CORE
Metadata, citation and similar papers at core.ac.uk
Provided by Copenhagen University Research Information System

UNIVERSITY OF COPENHAGEN

Opting out of an ever closer union

The integration doxa and the management of sovereignty

Adler-Nissen, Rebecca

Published in:
West European Politics

DOI:
10.1080/01402382.2011.591102

Publication date:
2011

Document version
Early version, also known as pre-print

Citation for published version (APA):
Adler-Nissen, R. (2011). Opting out of an ever closer union: The integration doxa and the management of sovereignty. *West European Politics*, *34*(5), 1092-1113. https://doi.org/10.1080/01402382.2011.591102

Download date: 07. Apr. 2020

This article was downloaded by: [Det Kgl Bibl Natl bibl og Kbh Univ bibl]
On: 03 September 2011, At: 04:19
Publisher: Routledge
Informa Ltd Registered in England and Wales Registered Number: 1072954
Registered office: Mortimer House, 37-41 Mortimer Street, London W1T 3JH, UK

West European Politics
Publication details, including instructions for authors and subscription information:
http://www.tandfonline.com/loi/fwep20

Opting Out of an Ever Closer Union: The Integration *Doxa* and the Management of Sovereignty

Rebecca Adler-Nissen

Available online: 02 Aug 2011

To cite this article: Rebecca Adler-Nissen (2011): Opting Out of an Ever Closer Union: The Integration *Doxa* and the Management of Sovereignty, West European Politics, 34:5, 1092-1113

To link to this article: http://dx.doi.org/10.1080/01402382.2011.591102

PLEASE SCROLL DOWN FOR ARTICLE

Full terms and conditions of use: http://www.tandfonline.com/page/terms-and-conditions

This article may be used for research, teaching and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan, sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The accuracy of any instructions, formulae and drug doses should be independently verified with primary sources. The publisher shall not be liable for any loss, actions, claims, proceedings, demand or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.

West European Politics,
Vol. 34, No. 5, 1092–1113, September 2011

Routledge
Taylor & Francis Group

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

Opting Out of an Ever Closer Union: The Integration *Doxa* and the Management of Sovereignty[1]

REBECCA ADLER-NISSEN

How is sovereignty managed in the EU? This article investigates the relationship between sovereignty and European integration through the prism of national opt-outs from EU treaties, addressing an apparent contradiction in contemporary European governance: the contrasting processes of integration and differentiation. On the one hand, European integration is increasing as states transfer sovereign competencies to the EU. On the other hand, we see a multitude of differentiation processes through which member states choose to disengage from the EU polity by negotiating exemptions or derogations. Drawing on Pierre Bourdieu's political sociology, the article argues that to understand how sovereignty is interpreted and exercised in the EU, it is necessary to focus not only on the constitutive and regulative dimensions of sovereignty, but equally on the practice dimension. This entails an exploration of how sovereignty claims are managed in a particular social setting. Rather than seeing opt-outs as classic instruments of international law, accentuating the member states' unchanged sovereignty, the article argues that the management of the British and Danish opt-outs quite paradoxically expresses the strength of the doxa *of European integration, i.e. the notion of 'an ever closer union'.*

As the EU has moved into areas previously reserved for the nation-state, the image of the EU as a slippery slope has become more prevalent in public debates across Europe. In the face of what is depicted as a quasi-automatic integration process, some states seek to reclaim sovereignty. During the past two decades, doubts over the benefits of Union membership have given rise to controversial national opt-outs (exemptions) from EU treaties, which indicate that 'outsiderness' may be preferred to being a full member of the Union. Most recently, in the negotiations of the Lisbon Treaty, the UK, Poland and the Czech Republic secured exemptions from the Charter of Fundamental Rights. These reservations are recent examples of a general

Correspondence Address: ran@ifs.ku.dk

ISSN 0140-2382 Print/1743-9655 Online © 2011 Taylor & Francis
DOI: 10.1080/01402382.2011.591102

trend where states seek to formally secure national sovereignty through instruments of differentiated integration.

Existing research has largely interpreted opt-outs from EU treaties as safeguards of member state sovereignty (Wallace 1997, Hansen 2002, Moravcsik 1998). In consequence of this reading, national opt-outs are generally perceived as controversial, leading to dangerous fragmentation of the EU. In this article, I propose a different interpretation: opt-outs demonstrate the difficulty of safeguarding sovereignty in the context of European integration. I illustrate this claim by examining a particular form of differentiated integration, namely the British and Danish opt-outs from the euro and justice and home affairs. When the other member states conceded opt-outs to the UK and Denmark to avoid a stalemate in treaty negotiations, they helped preserve the symbolic figure of an autonomous state. This article demonstrates, however, that the opt-out protocols are managed pragmatically in ways that contradict their original meaning.

Building on the work of Pierre Bourdieu, the article argues that the management of the British and Danish opt-outs quite paradoxically conveys the strength of the *doxa* of European integration, i.e. the notion of 'an ever closer union'. In fact, the management of opt-outs reflects a retreat from national sovereignty rather than an expression of it. By examining how claims to sovereignty are managed in practice, attention is drawn to the minutiae of day-to-day international politics such as diplomatic negotiations. It is often through such mundane aspects of European integration that we encounter what is otherwise an entirely abstract phenomenon, reified with the label 'the state'. As this article seeks to demonstrate, a political sociological approach to integration provides a more nuanced account of the varied consequences of European integration for sovereign statehood than the dominant discourses of 'post-sovereignty' (Keating 2004) or 'multi-level governance' (Hix 1998) can do, prioritising, as they so often do, formal institutions over social agency.

The article is divided into six sections. I begin by briefly introducing the British and Danish opt-outs and the ideas of national autonomy that motivated them. This is followed by a critical review of existing interpretations of the relationship between differentiated integration and sovereignty. The third section of the article proposes a distinction between the *constitutive*, *regulative* and *practice* dimensions of sovereignty. The fourth section clarifies the article's scope and methodology. The fifth section examines the practice dimension of sovereignty by analysing the actual management of the British and Danish opt-outs from the euro, common borders and justice and home affairs. The sixth and final section discusses how these insights require a rethinking of some of the established assumptions regarding the relationship between sovereignty and European integration. Opt-outs have not led to a safeguarding of sovereignty in the way that scholars have otherwise expected. Sovereignty is still relevant as a concept to understand European integration, but when reduced to its

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

constitutive and regulative functions, we lose sight of the important ways in which integration challenges claims to sovereignty.

Opting Out to Safeguard Sovereignty

'In actual fact, opt-outs constitute a de facto negation of the idea of European cooperation' (Verhofstadt 2006: 214). Former Belgian Prime Minister Guy Verhofstadt does not mince his words in his book *The United States of Europe*. However, this convinced European does not stand alone with this view. In both political and academic debates, national opt-outs from EU treaties are generally thought to lead to a dangerous fragmentation of the EU. When the Maastricht Treaty (1992) granted substantial opt-outs to the UK and Denmark, legal scholars argued that it would lead to a 'Europe of bits and pieces' (Curtin 1993) and political scientists predicted a destructive disintegration of the EU (see Andersen and Sitter 2006). Nevertheless, the details of what kind of sovereignty – if any – is safeguarded when a member state opts out has, surprisingly, remained relatively uncharted territory over the years. In the following, I will argue that the British and Danish opt-outs offer a crucial example of how the EU controls differentiated integration.

