

CETA has laid bare the need to reconfigure sovereignty in the EU

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*CETA, the EU's proposed free trade agreement with Canada, is currently being held up by opposition within the Belgian region of Wallonia, which could ultimately derail the agreement entirely if a solution cannot be reached. **Amandine Crespy** writes that the CETA case illustrates the problem in balancing free trade with sovereignty and democracy in Europe.*



The EU's proposed free trade agreements with Canada (CETA) and the United States (TTIP) have become far more contentious than their supporters could possibly have imagined when they were first envisaged. While protests against TTIP have been going on for several years, the latest episode of the free trade saga has put the Belgian region of Wallonia under the spotlight as its parliament is refusing to approve CETA, thus impeding a Belgian ratification and dealing a possibly fatal blow to the agreement overall.

Leaks of draft treaties, various political declarations, and street demonstrations have shown that crucial fundamental political issues are contentious in this context. Most strikingly, the agreements are criticised due to their perceived impact on the relationship between societal values and the functioning of economic markets. Moreover, and more fundamentally, such agreements shed light on the problematic and ongoing reconfiguring of sovereignty in Europe.

The European Union vs national sovereignty

According to the treaties of the EU, free trade agreements fall under common EU commercial policy. This means that the European Commission has been conferred the competence to negotiate such agreements directly with the EU's trade partners, under the control of the Council (composed of the ministers of the Member States). Since the entry into force of the Lisbon Treaty in 2009, the European Parliament has also gained ratification powers and it can now approve or reject such treaties.

Yet, against the backdrop of Brexit, the Member States ensured that CETA was classified not as a traditional commercial agreement, but instead as a so called 'mixed' agreement falling under national competence. This effectively means that it requires the approval of all national parliaments, including regional parliaments in certain federal states. This is why, in Belgium, Wallonia is now in a position to block the ratification process.

What we are essentially witnessing therefore is the renationalisation of an EU policy and the reasserting of national sovereignty over the domain of trade, implying the right to a national (or regional) veto over agreements. From a democratic point of view, this might be seen as a welcome development with the potential to return sovereignty to parliaments at the national level. If the European Commission is more prone to defending the interests of large multinationals, national governments and parliaments may be in a better position to channel citizens' claims and represent the interests of their respective societies, in line with the principles of representative democracy.

However, the picture is not that simple. Indeed, adopting such a narrow and possibly outdated conception of sovereignty in the European context would lead to other democratic dilemmas. The most obvious is that the Wallonian parliament represents a mere 3.5 million people but is seemingly entitled to block a policy affecting 510 million Europeans. This explains the enormous pressure now being placed on Paul Magnette, the Minister-President of Wallonia, by the European Commission and others, including the rumours that threats have been made about possible retaliation in the allocation of EU structural funds to the region should the deal fail to be ratified.

In relation to the question of national sovereignty, we might note that it is the responsibility of the Belgian federal government to sort out the mess and ensure the ratification of CETA. The problem here is that it falls upon Flemish nationalist politicians, who are currently in government at the federal level, to bring about this compromise. They

have been the main advocates of the devolution of powers to the regions and they cannot now feasibly call for ignoring the decision of a regional parliament. We thus seem to be swimming in troubled waters.

National sovereignty vs popular sovereignty

In Europe, we often conceive of democracy by making recourse to the idea of national sovereignty. This approach amalgamates the territory, people, nation and state in a single concept of sovereignty. And in debates over free trade, this idea is given weight by the fact that a number of provisions in CETA and TTIP affect the autonomy of states with regard to disputes with private actors, their capacity to regulate some markets, or their ability to open up their public procurement sector to foreign competition. Yet the attitudes of many governments show the extent to which this link between the state and popular sovereignty cannot be taken for granted.

The hypocrisy of the French government in this regard is, for instance, breath-taking. While President Hollande and the Socialists in power are trying to portray themselves as voicing citizens' concerns, the government is primarily motivated by a desire to open up the US public procurement sector – a lucrative market for French multinationals. Moreover, the government has used the most dubious of parliamentary proceedings in order to contain the division that exists in the Socialist Party over CETA and obtain the support of the French Parliament.

Elsewhere, like many other politicians in power, the German Minister for Economic Affairs and Energy, Sigmar Gabriel, has endorsed popular discontent by declaring that “TTIP is dead” in front of the international press. At the same time, however, Chancellor Merkel continues to support the negotiations, as well as many of his colleagues from the Social Democratic Party. The picture is essentially one where national governments in Europe continuously invoke the notion of national sovereignty and the legitimacy conferred by this principle, while at the same time using the political and institutional opacity of decision-making in the EU to make decisions at a distance from their citizens.

But the somewhat erratic decision-making process used to secure free trade agreements is only one issue shedding light on the current democratic instability affecting the EU polity. This instability is fed by a collective inability to reflect on the notion of sovereignty and the question of its specific place in today's Europe. First, there has to be a collective understanding that sovereignty does not reside within any institution, be it a state, government or parliament. Institutions are only here to *serve* or *allow* the exercise of citizens' sovereignty.

Second, this should lead to the recognition that in today's Europe, sovereignty can only be shared among various institutions at various levels of government, including at the European level. Finally, this implies a need for clarification and for establishing new democratic procedures in cases of a clash among different expressions of popular sovereignty like in the CETA-Wallonia case.

Brexit provides a clear answer to the national-European sovereignty question (though perhaps leaving the issue of regional sovereignty open). The future will demonstrate whether a blunt return to national democracy will help to effectively enhance popular sovereignty. And for those who would prefer not to travel in this direction, neither a denial of the current problem or rearguard battles will be capable of moving democracy in Europe forward.

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About the author

Amandine Crespy – *Université libre de Bruxelles*

Amandine Crespy is Lecturer in Political Science and European Studies at CEVIPOL/Institut d'Etudes Européennes, Université libre de Bruxelles.



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