

40 years since the First Enlargement

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Europe in Denmark - Denmark in Europe. Processes of Europeanization and ‘Denmarkization’ since 1972

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Abstract

In the period 1972 to 2000 Denmark conducted six referendums on its involvement in the process of European integration. Four of the referendums produced a Yes to accession and further integration while the remaining two resulted in a No. The Danish approach of using referendums, of claiming op-outs after No’s and of setting up parliamentary controls to check government policy in Brussels has set an example exported to many other countries. In this light one may claim that the EU to a certain degree has become ‘Denmarkized’. On the other hand, the forty years of membership of the EC/EU has also Europeanized Denmark and Danish politics to a degree rarely recognized in public discourse. The paper will investigate and discuss this two-faced aspect of the Danish membership experience.

Intro

When the Danish government handed in its first application for membership of the European Communities in 1961, it sparked off the first serious and organized debates in Denmark on the pros and cons of membership (Borring Olesen & Villaume 2005). Central to these debates was the issue of sovereignty. It became central because the emerging ‘no’-movements and the EEC-skeptical parties saw the main threat of membership in the loss of sovereignty, and thus national independence, and therefore projected this argument – in many variations and accentuations – to the forefront of their ‘no’-campaigns. This pivotal position the sovereignty issue has kept through the debates and campaigns of five decades until the present day.

The loss-of-sovereignty argument has generally been difficult for the ‘yes’-side to neutralize owing to the apparent fact, on the one side, that membership would and did entail transfers of national decision-making prerogatives to the community institutions, and, on the other side, that it was and has been difficult to convince the electorate of the relevance and solidity of the argument that membership also implied a sovereignty gain as Denmark and Danish citizens would receive a share in the new community pool of sovereignty that would accrue from the (emerging) European polity. Instead governments and ‘yes’-parties for long, and initially with great success, sought to recast the discourse by emphasizing the economic rationales of membership, i.e. the advantages to trade, to the balance of payments, to the solidity of the monetary system etc.

However, when they occasionally was forced to engage with the political consequences of membership the dominant pro-membership story line during the pre-accession period stressed that a Community with British, Irish, Danish and Norwegian membership would be a completely different community from the original one of the Six which would push it in a more intergovernmental, pragmatic and North European direction. Although this argument held some substance, former Danish Prime Minister Poul Schlüter (a Conservative) crossed a line when he as late as in 1986 in the run up for the Danish referendum on the Single Europa Act made his (in)famous claim: ”The Union is stone dead, when we vote yes on Thursday.”. All the same, the point is probably that Mr. Schlüter was not being deliberately deceptive, but rather that his political imagination did not go any further.¹ This lack of imagination within a substantial part of the Danish ‘yes’-establishment of course testifies to a manifest shyness in acknowledging and engaging with the supranational

¹ See You Tube-clip on this part of Poul Schlüter’s televised speech at http://www.youtube.com/watch?feature=player_detailpage&v=oU-LymBuAik

ambitions written into the Rome Treaties – ambitions further underscored by the EC institutional praxis even in the period before Mr. Schlüter's claim.

Taking its cues from these early Danish EC-debates the present paper will attempt a kind of stock-taking on the basis of existing research and using the two concepts of Europeanization and Denmarkization to discuss to which degree and in which sense EC/EU membership has influenced and impacted on Danish politics and society, but also to assess vice-versa which imprints Denmark has left on EU. At a first glimpse the latter process entails aspects that lend themselves easily to be categorized as de-europeanizers. However, the paper will show that the relationship maybe is a bit more complex and open for interpretation.

Europeanization

For historians the concept of Europeanization is a vast and complex one - both in its temporal and spatial dimensions. We find historians using the concept to analyze and interpret European developments during Hitler, in relation to imperial Europe, in the Napoleonic era and as far back as in the middle ages as Sverre Bagge and Robert Bartlett have done (Bagge 1986; Bartlett 1993). Just as historians see Europeanization at work in different time periods the geographical delimitations of Europa also vary considerably, and the ruling point of view today is simply to argue – along constructivist lines – that theoretically at least it is impossible to demarcate Europe in any precise sense.