National opt-outs and other instruments of differentiation are likely to be used much more as the Union expands geographically, continues to introduce new policies, and struggles with eurosceptic populations. Opt-outs are far from technical questions; they postulate that it is possible to (re)constitute the state boundary and still be part of the EU. They draw a symbolic, legal and political line in the sand, as it were, and establish an area where the state is to remain sovereign.[2]

With the Maastricht Treaty, the EU advanced ambitious aspirations of creating a common currency, eliminating national border controls and introducing common asylum and immigration policies as well as Union citizenship and a common foreign policy. Two states, the UK and Denmark, were particularly reluctant to surrender authority in these areas and came close to wrecking the Treaty. The domestic political debates in both the UK and Denmark revolved around the undermining of national identity and the surrendering of control over daily lives to faceless foreign bureaucrats. A range of specific issues were grouped under the banner of sovereignty, including the fear of an army of federal armed forces, the presence of foreign police officers on Danish or British territory, the application of EU law to sensitive questions of criminal justice, a common currency, the perception of a self-amending treaty, the enhanced role of the European Parliament and EU citizenship (Hansen 2002).

With Maastricht, the UK was accorded an opt-out clause, allowing the country to refrain from adopting the single currency.[3] Furthermore, the UK negotiated an opt-out from the so-called Social Chapter.[4] These opt-out clauses were one of the conditions to be met if the British government were to give its approval to the treaty as a whole. The opt-outs were drafted to

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

assure that the treaty was in line with a British conception of Europe which did not challenge British constitutional institutions and conventions such as parliamentary sovereignty (Hansen and Scholl 2002: 4). With the Amsterdam Treaty (1997), the UK was granted an opt-out from the Schengen agreement (abolishing controls and checks at national borders between EU member states) and a flexible opt-in possibility relating to Title IV TEC dealing with 'visas, asylum, immigration and other policies related to free movement of persons'.

Denmark was also a reluctant negotiator in Maastricht. Having been granted a protocol on the Economic and Monetary Union (EMU), the Danish government had accepted the treaty, but it was rejected by the Danish population in a referendum held in June 1992. The Danish 'nej' and the narrow French 'oui' came as a shock to the leaders of the EU and contributed to a dramatic ratification crisis. It became clear that the European populations no longer just accepted or ignored integration. In Weiler's words, the Maastricht crisis was 'the beginning or end of a deeper process of mutation in public ethos or societal self-understanding (Weiler 1999: 3). Whether or not one accepts the rejection and ratification crisis of the Maastricht Treaty as a 'constitutional moment' (Weiler 1999: 3), the so-called permissive consensus appeared to be a thing of the past.

Following the referendum, the Danish Parliament drafted a common negotiating position for the government. It focused on the most dominant issue in the Danish referendum debate: the transfer of national sovereignty to the EU. Denmark managed to attach four key reservations to the treaties: Denmark would not adopt the euro; European citizenship would not replace national citizenship; Denmark would not participate in the development of a common European defence; and, finally, Denmark would not participate in supranational justice and home affairs cooperation.

In this article, I focus particularly on the controversial British and Danish protocols on the euro, common borders, and justice and home affairs. In popular debate, opt-outs constitute bulwarks against European integration and represent the preservation of national sovereignty, underpinning an image of the state with full political and legal authority over people, territory and currency. However, little is known of how opt-outs are managed in the rapidly growing policy areas in which both countries have – apparently – chosen to surrender influence in order to safeguard national sovereignty. Is Guy Verhofstadt in fact right when he claims that national opt-outs preserve sovereignty? Are opt-outs a 'negation of European integration'? Or are they an expression of a pragmatic way of integrating states, a testimony to the *sui generis* nature of the Union?

A Crucial Case of Differentiation

The British and Danish opt-outs are perceived as the most controversial and high-profile protocols in the EU. By high-profile, I mean that a continuum

of opt-outs exists ranging from the more substantial and debated opt-outs from major policy areas such as the EMU, Schengen or the common security and defence policy to the relatively uncontroversial protocols on reindeer husbandry, the acquisition of second homes or Swedish chewing tobacco ('snus'). These protocols have a limited effect and do not threaten the cohesion of the Union.[5]

The British and Danish opt-outs, however, appear to fly in the face of the very idea of an ever closer union. They present us with a 'most-likely case': if opt-outs safeguard national sovereignty and threaten integration, it is most likely to show in the British and Danish cases. On the other hand, if British and Danish national exemptions are eroded, we have reason to question the dominant assumption that such claims to sovereignty endanger the integration process.

In EU studies, differentiation is the collective term used for the movement away from common rules towards a form of cooperation where different member states have different rights and obligations within specific policy areas (Kölliker 2006: 2). Opt-outs are currently an established part of the European cooperation, while enhanced cooperation – in its formal, treaty-specified form – has only been applied once for divorce rules in 2010. In addition, there are numerous examples of informal, enhanced cooperation in the form of breakaway groups of member states that have cooperated more closely outside of the treaties. This article focuses only on treaty-based opt-outs, demonstrating that existing EU scholarship, particularly of the legal variety, tends to overstate the disintegrating consequences of differentiation.

Due to the legal and political complexity of the policy areas of the EMU, justice and home affairs, it is no mean task to provide a systematic overview of the byzantine British/Danish protocols. This article will not cover the entire development of the areas, but rather focus on the ways in which opt-outs – as symbols of sovereignty – are managed in practice, thus questioning established assumptions about the relationship between sovereignty and integration.

Highjacking the EU's Legal Order?

The introduction of the British and Danish opt-outs seemed to strengthen the liberal intergovernmentalist argument that the EU was still driven by the member states and their concern to preserve national autonomy (Gstöhl 2000: 46). Kölliker (2001; 2006) explained the prevalence of differentiated integration more generally by arguing that if we assume that states are unitary rational actors acting according to calculated costs and benefits, we may use public goods theory to uncover 'the logic of differentiated European integration'. This logic implies that the character of goods produced in a policy area determines whether opt-opts from a policy area are likely to create permanent or preliminary divisions between the member

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

states. While Kölliker avoids the question of sovereignty, he essentially argues that the long-term consequences of any instance of differentiated integration depend on the nature of the 'good' (security, money, information etc.) that it aims to generate. Some goods have 'centrifugal' effects and others have 'centripetal' effects.

Legal commentators generally avoid such pragmatic assessments. Instead, they argue that major national opt-outs undermine the unified EU legal order, or constitutional system, and erode the solidarity between member states. Curtin (1993: 88) described the British and Danish opt-outs from the Maastricht Treaty as a 'hijacking' of the *acquis communautaire*. Opt-outs represent a threat to the uniform application of EU law (de Búrca and Scott 2000; Curtin 1993; Hine 2001). To understand why EU opt-outs are seen as deeply problematic, one must consider the self-understanding of many EU lawyers. As Walker (2003: 12–13) notes:

> there is a significant strain of EU scholarship which for reasons of intellectual training, professional socialisation and associated normative commitments is minded to embrace the official constitutional perspective and object-language of the EU as its own, and to develop the best sense and best defence of those of the ECJ's various doctrines of constitutional self-assertion – not just supremacy but also direct effect, implied powers etc. – which seem to embrace and confirm a *sovereignist self-understanding*.

