

INTEGRATED OR OUT: A COMPARISON OF DENMARK AND THE UNITED KINGDOM  
AS THE EU'S TWO MAJOR OPT-OUT STATES

Lorena Suzanne Schmidt

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Approved by:

Holger Moroff

Donald Searing

John D. Stephens

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## **ABSTRACT**

Lorena Suzanne Schmidt: Integrated or Out:  
A comparison of Denmark and the United Kingdom as the EU's two major opt-out states  
(Under the direction of Holger Moroff)

Since joining the European Community in 1973, Denmark and the United Kingdom have proven to be Europe's two greatest champions of the opt-out. Notably deciding not to participate in many aspects of the EU *acquis*, Denmark and the UK stand together as uniquely in and out of the European Union. By comparing the two countries using the theory of historical institutionalism, this thesis shows why Denmark and the UK pursued their respective opt-outs and what effects these opt-outs have had on each country's integration into the EU. Ultimately, this thesis will show that the path of allowing member states to opt-out could prove to be dangerous for the European Union for two reasons: it is difficult to reverse opt-outs once they have been negotiated and opt-outs often lead countries to demand more independence, and therefore less integration.

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## **LIST OF ABBREVIATIONS**

AFSJ	Area of Freedom, Security, and Justice
CSDP	Common Security and Defense Policy
EC	European Community
ECFR	European Charter of Fundamental Rights
EEA	European Economic Area
EMS	European Monetary System
EMU	European Monetary Union
EU	European Union
JHA	Justice and Home Affairs
NHS	National Health Service
SIS	Schengen Information System
VAT	Value Added Tax

## CHAPTER 1

### INTRODUCTION

Since joining the European Community in 1973, Denmark and the United Kingdom have stood out among their fellow European Union member states as non-conformists. Due to their respectively high GDPs, as well as unique welfare systems, both countries have much to offer the EU and much to gain from EU membership, such as access to the single market for purposes of the trade of goods and services (United Nations Development Programme, 2015). While both Denmark and the UK value participation in the single market above all else, tensions regarding sovereignty have arisen over the course of the European Union's existence, leading the Danes and Britons to choose not to participate in many aspects of the EU *acquis*. These decisions to "opt-out" of many key provisions of the EU have been seen by some as disadvantages to all parties involved; others see it as a keen way for the states in question to preserve their sovereignty while still having their voices heard on the European stage (Adler-Nissen, 2009).

In this thesis, I will analyze why Denmark and the United Kingdom have pursued such opt-outs and to what extent the Danish and British opt-outs have affected each state's ability to integrate into the European Union. Using the lens of historical institutionalism, I will show how Denmark and the United Kingdom have been affected by their decisions to opt-out of key aspects of EU policy, with a focus on how these opt-outs have served to further or hinder each country's integration into the EU. Such European integration will be measured by examining to what extent Denmark and the UK have committed to accepting and implementing EU-mandated

policies, as well as by analyzing Denmark and Britain's participation on the EU level.

Ultimately, this thesis aims to show that the path of allowing certain countries to opt-out could prove to be dangerous for the European Union for two reasons: it is difficult to reverse opt-outs once they have been negotiated and opt-outs often lead countries to demand more independence, and therefore less integration. Potential consequences of this can be seen in the Brexit referendum of 2016, which will be explored later in this thesis.

This thesis provides a fresh examination of opt-outs in the EU by using the analytical lens of historical institutionalism. Many comparative studies of the past regarding opt-outs in the European Union have primarily used the theoretical lens of differentiated integration to analyze opt-out states.<sup>1</sup> My thesis, however, will focus on the ideas of path dependence and unintended consequences as the main theoretical bases, as I believe these two aspects of historical institutionalism provide a more holistic understanding of why Denmark and the United Kingdom have pursued opt-outs, and what effects have occurred and could occur in the future because of such opt-outs. Historical institutionalism provides an effective, thorough theoretical understanding of how and why changes occur within the EU, and how these changes affect integration on state and EU levels.

Additionally, it is important to note that the comparative case study of Denmark and the UK is relevant beyond the fact that both countries are the "opt-out champions" of the EU.