To these two challenges one must add a further complexity, namely how do we approach the study of Europe in methodological and theoretical terms. Are we addressing the issue through the analysis of the creation of cultural spaces and discourses on Europe, through the mapping of transnational contacts and networks or

through the study of material artefacts with the capacity to bind Europa together? Or is the clue as maintained by Norman Davis: “It is the same with European history as with a camel. The practical approach is not to try to define it, but to describe it” (Davis 1996, p. 46). However, Davis’ recipe does not seem to make the challenge less grand or complex as his own book *Europe* runs up to 1365 pages. Therefore some kind of definitional, methodological and theoretical reflection on how to approach the topic seems to be called for, even among historians. Such interesting reflection is presented in a recent article by Ulrike v. Hirschhausen and Kiran Klaus Patel. Here they argue that there are basically three ways of studying Europeanization which they sum up as *Europe Imagined*, *Europe Constructed* and *Europe Emergent* (Hirschhausen & Patel 2010). If the two first categories may fit into a distinction between – in the Benedict Anderson sense – of *Europe Imagined* and *Europe Lived* it is the third category of *Europe Emergent* that is of particular relevance to this paper. This is so according to the logic of the argument of Hirschhausen and Patel because the process of post-war European integration may be conceived of as a moment when long-term historical processes and structures come to be perceived of as specifically European by elites and/or people living in and with them, as a moment when Europe emerge conscious of itself as European, which in itself adds further momentum to the process of constructing Europe. However, as they claim there is no teleology involved. Historical ambition can fail and history move into another direction primed by other (re)emergent and competing forces. Even in the times of the EU many historians find it wise to acknowledge that we are still living in “tidal Europe” where political artefacts may ebb and flow (Hirschhausen & Patel 2010, p 4).

If we move into the EU studies area, processes of Europeanization are primarily the domain of social science research. Although the task of defining the subject compared to the history approach is more straight-forward, both in the temporal and spatial dimension, a brief glimpse into the literature reveals that the task is still

complex and definitions wide-ranging. Or to paraphrase Johan P. Olsen's 10 years old, but still valid observation: As a concept EU-Europeanization is both fashionable and contested (Olsen 2002). Olsen himself listed five different, partly complementing, phenomena referred to by the term Europeanization: (1) Changes in external boundaries, (2) developing institutions at the European level, (3) central penetration of national systems of governance, (4) exporting forms of political organization, and (5) a political unification project.

Several of these phenomena would fit well into a historical analysis of *Europe Emergent*, but for the purpose of this paper's focus on the impact of EU-Europeanization on Denmark, we will primarily limit ourselves to phenomena 3. Central to this way of studying Europeanization is to investigate how the EU influences and impacts upon the member nation states. It is an approach which has expanded greatly over the last ten years. In the words of Vink and Graziano its central focus is on the "changes in national political systems that can be attributed to the development of European regional cooperation." (Vink & Graziano 2008, p. 3). More specified the approach can be designed to explore the changes that Europeanization generates in the polity, policies and politics of member states (Ladrech 2010).

Although it is often stressed in the literature that the processes of Europeanization have not affected the member states in similar ways and with similar intensity, Ladrech's conclusion, that "although undetected as regards its cumulative effect, the degree of penetration by the EU into its member states' political systems has resulted in a myriad of adjustments, that, while perhaps not formally redefining national statehood, does imply that twenty-first century EU membership commits a state to a continuous process of Europeanization" (Ladrech 2010, p. 215), is convincing, also when we are dealing specifically with the Danish experience.

Like in other member states an increasing load of Danish legislation emanates directly or indirectly from Brussels. As elsewhere national adaptation does take place and to a certain degree generates a process of ‘nationalization’ within the process of Europeanization although such adaptation is mainly linked to the indirect part of the legislative process, not the major part that becomes law and has direct applicability through regulations (Kelstrup, Martinsen & Wind 2012, pp. 386 ff; Kallestrup 2005, pp. 355 ff.).