This 'sovereignist self-understanding' implies that the Community's legal order is supreme and independent from national constitutions. Accordingly, opt-outs represent less a national claim to sovereignty and more a threat to the EU's own claims to authority, i.e. 'its own claim to sovereign authority within a limited sphere' (Walker 1999: 18). Indeed, it appears as though scholars who defend the EU's legal order against opt-outs are guided not just by analytical considerations and positivist legal method, but also by this particular (self-)understanding or normative concern for the *telos* of the integrative process and the EU's own claims to supreme authority.

On the other side of the fence are those who believe that one should not buy into traditional assumptions concerning the problems of opting out vis-à-vis the unity of EU's legal order. Instead, these scholars celebrate differentiated integration and opt-outs as a means of developing new modes of governance that might even strengthen democracy in the EU. From the pro-differentiation perspective, sovereignty is not a question of *either–or*, but rather a question of *both–and*. These scholars assume that neither the state nor the EU possesses ultimate supreme authority. In this light, opt-outs represent an integral aspect of the 'post-sovereign' (MacCormick 2002) perspective in which sovereignty is shared, dispersed and disaggregated. The pro-differentiation camp calls for a pragmatic approach to EU law that

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

accommodates the dynamics of integration and disintegration *within* the EU legal order (Dehousse 2003; Shaw 1996).

This camp of legal scholarship is joined by a diverse group of political and social scientists who are enthusiastic about the perspective of differentiated integration, albeit for different reasons (e.g. Delanty and Rumford 2006; Habermas 2003; Schmitter 2001). This camp includes the multi-level governance approach where the state is but one of many actors in a multi-dimensional order (Warleigh 2002; Hix 1998).

A normative position emerges from such ideas. It presents a positive interpretation of the partly unsuccessful attempts to create a harmonious and unified legal and political order in the EU (Dehousse 2003): Opt-outs do not constitute a threat, but rather an inevitable, perhaps even promising avenue for the future of the EU. Thus, while the orthodox anti-differentiation camp sees opt-outs as expressions of national sovereignty, the pragmatic pro-differentiation camp perceives them as part of a process whereby authority relationships become more complex and sovereign power more dispersed within the EU (Bellamy and Castiglione 2003: 19).

Notwithstanding their disagreements on whether opt-outs are harmful or helpful, both camps agree that differentiated integration challenges the symbolic capacity of EU law as an independent source of power and means of constructing an authoritative image and discourse of the political order and cultural community it seeks to represent (Walker 1999: 6–7). Yet the argument that opt-outs challenge the symbolic authority of the EU legal and political order and its sovereignist self-understanding has yet to be demonstrated in a more detailed analysis. The remainder of this article will argue that contrary to the claims of both the anti- and pro-differentiation camps, the unity vision of the EU remains fundamentally unchallenged by the British and Danish opt-outs. The concept of sovereignty is still relevant for the study of European integration, but perhaps just as much at EU level as at national level.

The Practice Dimension of Sovereignty and the Integration *Doxa*

The majority of efforts made by scholars to understand cooperation in the EU reflect top-down applications of analytic frameworks to existing case material. Typically, such readings suggest that an opt-out is a relatively stable legal arrangement or collective identity position in the EU. At first glance, a national opt-out is quite simply a legal protocol, attached to a treaty, which usually implies that a member state will not formally participate in the decision-making process and will not adopt or implement EU legislation in the area covered by the opt-out. Yet sovereignty claims cannot be understood on the basis of formal rules alone, or even on the basis of the various legal interpretations of these rules. Identities and social contexts will always modify the implications of rules.

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

Rather than assuming that protocols have automatic effects, I wish to explore the practice dimension of sovereignty through an analysis which is more closely related to the social setting in which the opt-outs are managed. Sovereign claims, I argue, gain practical meaning – and consequences – in everyday negotiations between state and government elites in Brussels. To further this argument, the article draws on the recent 'practice turn' in International Relations (IR) theory. Within IR, the practice turn has been promoted by scholars such as Iver B. Neumann (2002) and Vincent Pouliot (2007). They build on the work of Bourdieu (e.g. 1977) and Giddens (e.g. 1986) who in different ways have insisted on the mutually constituted relationship between social structure and social action.

By focusing on the practice dimension of sovereignty one does not neglect sovereignty as a fundamental institution or ignore its epistemic function as a way of knowing and ordering the world. Rather, what I suggest is that abstract notions of sovereignty need to be supplemented by perspectives on how this concept is played out in practice. This may become clearer if we consider the double character of sovereignty, which involves both a *constitutive* and a *regulative* dimension. Sovereignty constitutes the state system as the 'meta-political authority in world politics' (Thomson 1995: 214). But once this constitution has taken place, or rather is taken for granted, sovereignty also functions as a framework of action, regulating international relations and law. In the spheres of international and EU law and politics, this regulative dimension manifests itself in a multitude of explicit and implicit rules for the entitlement and constraints of sovereigns. This is the double character of sovereignty. However, apart from its constitutive and regulative dimensions, sovereignty also has a practical dimension: It is maintained through political, legal and social practices. Sovereignty as a claim to supreme authority becomes part of daily diplomatic struggles, which often occur under the radar of both public and academic attention. The three dimensions of sovereignty are inter-related, but they have relative autonomy.

To understand the practice dimension of sovereignty, one needs to study the way in which pragmatic concerns affect claims to sovereignty, and examine how these claims are handled on a day-to-day basis, influenced, as they are, by tacit understandings of legitimate and appropriate action in particular social contexts. An analysis of the tacit understandings shared by the politico-administrative elites in the EU institutions and member states provide a key to understanding the complex relationship between sovereignty and European integration. A tacit understanding operating as if it were an objective 'truth' constitutes what Bourdieu would call *doxa*, which is the undisputed and taken-for-granted premise for social interaction in a particular field (Bourdieu 1977: 164).

The idea that Europe must continue to move forward is a shared assumption – or *doxa* – that is very rarely questioned by any national or EU official during negotiations. One of the most important ways in which

the EU moves forward is through law. When the states became EU members, 'they also implicitly signed up for more integration, because – in EC rhetoric – law (and obedience to law) has traditionally meant integration' (Shaw 1996: 237). With some variations, the *doxa* of European integration is captured in the preamble of the Treaty of Rome, which states that the gathering nations of Europe are 'determined to lay the foundations of an ever closer union among the peoples of Europe'. Indeed, the *acquis communautaire* has been interpreted as more than the legal provisions, procedures and rules of the Treaty of European Union; it has been perceived as 'an embedded acquis', or 'an institution which forms part of an ongoing process of constructing meaning and applying knowledge' (Wiener 1998: 302). The *doxa* of 'an ever closer union' serves to legitimise the EU's actions to its own civil servants in the Commission as well as to the national representatives when they negotiate in Brussels.