Denmark and Britain have enjoyed a notably strong economic relationship for years prior to EC accession in 1973. For this reason, neither country wished to enter the European Community

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<sup>1</sup> See: Winzen, T. (2016) From capacity to sovereignty: Legislative politics and differentiated integration in the European Union in *European Journal of Political Research* and Adler-Nissen, R. (2009) Behind the scenes of differentiated integration: circumventing national opt-outs in Justice and Home Affairs in *Journal of European Public Policy*.

without the other, for fear that this trade relationship would be compromised. Denmark and the UK have also been linked in the years following accession, continuing to have a large bi-lateral trade, defense, and ideological relationship, once again showing the relevance of comparing the two countries' positions in the EU (Nissen, 2016).

This thesis will begin with background information regarding Denmark and the United Kingdom's respective positions in the European Union. Chapter 2 contextualizes both countries within EU politics, providing a basis for understanding the Denmark-EU and Britain-EU relationship, while also introducing the concept of historical institutionalism. Next, in Chapters 3 and 4, I will outline each country's opt-outs, presenting some reasoning behind why each country decided in favor of opting-out of key policy areas, as well as providing the reader with an effective understanding of the details of each opt-out. Understanding the historical context for each opt-out is vital to the theory of historical institutionalism, therefore this section will provide such information. Finally, Chapter 5 will analyze how integration into the EU has been hindered or furthered by Denmark and Britain's many opt-outs. Using the lens of historical institutionalism, I will provide an analysis of European integration that is grounded in historical context and that focuses on two of the main tenets of historical institutionalism: path dependence and unintended consequences.

This thesis makes use of prior scholars' research regarding opt-outs in the European Union, such as that conducted by Rebecca Adler-Nissen (2009, 2011). I also make effective use of numerous official documents in order to provide accurate first-hand accounts of statements made by the European Council, European Parliament and the Danish and British governments regarding opt-outs and integration. I also use the work of Sven Steinmo (2008) as well as Peter Hall and Rosemary Taylor (1996), as their work has provided me with a deeper understanding of

how historical institutionalism and European integration are intertwined. By using a combination of scholarly articles and official EU documents, I will provide a compelling examination of the Danish and British opt-outs from many aspects of the EU *acquis* while also exploring the effects these opt-outs have had on both countries' ability to integrate into the European Union.

## **CHAPTER 2**

### **SETTING THE STAGE: DENMARK, THE UK, AND HISTORICAL INSTITUTIONALISM**

Denmark and the United Kingdom each have a unique relationship with the European Union. While both countries are generally thought of as “European” in regard to history, culture, and geography, Denmark and the UK have valued their individual sovereignty since the early days of their accession to the European Union. The following chapter will detail the historical and political changes which have characterized the respective Danish and British relationships to the European Union. This background information will not only provide the reader with an effective historical orientation but will also provide context for understanding the policy areas in which Denmark and the UK have been granted opt-outs. To begin, I will discuss the Danish relationship both toward and within the European Union. Next, I will explore the British side, discussing the position of the United Kingdom toward the EU and as an EU member. Finally, I will provide a brief introduction to the theory of historical institutionalism, contextualizing the theory and discussing the main tenets which will be explored in this thesis. This chapter aims to set the stage for the analysis to come, before beginning my examination of the details of each British and Danish opt-out in the following chapters.

#### Denmark and the EU: An overview

Denmark’s relationship to the European Union is a long one, going back to 1973 when Denmark formally joined the European Community, a precursor to today’s European Union. Denmark would later become a part of the Union when the EU was codified by the Treaty of

Maastricht in 1993. However, Denmark's participation in supranational bodies, such as the EC, the European Economic Area or the EU, has been controversial from the start (Neergaard, 2016). Due to many socio-political factors, and owing largely to their constitutional structure, many Danes have been reticent to lose their autonomy and submit to a supranational institution. The current Danish constitution, for example, has been in place since 1849, and has not been modernized to reflect changing mores, societal expectations, or political entanglements of the present (Neergaard, 2016). Many see this as a shortcoming of the document, but many others see it as an integral part of Danish history, law, and politics, believing that the document should not be altered and that it should still be viewed quite literally as the law of the land (Neergaard, 2016). Because of this, differences have arisen regarding Denmark's role in the European Union.