The European legislative input both in terms of law enactment and interpretation through the Court of Justice has in several instances changed not only Danish policy, but in fact also basic features and balances of the Danish polity and politics. One such well-researched example is the treatment of the equal opportunity issue since Denmark entered the EC. Thus, Dorte Sindbjerg Martinsen’s research documents that in several instances EU regulation through directives and court decisions have improved equal opportunity standards for women in the labour market related to issues like equal pay and maternal leave rights. But more than that, this regulation has also to some extent eroded the Danish labour market model according to which labour market regulations are carried out bilaterally through accords reached between employers and employees associations and trade unions (Martinsen, 2007).

This development has not only happened as the product of dictates from Brussels. Martinsen has further shown that some of the trade unions, especially those with a high female membership, have shifted strategy and orientation and since the mid-1980s increasingly sought equal opportunity improvements through the Community method. By doing this, these unions have contributed to weakening the Danish labour market model and the national control with the process of implementation. On this background Martinsen argues that Europeanization entered a second phase from

the mid-1980s because the process from now on could also count on the backing from an important Danish constituency. This national involvement in Europeanization highlights a third dimension in the process, namely that the handling of the issue at the Community level is influenced by feedback mechanisms from the national arena and thus that European integration is shaped in a kind of dialogue between the supranational and the national. With reference to the above example and in the context of this paper we might argue that the process of Europeanization has been accompanied by a certain dose of ‘Denmarkization’.

Another example of Danish adaption to EC/EU membership can be seen in the many transformations the bureaucratic organization and representation of Danish EU policy have undergone. These transformations are the product of the manifest changes which the EC/EU system itself has undergone both in terms of institutional upgrading and in the expansion of the policy areas included, but have also been the result of bureaucratic learning processes. Thus, bureaucratic reforms have been executed to in order to make national adaptation more efficient, especially in the period after the ratification of the Single European Act and the Maastricht Treaty (Pedersen 2000). When Denmark entered the EC, the Foreign Ministry was *the* bureaucratic gate-keeper with the prerogative to filter and represent Danish EC policy. This role has since the late 1980s been somewhat diluted although the Foreign Ministry still chairs the inter-ministry coordination committee (*EU-udvalget*) and the Foreign Minister its parallel within the government, The Foreign Policy Committee. Thus, Denmark may still be among the countries with the highest ambitions to centrally control and coordinate EU policy, to be a “comprehensive centralizer” in the words of Featherstone and Radaelli (Featherstone & Radaelli 2003, p. 92), but it is evident that the specialized ministries over time have acquired more independence and leverage and that the Danish dealings with Brussels are now increasingly, if not

always understood to be, then at least handled as domestic policy – a development stressing the high impact of Europeanization.

Still, it is not domestic policy and politics as in the good old days when Schlüter pronounced the union to be stone dead. Both in the general EU literature and in that dealing specifically with Denmark the claim is often substantiated that EU policy-making tends to strengthen the executive at the expense of democratic parliamentary control. This development is attributed to several factors: such as (1) the executive (ministers and leading civil servants) having an information lead; (2) the semi-closed nature of some parts of the legislative process in Brussels; (3) the complexity and technicality of much of the proposed legislation and of the decision-making process in terms of the subject matter, the legislative rules, the gallery of people and institutions involved – a complexity which language barriers may even add further on to (Featherstone & Radaelli 2003, pp 85 ff.; Laffan 2008, pp. 128 ff.).

Such a set-up tends to increase input and control from specialized elites both in terms of strengthening the government in front of the parliament, but also ‘technocrats’ in front of ministers within the executive itself. It is an interesting allegation which we find in some of the new sociologically inspired Europeanization studies that transnational elite formation and alignment nourished by repeated and extensive personal contacts and norm diffusion through shared experience is a real product of Europeanization - and at the same time an important driver in facilitating further Europeanization. In a traditional understanding of the principles of parliamentary democracy the above development does not only challenge democratic accountability by transferring power from the legislative to the executive and through so-called policy drift in Brussels, the leading bureaucratic elite may also represent world views