Helen Wallace's (2000: 33) description of cooperation in justice and home affairs as 'intensive transgovernmentalism' provides an idea of the integrated and sheltered nature of European cooperation. The term indicates that EU cooperation gives pre-eminence to state representatives but simultaneously allows for the development of common policies in an atmosphere of mutual responsiveness. The transgovernmental method of policy-making is different from the intergovernmental mode. In transgovernmental cooperation government actors such as ministerial officials and law enforcement agencies have relatively autonomous decision-making functions (Lavenex 2006). A British national expert seconded to the European Commission describes the atmosphere of the High Level Working Group on Migration and Asylum in the following way:

> It is very cooperative. Occasionally we have, for example, the representative from Malta saying why is all the attention on the West African states when we on our tiny island get hundreds of people a day? They make a lot of noise and then we try to help and what more can we do? But certainly it's very cooperative, and generally everyone is working towards the same agenda, and we agree on the same ideas about creating a common policy.[6]

The metaphor of movement is striking: 'Everyone is working towards the same agenda', she says. This illustrates that negotiations are orientated towards developing and building a common policy, and, at the same time, representing nationally defined agendas and priorities. Interestingly, this does not mean that concepts of sovereignty and national interest become irrelevant, but rather that they are interpreted and reinterpreted in the diplomatic field. According to a young British diplomat in the UK Permanent Representation: 'Brussels does something to you. I think of the officials from the other member states as my colleagues; they are not

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

opponents, although of course sometimes we have to defend different interests'.[7]

Building on this understanding, European integration can be seen as a social process driven by politico-administrative elites working within a specific and relatively narrow understanding of possible political positions and ideas. This is a 'bottom-up' approach to European integration because it begins by looking at the face-to-face interactions between individuals and groups negotiating on behalf of their states or the EU institutions. From this perspective, sovereignty and the way it has been translated into particular legal and political agreements with other states is continuously constructed and reconstructed by the agents that represent the state.

Indeed, managing claims to sovereignty is not a neutral exercise; it is a process of translation and modification of meaning. In the quest for European unity and constitution-building, differentiated integration is an unwanted obstacle. To conform to the expectations of EU institutions and other member states and to advance 'practical solutions',[8] British and Danish officials seek to reduce the exclusionary effects of the opt-outs to ensure that they act as credible partners and gain influence on the European decision-making process. In doing so, they articulate the formal exemptions as temporary measures that are not aimed at reducing the consistency of the EU *acquis*. In the following section, I will explore how this is played out in relation to the euro and justice and home affairs.

Following a Bourdieusian approach, I seek to reconstruct the practical experience that is bound up with managing sovereignty. The analysis focuses on the day-to-day reinterpretation and management of the opt-outs by British and Danish officials. I pursue a methodological strategy that combines different types of qualitative data: semi-structured interviews and official material (EU treaties, parliamentary debates etc.). There are two reasons for doing qualitative interviews: firstly, I am interested in how officials handle the opt-outs on a daily basis. Secondly, there is very little written material on the opt-outs, as their daily management is primarily based on tacit procedures. I have conducted 123 semi-structured, in-depth interviews with officials from the UK, Denmark and 11 other states as well as representatives from the European Commission and the Council of Ministers secretariat.

'Keep the Pound'

Monetary autonomy has clearly diminished as a result of the integration of the world's capital markets. Nonetheless, widespread slogans such as 'keep the pound' or 'bevar kronen' reveal that in the UK and Denmark money is closely associated with popular understandings of sovereignty. In both countries, the minting of coins and printing of paper money are (still) regarded as 'sovereignty-producing practices' (Doty 1996: 143). Despite continued attempts by the British and Danish governments to

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

'de-sovereignise' the euro, and regardless of the increasing difficulties of imagining and practising monetary autonomy in a globalised world, the UK and the Danish euro protocols represent symbolic contracts between government and people in which the latter is promised ultimate (and sovereign) decision-making powers qua the referendum guarantee.

The UK has a particular doctrine of national sovereignty in monetary affairs; it is centred on ideas of domestic political control with the monetary instrument (Gamble and Kelly 2002). Indeed, the UK has been granted a protocol on the single currency, which guarantees that only the UK government and parliament may initiate procedures for adopting the euro. Furthermore, the UK is not subject to the provisions on excessive deficits and it is not part of the European System of Central Banks (ESCB) or the European Central Bank (ECB). With the election of a pro-euro Labour government in 1997, this firm position was forged into a 'prepare and decide' policy based on five economic tests, which must be met before any decision to join can be made (Miles and Doherty 2005: 101). However, the Labour government's attempt to present the euro as merely a question of economic calculations has not proved effective. Parliament and the eurosceptic media have established a discursive consensus that the euro is one of the major political questions related to the fate of the UK as a sovereign state (Risse 2003; Howarth 2007). Consequently, to further reassure an anxious British public and avoid a difficult debate, the former Labour government promised that a decision to recommend joining the euro zone should not only be put to a vote in parliament, but also a referendum. In light of the financial crisis and the euro zone's current trouble, Conservative Prime Minister David Cameron has celebrated British euro-outsiderness and stressed that Britain rejects any treaty changes that would result in a 'transfer of power from Westminster to Brussels' (*The Guardian*, 21 May 2010).

Meanwhile on the European scene, the UK has followed a strategy of 'economic and political hitchhiking' (Miles and Doherty 2005: 16). The British government has actively followed the developments of the monetary policy development in the EU despite the British opt-out. The Treasury established a Euro Preparations Unit in 1997 to prepare the different parts of the UK economy to manage a changeover to the euro. With the arrival of the Conservative–Liberal Democrat government in May 2010, Chancellor George Osborne announced to chuckles in the House of Commons that he had abolished the Treasury's Euro Preparations Unit. 'Yes, one does exist, and the officials concerned have been redeployed to more productive activities', as he put it.[9] One might add that the productive potential of the Euro Preparations Unit lies more in what it says about the tensions in British sovereignty management. Although Treasury officials admit that this was essentially only window dressing, initiated to send the right signals to Brussels and build up credibility around the government's 'prepare and decide' policy, substantial institutional reforms have, in fact, been introduced.[10]

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

The decision over monetary sovereignty has been shared with the population through the promise to hold a referendum. Simultaneously, however, the Bank of England has gained its formal independence from parliament with the 'Bank of England Act' in 1998. This institutional change brought the UK more or less into line with the practice of those states which were planning to adopt the euro at the outset. It primarily reflected an adjustment in the conception of how monetary matters should be governed and had less to do with preparations for joining the euro. However, by removing monetary policy from the competences of parliament, the act challenges elements of the original ideological foundation of the euro opt-out. In the light of these contradictory moves, one could argue that the UK euro opt-out and the 'prepare and decide' policy has not guaranteed the continuation – but has supported the transformation – of the domestic doctrine on monetary sovereignty.

