

At midnight last night, the United Kingdom ceased to be a sovereign state

By Daniel Hannan Politics Last updated: December 1st, 2009

We woke up in a different country today. Alright, it doesn't look very different. The trees still seem black against the winter sun; the motorways continue to jam inexplicably; commuters carry on avoiding eye contact. But Britain is no longer a sovereign nation. At midnight last night, we ceased to be an independent state, bound by international treaties to other independent states, and became instead a subordinate unit within a European state.

Yes, a European state. Take a quick dekho at the definition set out in Article One of the 1933 Montevideo Convention on the Rights and Duties of States: "The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states."

Until yesterday, the EU qualified on grounds (a), (b) and (c). Now it has ticked the final box. Under the Lisbon Treaty, which came into force today, it acquires "legal personality", which gives it the right to sign accords and treat with other states. Nor is this right simply theoretical: the EU now has a foreign minister, a diplomatic corps (the European External Action Service) and 160 overseas embassies.

Until yesterday, the EU could not annex additional policy areas without a new treaty, which needed to be ratified by all its constituent nations. Now, it has the so-called "passerelle" clause, or self-amending mechanism. Parliament, in other words, no longer has the final say on extensions of EU jurisdiction. The EU derives its authority, not from its 27 members, but from its own foundational texts.

Until yesterday, Britain could simply walk out of the EU by abrogating the Treaty of Rome and repealing the 1972 European Communities Act. Henceforth, it will have to go through the secession procedure laid down in Lisbon. In other words – in the minds of Euro-lawyers, at any rate, if not of British constitutionalists – the EU gets to settle the terms on which its members are allowed to leave. Formal sovereignty has been shifted from the national capitals to Brussels.

It is appalling, demeaning, disgraceful that such a thing should have been done without popular consent, and in the absence of the referendum that all three parties had promised. "There's no point in crying over spilt milk," you might say. True. But there is every point in mopping it up.

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