition government did not prevent David Cameron from putting into effect legally his pre-election mottos in the European Union Bill. Despite of a key statement of the coalition agreement ("We share the opinion that the British government will be an active participator of the processes taking place in the EU"[108]), the sides came to agreement that "the following transformation of sovereignty"[109] is unacceptable and the main questions for discussion in the EU framework are global competition, global warming and global poverty.

"The European Union Bill is a pure political act"[110] that is aimed at preventing the sovereignty of Great Britain from the supranational treaties such as the Lisbon Treaty. According to Cameron, "this document will put Britain on an equal footing with Ireland"[111] because as the legislative barrier implies such instrument as the national referendum. The idea is based on the notion of the social contract that says the population of a country delegates the part of its rights and obligations firstly in favor of its monarch and then in favor of parliament, with it the parliamentary elections symbolize the will of the citizens to take an active part in the governance of the county.

The paragraph 18 draws the attention by the statement that "the incorporation of the norms of the European law is fulfilled if there is a corresponding act of the Parliament"[112] because the supremacy of the Parliament is undisputable. Adam Tomkins, the professor of the

[105] The EU Bill and Parliamentary sovereignty, House of Commons European Scrutiny Committee, University of Cambridge. Available at:
http://www.publications.parliament.uk/pa/cm201011/cmselect/cmeuleg/633/633ii.pdf
[106] Peers S. The UK's European Union Bill Professor, Law School, University of Essex. Available at:
http://www.statewatch.org/analyses/no-111-uk-eu%20bill.pdf
[107] 1992 Conservative Party General Election Manifesto, Conservative Party Manifestos. Available at:
http://www.conservativemanifesto.com/1992/1992-conservative-manifesto.shtml
[108] Coalition agreement reached by the Conservatives and the Liberal Democrats, BBC. Available at:
http://www.news.bbc.co.uk/2/hi/8677933.stm
[109] Ibid.
[110] Hug, A. (2011), The new British politics and Europe: conflict or cooperation?, Foreign Policy Centre, August 2011, P.9.
[111] Tory! Tory! Tory! Referenda, ratchets and opt-outs (2010), Economist. 31 March. Available at:
http://www.economist.com/node/15814591
[112] Gardner, C. (2011), The EU bill explained, Guardian, 11 January 2011. Available at:
www.guardian.co.uk/commentisfree/2011/jan/11/eu-bill-explained

Glasgow University expressed his opinion that this paragraph could be "even dangerous because of the possibility to influence the parliamentary sovereignty"[113].

Bill Cash, the author of the European Union Act claims that the main purpose is to decrease influence of such phenomena as 'radical judges' and 'the interpretation of the English common law' on the sovereignty of the Parliament. Moreover, this statement bears on not only the European judges but also touches on the basics of the Anglo-Saxon tradition that during many centuries has been based on the precedent and status law.

Add to that, the European Union Act failed in the efforts to define the main directions of the UK policy relating the EU. It contains a few contradictions, one of which is connected with the try to secure sovereignty of the British Parliament legally and at the same time to use such a political argument as referendum based in the framework of a democratic society on the theory of the social contract that recognizes the population as the source of the supreme power in a state.

The United Kingdom shares the positions of two 'locomotives' of the European integration in majority of cases. A pivotal priority is the relations with the USA and their following deepening. But the most essential difference can be found in the UK position to a potential evolution of the national sovereignty. A state insists traditionally on the interstate approach and the refusal from a part of its sovereignty is regarded as the main fear of all conservatives of Europe. A strong adherence to the fact that the questions of the security provision and defense belong to the competences of a state is correlated with the opinion that the questions in the framework of the EU and the CFSP should be settled on the principle of unanimity.

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[113] Ibid.

**CASE STUDY**

The today's actions of the European leaders on the international arena indicate their preferences in favor of traditional (national) line of behavior in the foreign policy in prejudice of collective principle. As the acknowledgement of this statement we would like to overview shortly the cases of Yugoslavia and Libya.