The Danish exemption from the euro formally leaves the choice to join the euro zone with the Danish people because it guarantees a referendum for adopting the euro. At the end of the 1990s, a clear majority among Denmark's mainstream political parties favoured euro adoption and began to prepare the Danes for the single currency. During the campaign leading up to the referendum, the then Social Democratic government claimed that a 'yes' to the Euro was sound business policy and stressed the importance of 'a place at the table' at the Governing Council of the ECB (Marcussen and Zolner 2001). In May 2000, as opinion polls began to show falling support for the euro, former Prime Minister Nyrup Rasmussen desperately attempted to appease doubters by asserting that Denmark could join the euro zone and withdraw at a later date if the Danish population wished to do so. This was obviously an attempt to ensure the Danes that Danish sovereignty would be fundamentally untouched by the decision to surrender the opt-out, that sovereignty could be reclaimed, so to speak. However, Nyrup Rasmussen's statement gave rise to much confusion when it was contradicted by Commission President Romano Prodi, who said that joining the EMU was 'by definition permanent', thereby affirming the constitutional character of the EU treaties and the principle of solidarity. Mr Prodi later suggested that from a political point of view, Prime Minister Nyrup Rasmussen's assertion was correct, but there were no treaty provisions for joining and leaving the EMU (Miller 2000: 15). The government's appeasement strategy did not work, 53.1 per cent of the Danish voters rejected the euro against 46.9 per cent who voted in favour. The 2000 referendum put a lid on the debate on the euro in Denmark. Meanwhile, shifting governments and their officials still see the euro opt-out as detrimental to national interests.

To the rest of Europe, however, Denmark has long been a quasi-euro member. Even in periods when the euro zone has faced financial and economic problems, Denmark's monetary policy remains the fixed-exchange-rate policy vis-à-vis the euro. The Danish Central Bank follows

the ECB's 'sound policy' to the letter, and Denmark has remained well within the constraints implied by the Stability and Growth Pact. Furthermore, the Danish government and officials hope to compensate for their 'outsiderness' by being extra constructive.[11] From a Brussels perspective, there is not much autonomy or 'outsiderness' to be traced in the Danish euro position.

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

Opting into Justice and Home Affairs

For many years, European states were cautious not to let the EU influence policies on asylum, immigration, border control, and police and criminal law. Until the end of the 1990s, it was unthinkable that British and Slovenian police officers would be working together in Europol's headquarters in Den Haag, investigating child pornography networks; that the EU would have an agency in Warsaw responsible for coordinating common border control; or that authorities in one member state would extradite presumed criminals at the demand of another member state. With the Amsterdam Treaty, the member states cemented their wish to further integrate their asylum, immigration, border control and civil law policies. While national sovereignty may still be an important concern, cooperation in justice and home affairs has shifted from taboo to totem.

Simultaneous with the intensification of cooperation on justice and home affairs since Amsterdam, member states have worked to make enhanced cooperation more feasible. The Treaty of Lisbon increases the opportunities for differentiation – not least in the area of justice and home affairs (officially 'Freedom, Justice and Security'). As a counterbalance to justice and home affairs cooperation becoming fully supranational, a number of exceptions and pause mechanisms have been introduced. These various braking mechanisms are intended to meet the needs of the more hesitant member states.

With the drastic development of cooperation in this area, researchers have discussed the extent to which – if at all – we see legal and political harmonisation. There are, roughly speaking, two opposing positions. One claims that state sovereignty, if understood as supreme political and legal authority, remains a critical issue (Ladrech 2004). The other argues that justice and home affairs is driven by national officials' desire to gain freedom from domestic constraints and lift national policies to the EU level (Guiraudon 2003). According to the latter view, the concern for sovereignty has been replaced by a problem-solving agenda. As will become apparent, this article sides with the latter position.

While the discussion on whether or not to join the euro has cooled off in both the UK and Denmark, the debate on the opt-outs related to justice and home affairs and Schengen has become heated during the last decade. UK and Danish ministers and officials are generally very keen to cooperate with their European colleagues on these issues, while the Danish and British populations are more hesitant towards handing over questions of national

security to supranational institutions. The negative British stance toward the Schengen border-free zone has been relatively stable since the 1980s when Margaret Thatcher refused to remove the border controls toward other member states. The British Schengen protocol has been 'securitised' to the extent that it seems to constitute a guarantee of survival for the British nation (Wiener 1999).

Consequently, the Schengen protocol is likely to remain in place for many years. However, the 'un-European' Schengen exemption is presented differently to the European institutions. The main argument put forward to justify remaining outside Schengen is that it is only due to particular practical (not political) problems linked to the UK's status as an island country; British officials and ministers always underline that the protocols should not block further integration.[12]

In day-to-day politics, there are no watertight shutters between British and EU policy in the development of common border policies (Adler-Nissen 2009). Despite the Schengen protocol, the UK has adapted its national legislation regarding, for instance, biometrics in passports to conform to EU standards. Few of these changes have been visible to the general public; however, from the idea of 'safe countries' to mutual recognition, the UK is trying to influence and imitate EU measures at the same time (Geddes 2005: 734). In police and judicial cooperation, British officials support a further intensification of collective EU measures to fight transnational crime and terrorism, and press hard for mutual recognition in both civil and criminal judgments.

On communitarised areas of 'Freedom, Security and Justice' the UK has a very flexible protocol, which allows it to opt in on a case-by-case basis. Former Prime Minister Tony Blair has claimed that the opt-in possibility means that 'unless we opt in we are not affected by it and this actually gives us the best of both worlds' (*The Guardian*, 26 October 2004). Indeed, opt-outs are also symbolic mechanisms that speak to the domestic population. Particularly in the British case, the opt-in arrangement has been important for the legitimisation of continued integration in justice and home affairs.

Existing research argues that the British use of the opt-in possibility is driven by the intent to shape EU policy in ways congenial to 'domestic interests' (Ladrech 2004: 57). However, it is necessary to nuance the concept of 'domestic interests'. To understand how an opt-in decision is made, I asked a UK Cabinet Office official to explain the process:

> First, we go for the ideal, which is to opt in right from the beginning, because then we are full members and have full influence. The second best option is to make clear that we would like to opt in eventually and negotiate the condition for that to be possible. The worst case is when we do not opt in.[13]

Opting in is risky, because the UK may ultimately be bound by legislation that it does not like. For British officials, however, it is frustrating *not* to opt

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

in. Today, the UK seeks to opt in to as much as possible; only the right to maintain border controls remains a non-negotiable element in the national position. The following response from Tony Blair to the criticism of his choice to opt in to a particular measure illustrates how the notion of sovereignty originally attached to the British protocol is confused:

> But it is our complete choice as to whether to opt in; we might as well say that about any measure in Europe [. . .]. Obviously, once we opt in, that is presumably because we have decided that it is in our interests to do so. Only the Conservative party could say that a decision whether to opt in is somehow a negation of our sovereignty; surely, it is the expression of it.[14]

Blair's choice of words is revealing because national sovereignty and integration have ceased to be oppositional terms: it is by opting in that the UK performs its sovereignty. Moreover, Blair claims to speak on behalf of a domestic audience (a 'we'), but parliamentary and popular protests against specific opt-in and opt-out decisions have not had any considerable effect on the government's decisions.