– European views – that are basically out of touch with a great majority of the population ‘at home’.²

In relation to Denmark we are in need of much more research to qualify to which degree parliamentary democracy is being undermined by a transfer of power to the executive and by unaccountable and unrepresentative elites. In this sense Europeanization studies still have a long way to go. However, the point here is not to substantiate in any empirical detail the extent of the challenge. What is important, on the other hand, is the fact that the Danish political discourse on the EU, and to a certain degree even the handling of the issue at the parliamentarian level, reflect this challenge. In order to address this problematique the paper will reverse the perspective and have a look at the ‘Denmarkization’ of Europe.

‘Denmarkization’

For good reasons the concept ‘Denmarkization’ is neither so fashionable, nor contested as Europeanization. The lack of contestation is mainly explained by its lack of ‘fashionability’, and this paper by no means claims that the Danish imprint on the EU is comparable to the EU imprint on Denmark. However, in this paper ‘Denmarkization’ has a wider meaning which explains why it is put in inverted commas. Thus, the use of the concept finds its logic in the argument that it may be employed to designate general responses by member states and their citizens aimed at controlling, contesting or even curbing EU-Europeanization. Therefore, it is not used and aimed at analyzing if Danish governments have managed to insert Danish priorities into EU legislation. Such imprints may undoubtedly be found, not least on regulation related to agricultural, environmental, climate and foreign aid issues –

² Several of these democratic deficit elements are listed in Follesdal’s and Hix’ debate with Majoane and Moravcsik, see Follesdal & Hix 2006.

policy areas where the last four Danish Commissioners – not by co-incidence – have served their call. Furthermore the two Rasmussen governments of the 1990s and early 2000s, the Social Democrat Nyrup Rasmussen coalition government and the Liberal Fogh Rasmussen coalition government left a distinct imprint on the big enlargement process culminating at the summit in Copenhagen in 2002 when ten Eastern and Central European countries were accepted as future EU members (Nikolaj Petersen 2006).

Competing concepts such as ‘Irelandization’ or ‘UKnization’ could also have been employed, but the reason why ‘Denmarkization’ won out has a logic to it which reaches beyond the nationality of the author of this paper. The use of the concept is legitimized by the fact that Denmark in three important respects has been a pioneer in devising mechanisms or negotiating policy outcomes with the ultimate aim of retaining democratic-parliamentary control over EU policy and safeguarding national sovereignty over key policy areas. The pioneer metaphor comes in because these mechanisms and policy solutions have later been emulated by other member states. These three mechanisms and policy solutions are: (1) The Danish Parliament’s, *Folketinget*’s, European Affairs Committee, (2) the referendum institution, and (3) the opt-out policy solution.

The Folketing’s European Affairs Committee dates back to 1961 when the so-called Market Negotiation Committee was established. The task of the new committee composed by party representatives according to party size was to serve as a scrutiny and watchdog committee in relation to the Danish government’s handling of the accession negotiations with the EC. Its mandate however was only to be consultative and was in fact a bit blurred, since the grand political issues were still brought before and discussed in the general Foreign Affairs Committee (*Udenrigspolitisk Nævn*). Furthermore the Market Negotiations Committee only served as an ad-hoc

committee, a position that was changed into being a permanent committee under the revised name, The Market Committee, when Denmark entered the Communities in 1973. Furthermore, it took only limited practical experience during the first year of membership before the rule was established that ministers before all decision of major political significance needed binding mandates from the Committee before negotiations were initiated in Brussels and a renewed mandate each time negotiation positions changed (Borrning Olesen & Villaume 2005, p. 460; *Folketingets Europaudvalgs beretninger 1973-2010*, p. I).