As the basis of the strategy of stabilization of the region an idea of Europeanization as a staged integration of all Balkan states into NATO and the EU was taken. Initially, the EU focused on the development of political, economic and social sphere of the Balkans while NATO concentrated traditionally on military aspects involving the European countries to the participation in the peacekeeping operations through the WEU mechanisms (the blockade of the former Yugoslavia 1994, operations in Kosovo 1999). With the development of the CFSP and with the incorporation of WEU into the EU structures in 2001 the EU takes responsibility and for military aspect of the process of Europeanization in the region taking some organizational and team functions in the peacekeeping operations.

The Balkan crises in 1990's became a bright example of the first practical interaction of the EU member-states that demonstrated that a foreground direction was not only the creation of defense structures but also the use of limited military contingent in the peacekeeping operations. That is why the first operations conducted in the framework of carrying out the EU CSDP were hold in Bosnia and Herzegovina in January 2003 (the police missions) and in the Former Yugoslav Republic of Macedonia in March 2003 (joint military operation). All these operations were conducted under a strict control of the EU intergovernmental structures.

A successful completion of a military mission 'Concordia' (March 2003) allowed to replace this mission by the police mission 'Proxima' with 150 people of the contingent in December 2003. Almost parallel to the police mission in Macedonia the EU started the police mission in Bosnia and Herzegovina in January 2003 (EUPM). This mission is regarded as the first EU police mission in the ESDP framework. This mission is available even today in accordance with the Dayton Peace Accords which finished interethnic wars in 1995. Add to that, the EU operation on the settlement of the conflict in Bosnia and Herzegovina called 'Althea' was carried out since December 2004 according to the UN SC resolution №1576 in order to prevent the escalation of tensions in the crisis area on the interethnic basis.

Nowadays a big civil mission of the EU is conducted in Kosovo. The headquarter takes place in the capital of Kosovo, Priština. This mission on the insurance of the rule of law

(EULEX Kosovo) started taking responsibility for the issues of legitimacy and legal order in Kosovo that was the field of the UN competences before known as the United Nations Interim Administration Mission in Kosovo (UNMIK).

The crisis in Libya became one of such contradictions. "The CFSP died in Libya - we just have to pick a sand dune under which we can bury it"[114]. This event divided the EU. 18 March 2011 the Minister of Foreign Affairs of Germany Guido Westerwelle claimed officially that Germany is "to vote against the motion which would have been a slap"[115]. 19 March 2011the multinational coalition headed by France, the UK and the USA started a wide-ranged military campaign against Gaddafi's forces. By doing so France became the first country in the world that recognized the Libyan National Transitional Council of the Republic, based in Benghazi. 20 February 2011 the High Representative of the EU for the CFSP Catherine Ashton presented the declaration according to which "The European Union is extremely concerned by the events unfolding in Libya"[116]. 28 February the CFSP decision 2011/137 was taken and it imposed arms embargo and visa sanctions for 24 approximates of Gaddafi[117]. This decision implied the introduction of non-fly zone and "the 27-nation bloc had already imposed sanctions on Libya's main oil group, the national fir NOC, and four of its subsidiaries in a bid to cut off funding from the vital industry to the Kadhafi government"[118]. 7 June it was agreed on the following sanctions on "the assets freeze to six Libyan port authorities"[119].

Incoherence expressed not only in the positions of concrete EU member-states but also in the framework of the analysis of the interaction of different institutional actors that can be seen clearly in the statements made by the President of the European Parliament[120], the

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[114] Quoted in: Alvise A. Diplomats mourn "death" of EU defense policy over Libya", Deutsche Presse-Agentur. (2011), 24 March. Available at: http://www.monstersandcritics.com/news/africa/news/article_1628333.php

[115] Policy statement by Federal Minister Westerwelle in the German Bundestag on current developments in Libya (UN Resolution) (2011), Westerwelle mulled 'No' to Libya UN resolution, Local, 24 March. Available at: http://www.thelocal.de/politics/20110324-33935.html

[116] Declaration by the High Representative, Catherine Ashton, on behalf of the European Union on events in Libya (6795/1/11 Presse 33) (2011), Brussels: Council of the European Union, 20 February. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/cfsp/119397.pdf