While the British opt-in possibility provides its government with an attractive à la carte menu with surprisingly few domestic and legal restrictions, the Danish opt-outs are constructed to tie the hands of the Danish government and do not provide Denmark with an opt-in possibility. Danish asylum and refugee policy is stricter than that of the rest of the EU concerning rules on family reunification and requirements of attachment to Denmark. For the right-wing politicians currently in power and the parts of the Danish electorate supporting them, Danish rules on asylum and immigration constitute important barriers to the much-discussed inflow of immigrants, asylum seekers, criminals and terrorists. According to the influential right-wing Danish People's Party, a removal of the opt-outs will lead to a removal of these barriers, which, according to this party is highly undesirable. The People's Party will 'fight to ensure that refugee and immigration policy remains an area where Parliament is sovereign'.[15] In the domestic debate, the opt-out reaffirms the boundary between the inside and outside of the state and locates national sovereignty with parliament.

However, serving the symbolic purpose of legitimising EU membership to the Danish population, the exemption from cooperation on immigration, asylum and civil law is presented differently in Brussels. On a day-to-day basis, the opt-out has very little to do with grandiose symbols of national autonomy. As with the UK, Denmark is far from a reluctant player in this important policy area despite its opt-out status. Danish government and officials are careful not to provoke the Commission and refer to the opt-outs as 'temporary measures' or 'minor technical problems' to allow for involvement in policies covered by the opt-outs.[16] They work within the

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

doxa of European integration and are convinced of its concrete legal and practical benefits.

Moreover, the Danish government seeks to align its policies with those of the EU. As Denmark does not have the opt-in possibility, the Danish government has applied to the European Commission for intergovernmental parallel agreements associating Denmark with legislative measures under the former Title IV TEC (asylum, immigration and civil law) where the Danish opt-out applies. This strategy is unknown to most of the public and while it is a legally defensible practice, one could argue that it represents a political bypassing of the protocol. In practice, Denmark adjusts its domestic legislation via parallel agreements 'which are considered [of] vital interest to the country' (Vedsted-Hansen 2004: 67). Yet former Danish Minister of Justice, Lene Espersen argued in the Danish Parliament that the agreements were concluded to secure 'the common interest of the EU and Denmark'.[17] In Espersen's exposition, the sovereign choice to conclude parallel agreements is located both in Copenhagen and Brussels. Thus, she eliminates the distinction between the national and the European sphere.

According to the Commission, the following conditions apply if Denmark is to be granted a parallel agreement:

- Parallel agreements can only be of an exceptional and transitional nature.
- Such an interim solution should also only be accepted if the participation of Denmark is fully in the interest of the community and its citizens.
- The long-term solution is for Denmark to give up its protocol on justice and home affairs.[18]

The conditionality built into the parallel agreements function as a disciplining mechanism whereby Denmark promises to get rid of its disputed exemptions in the near future. In this sense, the opt-out no longer guarantees autonomy as it is transformed into a sort of delay-action device. The Danish political and administrative elites promise to work actively toward lifting the opt-outs 'in a few years' and continuously assert that they are just waiting for the right moment to call a referendum.[19] Conceived initially as a sovereign guarantee for 'immunity from disliked European legislation' (Wallace 1997: 682), the management of these 'guarantees' reflects that member state representatives work within the *doxa* of European integration, thereby undermining the original intentions behind the opt-out.

Conclusion: Sovereignty and the Illusion of Differentiated Integration

Most scholars believe that integration and opt-outs are unnatural and rather uncomfortable European bedfellows. Thus, opt-outs continue to be seen as paradigmatic expressions of national sovereignty and hence democracy, reflecting what Neil Walker refers to as an 'ideological assumption of

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

ultimate authority over the internal operation of the polity' (Walker 2003: 26). However, it is problematic to focus strictly on their original motivation, and the way opt-outs seem to express a principled claim to national sovereignty. Existing approaches to European integration – whether they belong in the anti- or pro-differentiation camp – ignore that even the opt-out state operates within the EU's constitutional discourse. Indeed, the paradoxical and perhaps most perplexing discovery is that the management of opt-outs contributes to the upholding of the *doxa* of 'an ever closer Union'.

Building on the political sociology of Pierre Bourdieu, this article has promoted an argument that zooms in on the everyday management of sovereignty claims. I have proposed a distinction between the *constitutive*, *regulative* and *practice* dimensions of sovereignty, focusing on the latter in an analysis of the day-to-day reinterpretation and management of British and Danish opt-outs. These opt-outs represent a crucial case of differentiated integration, constituting the most extreme version of opt-outs that currently exist for member states. I have shown that the opt-out protocols are somewhat undermined in order to allow the UK and Denmark to participate in the integration process as much as possible. Of course, this does not mean that differentiation will never lead to disintegration, but it does suggests that rather than fragmenting the Union, opt-outs confirm the objective of continued integration.

Theoretically, this affects the way we understand not only opt-outs and claims to sovereignty, but also the European integration process, interpreted as a social integration of politico-administrative elites. At first sight, opt-outs might appear to undermine the solidarity and cohesiveness of the EU; however, the diplomatic and legal repair work of the opt-out countries' agents contribute to securing the *doxa* of the EU, undermining the initial sovereign claim implied in the opt-out. While opt-outs were originally presented to the British and Danish publics as clear political and legal choices, they should rather be seen as ambiguous populist indulgences.

Where does that leave the current debate on European integration and sovereignty? Opt-outs and other forms of differentiated integration have come to be seen not only as pragmatic instruments to solve stalemates, but also as solutions to problems of legitimacy and governance beyond the state (e.g. Scharpf 2006). Yet both the orthodox anti-differentiation camp and the pragmatic pro-differentiation camp have underestimated the symbolic power of EU law and the intense socialisation of national officials within a *doxa* of integration, which supports the EU's own claim to supreme authority and unity rather than the member states' claims to sovereignty. While proponents of differentiated integration have fruitfully analysed the social context of EU law (e.g. Shaw 1996), they tend to disregard the practices surrounding the rules. Instead of fragmenting the Union, opt-outs have permitted a deepening of the integration process through increasingly demanding treaties, even though not all governments (or populations) were

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

fully on board. Consequently, differentiated integration is not a threat to the notion of 'an ever closer Union' but – as a matter of practice – an innovation quite consistent with the *doxa* of integration.

Differentiation can promote integration processes in situations where one or more member states are blocking progress, but it does not solve the democratic challenges currently facing the member states and the EU as such. The French and Dutch 'non' and 'nee' to the EU's Constitutional Treaty in 2005 were at first sight the exercise of sovereign will, but they also came to signify a crisis of democracy. Despite the rejection of the Constitutional Treaty, the treaty survives almost untouched with the new and less controversial label of the Lisbon Treaty. It took almost a decade to reach agreement on this Treaty while the level of popular scepticism has grown. It was only by granting political guarantees or opt-outs – concerning neutrality, taxation and abortion – that the Irish approved the Lisbon Treaty in a second referendum. History appears to repeat itself. When the Irish rejected the Treaty of Nice in 2001, they were asked to take the treaty to another vote, though with guarantees for their neutrality and restrictive abortion legislation.

