

'The Eleven haunted by the threat of failure' from L'Express (11 June 1992)

Caption: On 11 June 1992, the French weekly magazine L'Express considers the concern felt by the Member States of the European Communities following Denmark's refusal to ratify the Maastricht Treaty whilst emphasising their determination to continue their efforts towards achieving Economic and Monetary Union (EMU).

Source: Les Cahiers de l'Express. 1985-1995: 10 ans d'Europe. De l'Acte unique à l'Union des Quinze: la décennie Delors. dir. de publ. SAMPERMANS, Françoise. Février 1995, n° 31. Paris: Groupe Express. "Les Onze hantés par l'échec", auteur:Louyat, Alain , p. 74-75.

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The Eleven haunted by the threat of failure

Following the Danish ‘No’ vote, governments have made it known loud and clear that they are determined ‘to push ahead’. But the legal battle is far from over, particularly since the British have plenty of ideas of their own.

‘From now on, we are in uncharted waters.’ This confession, being expressed in muted tones by the Commission’s top brass, is in sharp contrast with the gung-ho statements made by the Eleven in Oslo on 4 June, the day after the ‘minor incident’ in Denmark. Far from the microphones and cameras, the Commission policy-makers cannot mask the depths of confusion into which they have been plunged by Copenhagen’s refusal, following a referendum, to ratify the Maastricht Treaty which opens the way for European political union.

It is not as though these descendants of the Vikings had managed to shake the eurocrats’ faith in their mission or to contaminate Jacques Delors’ circle of advisers with their fears. However, the senior officials who are building Europe day in, day out, while welcoming the solemn political commitment on the part of the Eleven to ‘push forward’, realise that they will have to feel their way forward in a legal fog and that there will be many hurdles. ‘Whatever form they take, the planned solutions raise serious, if not insurmountable, difficulties in legal and, even more, in political terms. None of these solutions is satisfactory, nor do any of them appear to be at all realistic at this stage.’ This conclusion, which is worrying to say the least, is set out in the confidential memo drafted on 23 April 1992 by the European Commission’s Legal Service on the ‘consequences of any refusal [by a Member State] to ratify the Maastricht Treaty’. Clearly, the Eleven will have hardly any choice but to cross their fingers and hope that the Danes will not set a trend, and of course that by 1993 they will have rectified that error of judgement. The Community Foreign Ministers, meeting in Oslo on the margins of a NATO Ministerial meeting, all agreed ‘to leave the door open for Denmark’s participation in the Union’ and, given the lack of a satisfactory alternative, have proposed a way out for this wayward partner. The message was fully understood by the Danish Prime Minister, the Conservative Poul Schlüter, who is suggesting that it might be possible to organise another referendum in six months’ time ‘on other terms’. But how could the Danes agree to being asked basically the same question a second time in order to get them to say yes?

In any case, working on the assumption that Copenhagen will change its position, the Eleven are continuing with the ratification process, through the parliamentary procedure or by referendum, as though nothing had happened and without changing a single comma in the Treaty. The referendum in Ireland will be held on 18 June and in France after the summer holidays, according to Mr Mitterrand’s recent decision. After that, ‘we shall see what the situation is and then decide’, says Elisabeth Guigou, demonstrating the obligatory calm.

Nevertheless, while waiting and hoping for a positive outcome, with everything falling into place, many experts in Brussels are pulling out what little hair they have left. One of them commented that ‘In the Community universe, policy and law should always coincide. Although this principle has sometimes been violated, there is now a major divergence.’ Another asked, ‘What shall we do if Denmark, which is due to take over the rotating Presidency in the first half of 1993, does not reverse its decision? Exclude it? But there is no provision for a divorce.’ If Denmark were to continue to refuse to take part in the political union but maintained its readiness to stay in the EEC, it is difficult to see how it would be possible to distinguish between pre-Maastricht and post-Maastricht Community provisions, since they are so closely intertwined. Many of the articles in the new Treaties amend the decision-making processes, so that in certain cases decisions will be taken by qualified majority and no longer unanimously. Similarly, the new institutional procedures will considerably alter both the way in which Members of the Commission are appointed and the European Parliament’s powers.

The situation is all the more tricky because the Danish ‘rescue’ must occur during the second half of the year under the British Presidency, and the United Kingdom is skilled in the art of creating a ‘variable geometry’ Europe. That is how it extracted an opt-out clause from its partners which exempted it from the Social Chapter of the Maastricht Treaty. So if Denmark does not manage to organise another referendum, the fear

is that London will call for an extension of the scope of the opt-out. Another possible British suggestion with a view to bringing the Danes back on board would be to amend Maastricht by limiting the Commission's powers and to clarify the principle of subsidiarity, according to which no decision should be taken at European level if an issue can be addressed more effectively at national level.

Unlike a multi-speed Europe, in which each country pursues the same objectives but at different speeds, the variable geometry Europe would be a Pandora's box. New applicant countries such as Austria and Sweden might also demand an opt-out from the Treaty in areas such as the common foreign and security policy, monetary union and judicial cooperation. 'An *à la carte* Europe would be unmanageable, and I do not believe that it will come about. The Europe that we want to build implies solidarity among all the partners. In a word, the free-style union of the Twelve is not a union,' says Pascal Lamy, Jacques Delors' brilliant chief adviser.

But other unspeakable nightmares are also disturbing the sleep of pro-European politicians, diplomats and senior officials. The first is a possible refusal by another state to ratify the EU Treaty. Even if it were to be a small country such as Ireland, where the outcome of the forthcoming referendum on Maastricht may well be coloured by a national referendum on abortion, it would cause major psychological damage. 'When you start by losing the first two sets of a five-set match, it becomes very tough to fight back!' one diplomat sighs. And what would happen if John Major were to give way to the pressure of public opinion in Britain (where three polls have indicated that between 69 and 74 % of people want a referendum) and gave the people their say at a time when a majority seems to be hostile to European political union?

Fortunately, haunted by the threat of failure, the Eleven clearly demonstrated in Oslo their determination to close ranks. France and Germany, the driving force for integration, have on several occasions actually made it known that, even if only two countries remained to create the European political and economic and monetary union, it would be them. It is to be hoped that, in the referendum on ratification, the French electorate will be able to ignore petty political disputes. It is also to be hoped that, between now and the Bundestag debate in November or December, there will be no shift in German public opinion, which, if the polls are to be believed, is becoming more and more concerned at the costs involved in Maastricht coming on top of the costs of reunification. A French or German 'No' to Maastricht would delay political union *sine die*. Did it not take forty years after the French rejection of the EDC before there was any more talk of a European defence dimension?

'As long as the Franco-German duo are not racked by doubt, I would not be too worried,' says Claus-Dieter Ehlermann, a Director-General at the Commission in Brussels. Like this German senior official, all those who realise the absolute need to continue the process of European integration are now trying to convince themselves that everything is all right. Just like the Eleven in Oslo, some are pretending that they have already succeeded in bringing the lost Danish sheep back into the fold. Some are even welcoming, ahead of time, a test that could leave the Community strengthened, provided, of course, that in the process it does not forfeit its overarching objective.

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