[117] Council Decision 2011/137/CFSP of 28 February 2011 concerning restrictive measures in view of the situation in Libya (2011), Brussels: Council of the European Union, 28 February. Available at: http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:058:0053:0062:EN:PDF

[118] New EU sanctions put the squeeze on Libyan oil sector (2011), AFP, 12 April. Available at: http://www.google.com/hostednews/afp/article/ALeqM5j9ZNrMmRAmku4P-nrn_AG7b4WFfw

[119] Libya: Six ports targeted by new EU sanctions (11221/11 Presse 167) (2011), Brussels: Council of the European Union, 7 June. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/122446.pdf

[120] European Parliament, Buzek on the situation in Libya, Warsaw (2011), 23 February. Available at: http://www.europarl.europa.eu/president/view/en/press/press_release/2011/2011-February/press_release-2011-February-28.html

representatives of the European Council[121] and the European Commission[122]. Add to that, the European Parliament was totally against military involvement of the EU into the events of the Arab spring in general and the Libyan war in particular: "[Participation]…as a waste of money"[123]. The crisis in Libya became the first serious challenge for the EU member-states after the Lisbon Treaty ratification that demonstrated the narrowness of the CFSP. It showed that "not the CFSP logic with its joint actions and common positions but directly interests, the national peculiarities, domestic electoral vicissitudes guide the behavior of the member-states in a short-term perspective more often"[124].

The problems connected with the maintenance and the development of the security and defense policy, the expansion of the sphere of the EU common foreign policy include a radical change of a geopolitical situation in the world at the beginning of the XXI century and require the modernization and review of common (collective) approaches of understanding of the EU security and the determination of its defense. It is needed to understand and elaborate a joint foreign policy course by the EU leaders. Moreover, the concept of military security that was elaborated many years ago at the level of the nation-states is in the process of evaluation still at the EU level. Add to that, it is highly necessary to overcome different conceptual approaches and bring several variants of the establishment of the system of the European security and defense to a common denominator. Finally, the CFSP and defense are needed to be legally formulated. The European Charter of Fundamental Rights (Nice, December 2000) that was elaborated by the German side could potentially become the constitutional basis for it because it is considered as the main EU law including the security and defense elements.

The interstate approach to the foreign policy issues that is practically implemented today in the EU shows that the CFSP is at the early stage of integration. Common foreign policy reminds mostly a usual interstate coordination. But the EU CFSP does not look completely weak and ineffective. It is needed to understand that it should not be formed and

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[121] Council of the European Union, Statement by Herman Van Rompuy, President of the European Council on the developments in the EU's Southern neighborhood (PCE 048/11) (2011), Prague, 23 February. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/119450.pdf

[122] European Commission, Statement by President Barroso following his meeting with Navi Pillay, United Nations High Commissioner for Human Rights (Speech/11/121) (2011), Brussels, 23 February. Available at: http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/121

[123] European Parliament, Buzek on the situation in Libya, Warsaw (2011), 21 February. Available at: http://www.europarl.europa.eu/president/view/en/press/press_release/2011/2011-February/press_release-2011-February-28.html

[124] The EU and the Libyan Crisis: In Quest of Coherence? (2011), IAI Working Papers, 8 July. Available at: http://www.iai.it/pdf/DocIAI/iaiwp1119.pdf

put into effect the same way as the foreign policy of particular countries. Therefore, it should not be evaluated from the same positions which are used relating the policy of France and Germany. In spite of different obstacles and difficulties, the process of the EU transformation into a full-fledged actor is in the sphere of the international security insurance.

**CONCLUSION**

The European Union embodies a special type of 'soft political governance' based not on military but economic mechanisms. Acting in the framework of this logic the EU countries elaborate the variant of the insurance security on the basis of soft power contributing to the stabilization of the world system. But the international role of the EU is not limited by economic dimension. The recognition of the EU as a united subject of the IR is the main purpose of the complex of measures taken in the framework of the CFSP of the EU. This purpose does not have any precedents in the history: it has never been able before to unify the foreign policies of separate states from the moment of their elaboration till the implementation, meaning during the whole foreign policy process.