If sovereignty is expressed in the form of referenda and opt-outs from treaties, and yet in practice leads to integration in much the same way as with all other policy areas where there is no opt-out, then the whole legitimising edifice of intergovernmentalism and differentiation is pulled down. As 'accountable' (Scharpf 2006: 860), 'neo-medieval' (Zielonka 2006: 9) or 'post-modern' (Plattner 2003: 54) as they may be, measures of differentiation such as opt-outs are not applied in a space devoid of tacit understandings. Consequently, institutional entrepreneurs should consider the social site in which they seek to construct new governance architecture in the EU. As long as the *doxa* in the EU polity is not addressed, the effects of differentiated integration will be limited. Treaty-based differentiation is one of the major reasons why Europe continues to integrate despite political disagreement, enlargement, increased heterogeneity and popular euroscepticism. This gives us reason to question how, and to what extent, the sovereignty of EU member states is challenged in ways that their respective governments have difficulty dealing with and explaining to their populations. Indeed, this article has shown that the symbolic weight of the opt-out status is not matched by its practical use.

Of course, the *doxa* of 'an ever closer union' may still be fragile because it is only fully shared by a small European elite. What has been socially constructed, may – with the use of new reflections – be socially deconstructed (Bourdieu 1993: 1454). New generations of heads of state and government and their national representatives may enter the European scene with a different understanding of the purpose of integration, thereby strengthening differentiation vis-à-vis the orthodox integration mode. They may ask new questions about which form of political rule is legitimate and how popular sovereignty should be organised and regulated.

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

Future enlargement rounds and negative referenda may impact on the overall development of the EU. But this article suggests that 'external shocks' and seemingly radical claims to sovereignty are transformed in the engine room of integration. Drastic claims to national authority, even when they are written into the fundamental EU treaties, do not automatically lead to a change in everyday routines. For this reason, an analysis of the formal or regulative aspects of sovereignty does not necessarily tell us much about how sovereignty claims are subsequently handled. 'In actual fact, opt-outs constitute a de facto negation of the idea of European cooperation', says Guy Verhofstadt (2006: 214). In the light of the analysis presented here, Verhofstadt's claim needs to be revised: in practice, the management of the British and Danish opt-outs indicates the strength of the idea of European integration and the difficulty of practising national sovereignty in the EU.

Acknowledgements

A draft version of this article was presented at the workshop 'Sovereignty and European Integration in the "post constitutional" Era' organised by Cormac MacAmleigh at the University of Edinburgh on 29 May 2009. I wish to thank all the participants at the workshop and in particular Cormac Mac Amhlaigh, Christopher Bickerton, Andrew Glencross, Claudio Michelon, and William Phelan for their very valuable comments. Moreover, I wish to thank Bart Van Vooren, my colleagues at the Department of Political Science, University of Copenhagen and the anonymous reviewers for their constructive suggestions. The usual disclaimer applies.

Notes

1. The case studies used in this article draw on Adler-Nissen (2008).
2. To lawyers who maintain a vision of the EU as a traditional international organisation, a treaty opt-out proves that the EU is a classic treaty-based international organisation where states remain 'Herren der Verträge' (see Allain 1999: 269).
3. The 'Protocol on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland', annexed to the Maastricht Treaty, lists the details of the British opt-out.
4. In 1997, the United Kingdom decided to participate in the Social Chapter and the provisions of the protocol were inserted into the Treaty of Amsterdam.
5. Germany's 'banana protocol', attached to the Rome Treaty (1957), is also controversial (see Alter and Meunier 2006).
6. Interview, European Commission DG JLS (Brussels), January 2007.
7. Interview, UK Permanent Representation (Brussels), May 2006.
8. Interview, Cabinet Office (London), April 2007.
9. Financial statement, House of Commons debates, 22 June 2010.
10. Interviews, UK Treasury, April 2007.
11. Interview, Danish Ministry of Finance, August 2007.
12. Interview, Home Office (London), August 2006.
13. Interview, UK Cabinet Office, April 2007.
14. EU summit, House of Commons debates, 8 November 2004.
15. Danish People's Party's European Parliament campaign 2009.

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

16. Interviews, Home Office (London), April 2007; Ministry of Refugees, Immigrants and Integration Affairs (Copenhagen), August 2006.
17. European Affairs Committee, Danish Parliament, 9 February 2007.
18. European Affairs Committee, Danish Parliament, annex 551, 31 January 2003.
19. Interviews, Ministry of Foreign Affairs (Copenhagen), February 2006.

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

References

Adler-Nissen, Rebecca (2008). 'Organized Duplicity?: When States Opt Out of the European Union', in Rebecca Adler-Nissen and Thomas Gammeltoft-Hansen (eds.), *Sovereignty Games, Instrumentalizing State Sovereignty in Europe and beyond*. New York: Palgrave Macmillan, 81–103.

Adler-Nissen, Rebecca (2009). 'Behind the Scenes of Differentiated Integration: Circumventing National Opt-Outs in Justice and Home Affairs', *Journal of European Public Policy*, 16:1, 62–80.

Allain, Jean (1999). 'The European Court of Justice is an International Court', *Nordic Journal of International Law*, 68:3, 249–74.

Alter, Karen J., and Sophie Meunier (2006). 'Nested and Overlapping Regimes in the Transatlantic Banana Trade Dispute', *Journal of European Public Policy*, 13:3, 362–82.

Andersen, Svein S., and Nick Sitter (2006). 'Differentiated Integration: What is it and How Much Can the EU Accommodate?', *Journal of European Integration*, 28:4, 313–30.

Bellamy, Richard, and Dario Castiglione (2003). 'Legitimizing the Euro-"Polity" and its "Regime". The Normative Turn in EU Studies', *European Journal of Political Theory*, 2:1, 7–34.

Bourdieu, Pierre (1977). *Outline of a Theory of Practice*. Cambridge: Cambridge University Press.

Bourdieu, Pierre (1993). *La Misère du Monde*. Paris: Éditions du Seuil.

Curtin, Deirdre (1993). 'The Constitutional Structure of the Union – A Europe of Bits and Pieces', *Common Market Law Review*, 30:1, 17–69.

De Búrca, Gráinne, and Jo Scott (2000). 'Introduction', in Gráinne de Búrca and Jo Scott (eds.), *Constitutional Change in the EU: From Uniformity to Flexibility?* Oxford: Hart Publishing.

Dehousse, Renaud (2003). 'Beyond Representative Democracy: Constitutionalism in a Polycentric Polity', in Joseph H.H. Weiler and Marlene Wind (eds.), *European Constitutionalism Beyond the State*. Cambridge: Cambridge University Press.

Delanty, Gerard, and Chris Rumford (2006). *Rethinking Europe: Social theory and the Implications of Europeanization*. London: Routledge.

Doty, Roxanne L. (1996). 'Sovereignty and the Nation: Constructing the Boundaries of National Identities', in Thomas J. Biersteker and Cynthia Weber (eds.), *State Sovereignty as a Social Construct*. Cambridge: Cambridge University Press.

Gamble, Andrew, and Gavin Kelly (2002). 'Britain and the EMU', in Kenneth Dyson (ed.), *European States and the Euro. Europeanization, Variation, and Convergence*. Oxford: Oxford University Press.