After Maastricht the Market Committee acquired its present name, Folketinget's European Affairs Committee and its position was strengthened in a number of ways, not least by securing earlier access to Commission legislative proposals and by committing the government to forward at a very early stage a so-called basic memo (*grundnotat*) on each proposal (*Folketingets Europaudvalgs beretninger 1973-2010*, pp. 59 ff). These reforms not only mirrored the changes in the institutional set-up of the EU, but also the fact that the Committee often found it difficult to cope with and oversee the legislative process in Brussels and the way Danish governments handled it. All the same, in the international research literature the European Affairs Committee is always singled out as being among the strongest, if not the strongest parliamentary committee when it comes to exercising control vis-à-vis the executive. Denmark may be a comprehensive centralizer at the interdepartmental level within the executive, but it also seeks to exercise comprehensive parliamentary control over the executive – an endeavour strengthened by the Danish tradition of having minority governments (Featherstone & Radaelli 2003, pp. 92 ff; Holzacker 2008, pp. 147 f.).

The features of the Danish parliamentary scrutiny and control system are by no means emulated in detail by the other member states, but thanks to the forerunner and comprehensive character of the Danish system, it has been widely studied and in

some instances also partly copied. In response to this interest Folketinget last year published a comprehensive booklet in English describing in detail the mandate, role and character of the work of the committee. From this booklet one may also see that the committee is now preparing how to develop not only its control mechanisms, but also its (limited) role as co-legislator according to the stipulations of the Lisbon Treaty (*The European Affairs Committee of the Danish Parliament* 2012).

Institutional transfer has also been at play regarding the second item in the the 'Denmarkization' process: the introduction of referenda in relation to EU issues. Of the present member states Ireland has held more referenda than Denmark (9 versus 6), and the two countries were the first to stage EC referenda which they both did for the first time in 1972 as part of their accession process towards membership. But Danish voters voted 'no' twice (on Maastricht in 1992 and the Euro in 2000) before Ireland cast its first 'no' vote in 2001 (on the Nice Treaty). And it is of course the 'nos' that have been the claim to fame. The reason why Denmark has introduced the referendum in relation to EC/EU issues is constitutional. In §20 of the Danish constitution of 1953 it is stipulated that national sovereignty may be transferred to international institutions established by treaty, but also that such transfer will require a 5/6 majority in Parliament and, when the majority is less, alternatively through a specified majority obtained in a binding referendum (Borring Olesen 2011, pp. 45 ff.; Boring Olesen & Villaume 2005, pp. 271 ff.). A consultative referendum may also be carried out as it happened with the referendum on the SEA in 1986, when there was a majority against the treaty in Parliament, but a majority that agreed to accept the result of a consultative referendum (which produced a 'yes') (Petersen 2006, pp 528 f.).

Furthermore, the country's legal expertise has some flexibility in interpreting when §20 must be applied. To most political observers it is not self-evident why the

Ministry of Justice could reach the conclusion that a §20 requirement could be applied to the Amsterdam Treaty while the Supreme Court earlier this year could establish that the Danish government did not violate the constitution by not holding a referendum on the Lisbon Treaty. Nevertheless, it appears that Danish referendum institution overall has acted to modify the feeling of a democratic deficit in the Europeanization process, has helped to keep the debate in Denmark on Europe alive and has functioned as a mobilization framework for especially euro-skeptic groups and movements. However, one should stress that the referendum institution has not exclusively functioned as an outlet for euro-skepticism as four out of the six Danish referenda has returned a ‘yes’.

‘Denmarkization’ kicks in here because the use of referenda in relation to EU issues has spread and so has the propensity for voting ‘no’. If we look at the ‘no’s returned in all of the referenda held in the various European countries, we see the following pattern: apart from the Norwegian ‘no’ in 1972 (and the Greenlandic ‘exit no’ in 1981), all ‘no’s have been produced after the end of the Cold War, and 3/4 of these (6 out of 8) have been delivered since 2000. Furthermore, it is interesting to note that among the other countries that have asked their electorates to vote several times – i.e. France, Ireland and Sweden – ‘no’s have also been produced (Ireland on the Nice Treaty in 2001 and on the Lisbon Treaty in 2008, France on the Constitutional Treaty in 2005 and Sweden in its EMU referendum in 2003). However, the Dutch ‘no’ in 2005 may in fact be the most telling example of the impact of ‘Denmarkization’ since the Netherlands historically has generally been regarded as the pro-EU country par excellence (Borring Olesen 2011, pp 45 ff). Thus, the conclusion seems tempting: if a country holds referenda and especially if a country repeats the exercise more times, sooner or later it will end up with a ‘no’. In this way ‘Denmarkization’ impacts very heavily on Europeanization – a pattern which may find strong reconfirmation if and when the United Kingdom in the near future is going to vote on its EU relationship.