In this connection it is highly important to reanalyze theoretically the concept of "the Westphalian sovereignty". In the framework of this research the Westphalian sovereignty is seen not as a legal notion that reflects the most common legal qualities which are typical for a state but as political and legal attribute that is regarded as a connecting link between jurisprudence (sovereignty de-jure) and political science (sovereignty de-facto), between desirable or declared model of the state power and its real stay.

The category of sovereignty is the object of the researches of all theoretical schools. An attempt to elaborate the definition of this phenomenon more or less was made by a multitude of the theorists. Even though the first Great debate in the IR theory was not focused on the category of sovereignty, the traditionalists saw the Westphalian concept of sovereignty differently.

Therefore, the Westphalian sovereignty is a political and legal category that reflects the connection between the existing institutional political and legal conditions of the livelihood of individuals, society, state – on the one side, and the national interests determined by the tendencies of social and economic, political and cultural life, the logic of the IR development – on the other side. Institutional and legal structure of the Westphalian sovereignty is formed in the context of the national and international legal order as the result of a political and legal process that takes place at global, regional and national levels.

Exactly this definition is a traditional European concept of sovereignty based on the principle of unitarianism meaning that sovereignty is categorically indivisible. However, in this work the positions of the European integration theorists which are not so categorical, are overviewed as well.

"The Westphalian concept of sovereignty should be supported by self-compulsion equilibrium that was based on an ongoing competition of states. The EU is another case that in the framework of federalism and functionalism (neo-functionalism) threatens the category of sovereignty by establishing the notion of "shared or limited sovereignty" – a political situation when a state chooses the course of cooperation with other IR actors that leads to the lose of a full autonomy in external and internal affairs because of its development or on purpose to achieve the national interests.

So, the category of traditional sovereignty is not applicable at all in this case. Actually, if we understand sovereignty as final power over a certain territory, it is clear that this power remains in the framework of the member-states as the European Union does not obtain the right to legitimate violence, consequently a final decision. For example, the right to withdraw from the EU will always belong to a democratic state meaning it would be the decision of its citizens (another thing is that such situation has never been implemented yet but theoretically it is possible). A traditional European concept of sovereignty is unitary in principle implying that in accordance to it sovereignty is categorically indivisible and for this reason it is not applicable as a multilevel system for the Union. At the level of 'low' politics the states are ready for integration but the level of 'high' politics requires making concessions of the part of the national sovereignty where the states are not aimed at losing their competences. As an example we can mention the failure of the Treaty establishing a Constitution for Europe, often referred to the EU or European Constitution and the ratification process of the Lisbon Treaty that is considered as 'unwanted child' of common purposes and strengths to make the European unity stronger, and more like 'a stepson' or the result of necessity that drew the first breath because of the failure of the EU Constitution. The EU Court of Justice is deprived of competences on the CFSP/ESDP sphere as before and significantly limited in capacities to control the actions of the member-states which flow out of communitarian commitments on the maintenance of order, security and legitimacy.

The European Union is the community of values. The Article 6 of the Lisbon Treaty says: "The European Union is based on the principles of freedom, democracy, respect for human rights and the main human's freedoms and also on the principles of a legal state; these principles are shared by all member-states"[125]. Still, except common ideological statements such as pacifist ideas on the world peace and the task to maintain common economic

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[125] The Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, Official Journal of the European Union (2007), 17 December. Available at: http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:en:HTML

prosperity there are some opportunistic interests, "shifting loyalties"[126] which presence creates the preconditions for strengthening of the national interaction in the framework of the integration area.

"The EU is the case when it is refered to the category of 'sovereignty' in order to acquit a certain political course"[127]. The system of the CFSP of the Union implies a full integration and supranationalism, 'one voice' and automatic alignment of positions in the IR. In order to analyze the position of sovereignty of the EU member-states in practice it is needed to take as a basis the idea that the states which define the rules in the cases of emergency and obtain jus belli form the side of whose who created it, are sovereign. So, the status of sovereign should be based on an abstract construction that has no analogies on the same level. Moreover, this construction should be based on the international law.