Though they have had a long relationship, Copenhagen and Brussels have not always seen eye-to-eye. One of the largest areas of contention has stemmed from the Danish concern that the European Union does not, in fact, require enough of its member states. This can be seen in Denmark's desire to protect, and indeed to expand, its social welfare programs. Following the social democratic model of welfare states, also known as the Scandinavian or Nordic model, Denmark's welfare regime is characterized by a strong sense of universalism and equality of benefits, whereby, according to Esping-Andersen (2013) "all citizens are endowed with similar rights, irrespective of class or market position (p. 25)."

The Nordic welfare state comes at a price, of course, in the form of relatively high taxes. Denmark, for example, has a much higher Value Added Tax (VAT) rate than is mandated by the EU. Denmark's VAT is 25% with the EU minimum being 15% (European Commission, 2017b). Denmark also has a relatively high income tax, which, depending on a person's income and socio-economic status, can range anywhere from 43% to 51.95% (European Commission,

2017a). Though these taxes may seem very high to some, Denmark's generous welfare state, which among other aspects includes no-cost health care, unemployment benefits, free primary, secondary, and university education, and a sophisticated pension system, more than compensates for the higher than average taxes in the eyes of the Danes (Esping-Andersen, 2013).

Since the Danes are heavily invested in their welfare system, both culturally and monetarily, it has been a fear from the beginning of their membership in the European Union that Brussels would not mandate such strong welfare systems of other states, or in fact, that legislation would either prevent expansion of the Danish welfare system or perhaps shrink its size and scope (EUR-Lex, 1992). This has created a sense of "euroscepticism" among Denmark's population, leading citizens to desire to retain as much autonomy for their country as possible, therefore opting-out of key EU provisions (Sørensen, 2004).

As will be discussed further in this thesis, the Danish view of European Union membership has been shaped by Denmark's constitution and the stipulations within, or lack thereof, for terms of governance by a body outside of or above the Danish system. Because of this, many referenda on various aspects of Denmark's membership in the EU have taken place over the years, with some in favor of a stronger Danish-European relationship, and others against (Nielsen, 2015). As described by Julie Hassing Nielsen (2015) of the Swedish Institute for European Policy, "Denmark has held six referendums about EU related issues... among the highest number of referendums about EU issues held by any EU member state (pp. 5-6)." In this vein, the Danes have proven to be less than fully committed to the European project, with their membership coming with a price: the ability to opt-out of major policy areas. The EU has shown itself to be willing to pay such a price, allowing Denmark to secure some flexible and some rigid opt-outs, the implications of which will be discussed in greater detail later in this thesis.

## The United Kingdom and the EU: An overview

Just like Denmark, the United Kingdom joined the European Community in 1973, becoming a member of the European Union when it was codified by the Maastricht Treaty in 1993. Following two failed applications to the EC, first in 1963 and second in 1967, Britain successfully began membership negotiations in 1969, acceding in 1973. From the beginning, however, scepticism was in the air (Stevens, 2016). The Labour Party, in opposition at the time of Britain's accession to the EC, opposed membership to what they called the "Common Market," stating the following in their 1974 party manifesto:

A profound political mistake made by the [Conservative] Government was to accept the terms of entry to the Common Market, and to take us in without the consent of the British people. This has involved the imposition of food taxes on top of rising world prices, crippling fresh burdens on our balance of payments, and a draconian curtailment of the power of the British Parliament to settle questions affecting vital British interests. This is why a Labour Government will immediately seek a fundamental re-negotiation of the terms of entry. (Wilson, 1974)

True to their word, the Labour Party, led by newly-elected Prime Minister Harold Wilson, held a referendum on Britain's membership to the EC in 1975 (Stevens, 2016). This referendum produced a positive result, with 67% of the electorate voting to retain membership to the European Community and seeming to solidify Britain as "in" Europe (Curtice 2016). However, British scepticism toward Europe was hardly settled.