It is probably not all that surprising that the opt-out mechanism and policy solution is the third element of the ‘Denmarkization’ repertoire. After all opt-outs of treaty obligations is a way of addressing a stalemate political situation when national electorates have voted ‘no’ to further integration. It may be argued that Britain was the first country to be granted an opt-out as it happened during the Maastricht negotiations on the issue of EMU-membership. The reason why Denmark did not pursue a formal opt-out during Maastricht on the same issue owed to the fact that the Danish government had made it clear that Danish entry into the third phase of the EMU would require a referendum according to the transfer-of-sovereignty clause in the constitution. However, when the Danes said ‘no’ in the Maastricht referendum of 2. June 1992, the opt-out solution became the key to solving a critical problem, not only to Denmark, but also to the EC which, according to its own treaty stipulations, could not transform itself into the EU before all member states had ratified the new treaty. In practical terms it was a ‘big key’ since Denmark in the Edinburgh agreement of December 1992 was granted four-opt outs to pave the way for holding a new referendum. The four opt-outs were non- participation on entry into the third phase of the EMU, non-participation in defence policy issues in pillar two and non-participation in the supranational aspects of pillar three cooperation on justice and home affairs. Finally the new union citizenship did not embrace Danish citizens.

The focus on precisely these four opt-outs was the product of an interesting domestic handling of the Maastricht dilemma. In fact, it was the opposition parties, the Social Democrats, the Social Liberals and the EU-skeptic party, the Socialist People’s Party, which negotiated a “National Compromise” based on the four opt-out solution. The ruling Liberal-Conservative government was basically bystanders in this process and more less had to accept the national compromise as a dictate because it was the general expectation of the time that a ‘yes’ in a new referendum could only be

obtained if the People's Socialists endorsed a 'yes'. This expectation proved correct when the Danish voters in May 1993 with a majority of 56,7% approved Maastricht in the Edinburgh opt-out version - dubbed "Maastricht without thorns" at the time (Petersen 2006, pp. 506-520).

The Maastricht-Edinburgh intermezzo –and the subsequent consequences of the opt-outs - highlights several important features in the Danish relationship with the EC/EU. First, that the Danish electorate was willing to lend credibility to Mr. Schlüter's prognosis about the stone dead union by at least exempting Denmark from participation in the more politically sensitive areas of EU cooperation, while at the same time refusing to endorse a full exit from the community, even from the Union. Second, that EU referenda are able to mobilize the electorate (the turn-out in the two referenda in 1992-93 were 83,1% and 86,5%) and thereby also sustain legitimacy behind Danish EU policy. Third, that voters and parliament do have real powers to define and mitigate the consequences of Europeanization and to counterbalance the influence of the executive. Fourth, that opt-outs sometimes develop into a real hindrance for pursuing broadly accepted national goals in the EU – that opt-outs come with a price (DIIS 2008).

At the European level 'Denmarkization' in the form of the opt-outs in combination with the results of the referenda, especially the 'no' referenda', has proved to have several consequences. First, the Danish 'no' and the French 'petite oui' in 1992 were important in alerting the Brussels leadership to the problem of legitimacy in the process of Europeanization although it has not been able to find a credible remedy to address it so far. Second, the opt-out solution has spread with now five countries having opt-outs (apart from Denmark, the UK, Ireland, Poland and Sweden (the latter's opt-out on the EMU is only de-facto). Potentially opt-out solutions can fundamentally undermine the process of EU-Europeanization, but in practical terms this element in the process of 'Denmarkization' is the one with the least impact.

However, this may change if (some) of the Euro countries decide to move ahead with treaty reform in order to solidify EMU cooperation.

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