Therefore, taking everything into consideration we can mention that the EU CFSP is the international regime which strategic task is to maximize the foreign sovereignty of the member-states under the conditions of economic integration. This regime serves as the source of influence for the countries which act in accordance with its logic. Herewith, the EU foreign policy is not united but common in its today's shape. If the first term (united) is a distinctive feature of the subject of the IR, the second one (common) is the coordination and harmonization of the foreign policies generated by different political systems in the framework of the EU.

The EU members preserve the sovereign rights in all primordial areas of political and economic life. The border protection with the EU neighbors, the national defense, the foreign energy ties, jurisdiction and domestic affairs, migration policy, education – all these questions remain in an exclusive competence of the national authorities. By initiating the integration project the people of the Western Europe have never even thought about the question on the refusal from a part of the state sovereignty. That is why the basic theory of the European integration refers only to such terms as unification and cooperation of sovereignties directed to increase powers and capabilities of each participator.

The main method of achieving mutual trust in the EU is the reliance on the mechanism of consensus building. This mechanism equalizes strictly the statuses and competences of all EU states. However, in practice Germany and France determine integration traditionally and

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[126] Risse, T. (2004), Neo-Functionalism, European Identity, and the Puzzles of European Integration, The Disparity of European Integration. Revisiting Neofunctionalism in Honour of Ernst B. Haas, Special Issue of the Journal of European Public Policy, P.2.

[127] Newman, M. (1997), Democracy, Sovereignty and the European Union, C.: Hurst & Co. Ltd, P.2.

even dominate in it. Therefore, more significant countries dominate at the decision-making and the others are ignored very often.

It should be pointed out that objectively Paris and Berlin hold the key from the future of 'united Europe'. The success of integration during the whole history of the unification has depended on the intensity and depth of the Franko-German cooperation. And even now without 'concert' of these powers the united Europe could not become an independent pole of power, it would not be able to maintain strong enough and effective political, economic and social system and it could not succeed in no sphere of its activity.

The European Union Act failed in its efforts to determine the main directions of the UK policy concerning the EU. First of all, it contains a few contradictions, one of which is an effort to legislate the sovereignty of the British Parliament and at the same time to use such a political instrument as referendum based on the social contract theory that recognizes the people as the source of the supreme power in a state in the framework of a democratic society. From a legal point of view the provisions of the Act contradict directly to a dominant doctrine of sovereignty of Parliament which basic can not be related to the will of population. Parliament has never been sovereign as it exists in the frames of the Crown in Parliament.

The second discrepancy is an occasion when referendum should be called. The withdrawal from the discussion of such pivotal issues as the EU enlargement process characterizes the document as inconsistent. Even small amendments to the treaties of the Union are seen as the most essential in comparison with the accession of economically developing and developed countries which could potentially bring all European economies to collapse.

Of course, it is obvious that the EU of the beginning of the third millennium does not fit conceptually into the Westphalian political and territorial sovereign 'ideal'. But if we overview the cooperation areas which tasks are to maintain the CFSP, progress is not so obvious. So, it should be mentioned that the establishment of the concept of separated and common sovereignty and even the reduction of sovereignty to zero is not a real tendency in the framework of interaction of the EU member-states. Joint sovereignty would involve external actors into domestic state structures for an uncertain term. This mechanism should be legitimized through the agreements signed by recognized national governments. By preserving formally the principle of an institutional balance of influence between the supranational and intergovernmental elements the Lisbon Treaty shifts the balance of influence in favor of the intergovernmental institutions: the European Council and the Council of Ministers. The introduction of the office of the chairmen of the European Council; the High

Representative of the EU for Foreign Affairs and Security Policy who has formally double submission but in reality is bounded more to the European Council; the submission of the service for external relations to the High Representative that actually led to the withdrawal of some departments from the structure of the Commission which were subordinated to the Commissioner for External Relations are just some examples of this tendency.

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