Geddes, Andrew (2005). 'Getting the Best of Both Worlds? Britain, the EU and Migration Policy', *International Affairs*, 81:4, 723–40.

Giddens, Anthony (1986). *The Constitution of Society: Outline of the Theory of Structuration*. Berkeley: University of California Press.

Gstöhl, Sieglinde (2000). 'The European Union After Amsterdam: Towards a Theoretical Approach to (Differentiated) Integration', in Maria Green Cowles and Michael Smith (eds.), *The State of the European Union. Risks, Reform, Resistance, and Revival*. Oxford: Oxford University Press.

Guiraudon, Virginie (2003). 'The Constitution of a European Immigration Policy Domain: A Political Sociology Approach, *Journal of European Public Policy*, 10:2, 263–82.

Habermas, Jürgen (2003). 'Toward a Cosmopolitan Europe', *Journal of Democracy*, 14:4, 86–100.

Hanf, Dominik (2001). 'Flexibility Clauses in the Founding Treaties, from Rome to Nice', in Bruno de Witte (ed.), *The Many Faces of Flexibility in EU Law*. Antwerp: Intersentia.

Hansen, Lene (2002). 'Sustaining Sovereignty: The Danish Approach to Europe', in Lene Hansen and Ole Wæver (eds.), *European Integration and National Identity: The Challenge of the Nordic States*. London: Routledge.

Hansen, Troels B., and Bruno Scholl (2002). 'Europeanization and Domestic Parliamentary Adaption – A Comparative Analysis of the Bundestag and the House of Commons', *European Integration online Papers (EIoP)*, 6:1.

Hine, David (2001). 'Constitutional Reform and Treaty Reform in Europe', in Anand Menon and Vincent Wright (eds.), *From the Nation State to Europe?* Oxford: Oxford University Press.

Hix, Simon (1998). 'The Study of the European Union II: The "New Governance" Agenda and its Rival', *Journal of European Public Policy*, 5:1, 38–65.

Howarth, David (2007). 'The Domestic Politics of British Policy on the Euro', *Journal of European Integration*, 29:1, 47–68.

Keating, Michael (2004). *Plurinational Democracy: Stateless Nations in a Post-Sovereignty Era*. Oxford: Oxford University Press.

Kölliker, Alkuin (2001). 'Bringing Together or Driving Apart the Union? Towards a Theory of Differentiated Integration', *West European Politics*, 24:4, 125–51.

Kölliker, Alkuin (2006). *Flexibility and European Unification: The Logic of Differentiated Integration*. Lanham, MD: Rowman and Littlefield.

Ladrech, Robert (2004). 'Europeanization and the Member States', in Maria G. Cowles and Desmond Dinan (eds.), *Developments in the European Union*. Houndmills: Palgrave Macmillan.

Lavenex, Sandra (2006). 'Shifting Up and Out: the Foreign Policy of European Immigration Control', *West European Politics*, 29:2, 329–50.

MacCormick, Neil (2002). *Questioning Sovereignty: Law, State, and Nation in the European Commonwealth*. Oxford: Oxford University Press.

Marcussen, Martin and Mette Zolner (2001). 'The Danish EMU Referendum 2000: Business as usual', *Government and Opposition*, 36:3, 379–401.

Miles, Lee, and Gabriel Doherty (2005). 'The UK: A Cautious Euro-outsider', *Journal of European Integration*, 27:1, 89–109.

Miller, Vaughne (2000). *The Danish Referendum on Economic and Monetary Union*. House of Commons Research Paper, London.

Moravcsik, Andrew (1998). 'Europe's Integration at Century's End', in Andrew Moravcsik (ed.), *Centralization or Fragmentation? Europe Facing the Challenges of Deepening, Diversity and Democracy*. New York: Council on Foreign Relations, Brookings Institution Press.

Neumann, Iver B. (2002). 'Returning Practice to the Linguistic Turn: The Case of Diplomacy', *Millennium*, 31:3, 627–51.

Plattner, Marc F. (2003). 'Competing Goals, Conflicting Perspectives', *Journal of Democracy*, 14:4, 42–56.

Pouliot, Vincent (2007). '"Subjectivism": Toward a Constructivist Methodology', *International Studies Quarterly*, 51:2, 359–84.

Risse, Thomas (2003). 'The Euro between National and European Identity', *Journal of European Public Policy*, 10:4, 487–505.

Scharpf, Fritz W. (2006). 'The Joint-Decision Trap Revisited', *Journal of Common Market Studies*, 44:4, 845–64.

Schmitter, Philippe C. (2001). 'What is There to Legitimize in the European Union ... and How Might This be Accomplished?', Mountain or Molehill? A Critical Appraisal of the Commission White Paper on Governance, Christian Joerges, Yves Meny, and Joseph H.H. Weiler (eds.). New York: NY School of Law.

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011

Shaw, Jo (1996). 'European Union Legal Studies in Crisis? Towards a New Dynamic', *Oxford Journal of Legal Studies*, 16:2, 231–53.

Thomson, Janice E. (1995). 'State Sovereignty in International Relations: Bridging the Gap between Theory and Empirical Research', *International Studies Quarterly*, 39:2, 213–33.

Vedsted-Hansen, Jens (2004). 'Denmark', in Imelda Higgens (ed.), *Migration and Asylum Law and Policy in the European Union. FIDE 2004 National Reports*. Cambridge: Cambridge University Press.

Verhofstadt, Guy (2006). *The United States of Europe*. London: Federal Trust.

Walker, Neil (1999). 'Flexibility within a Metaconstitutional Frame: Reflections on the Future of Legal Authority in Europe', *Jean Monnet Papers*, 99:12.

Walker, Neil (2003). 'Late Sovereignty in the European Union', in Neil Walker (ed.), *Sovereignty in Transition*. Portland: Hart Publishing.

Wallace, Helen (1997). 'At Odds with Europe', *Political Studies*, 45:4, 677–88.

Wallace, Helen (2000). 'The Institutional Setting: Five Variations on a Theme', in H. Wallace and W. Walthers (eds.), *Policy-Making in the European Union*. Oxford: Oxford University Press.

Warleigh, Alex (2002). 'Towards Network Democracy? The Potential of Flexible Integration', in M. Farrell, S. Fella, and M. Newman (eds.), *European Unity in Diversity: Challenges for the 21st Century*. London: Sage.

Weiler, Joseph H.H. (1999). 'Introduction: "We will do, and hearken"', in J.H.H. Weiler (ed.), *The Constitution of Europe: 'Do the New Clothes have an Emperor?' and Other Essays on European Integration*. Cambridge: Cambridge University Press.

Wiener, Antje (1998). 'The Embedded Acquis Communautaire: Transmission Belt and Prism of New Governance', *European Law Journal*, 4, 294–315.

Wiener, Antje (1999). 'Forging Flexibility: The British "No" to Schengen', *European Journal of Migration and Law*, 1:4, 441–63.

Zielonka, Jan (2006). *Europe as Empire. The Nature of the Enlarged European Union*. Oxford: Oxford University Press.

Downloaded by [Det Kgl Bibl Natl bibl og Kbh Univ bibl] at 04:19 03 September 2011