As described prior, the primary reason for the common "euroscepticism" seen in Denmark can be traced to the rigidity of the Danish constitution. In Britain, a comparative cultural reason seems to account for a similar level of eurosceptic sentiment. According to John

Curtice (2016), “euroscepticism is not only common, it is also deep” (p. 212) in the United Kingdom. This is primarily due to Britons’ strong sense of national identity and reticence to accept a new, supranational identity in the form of Europe. According to the 2015 British Social Attitudes survey whereby 4,316 British citizens were asked to freely identify with one or more identity usually associated with Britain, Ireland, and Europe, only 16% of respondents chose “European” as one of their identities. Similar data can be seen in prior years’ surveys, showing that this is not an anomaly, but rather a norm (Curtice, 2016).

One notable contributing factor to British reluctance to integrate into the EU, and therefore a factor that has driven the UK to seek opt-outs, comes in in the form of its welfare state. The British welfare state is generally associated with the liberal model, which was described in Esping-Andersen’s (2013) the “Three Worlds of Welfare Capitalism,” as a type of regime wherein benefits are means-tested, and as such, largely favor those who are low-income earners. The primary focus of the liberal regime is on market efficiency, not on equality, and this can be seen in the breadth of the welfare state in the United Kingdom. Notably different from the Danish model, which favors equality at all costs and in all aspects of its welfare state, the British welfare state does not put a premium on equality in terms of benefit allocation, save for one important feature: the NHS.

As one of the largest and strongest pillars of Britain’s welfare state, the National Health Service is a feature, not only of the British welfare state, but of modern British identity itself. The NHS is the United Kingdom’s government owned and operated health care system, providing free, comprehensive health care to residents of the UK. Today’s NHS was established in 1948, following World War II. Born out of a post-war need for systemic change in Britain, the NHS was founded on the idea that “good healthcare should be available to all, regardless of

wealth” (NHS Choices, 2015). Another tenet of the NHS is that citizens of other partner countries should be able to access affordable, high-quality healthcare while in the UK, regardless of their status as a British resident. This aspect of the NHS, however, has been subject to recent changes as a result of changing attitudes by the British population regarding who should and should not be allowed to access the National Health Service (NHS Choices, 2016).

Using data from the 2015 British Social Attitudes survey, John Curtice (2016) describes changing British attitudes toward the breath of the NHS, saying of Britons that “as many as 59 per cent would even want ‘to stop people from other EU countries getting NHS treatment for free,’ a move that would imply ending the reciprocal access to urgent health care that is currently afforded to EU citizens wherever they are in the EU” (p. 212). Not only does this show a British desire to safeguard their welfare state against outsiders, it also implies that the British population could be unwilling to accept mandated expansions or changes to their healthcare and welfare system, which could be instituted by the EU in the future. Compared to Denmark, Britain’s sense of euroscepticism stems from a similar desire to protect self-direction and autonomy yet manifests differently— Denmark is sceptical of the EU due to a lack of strict enough mandates for member states, and Britain fears that EU mandates could in fact become too strict.

### Historical Institutionalism: An introduction

Next, I will provide a brief introduction to the theory of historical institutionalism. This introductory section aims to provide an overview of the theory, while also showing how the theory will be used to analyze European integration in the context of this thesis. As described by Sven Steinmo (2008), historical institutionalism is best described, neither as a specific theory or method, but rather as an approach to examining and understanding political change. As a theoretical approach, historical institutionalism is characterized by its unique combination of

data, historical orientation, and attention to the ways in which institutions have structured and shaped political change (Steinmo, 2008). For the purpose of this analysis, I use Hall and Taylor's (1996) definition of "institution," which is as follows: "formal or informal procedures, routines, norms and conventions embedded in the organizational structure of a polity or political economy" (p. 938). An institution can take the form of laws, policies, treaties, governing bodies, or states themselves.

Additionally, there are three main tenets of historical institutionalism: unintended consequences, path dependence, and the relationship between individuals and institutions (Hall & Taylor, 1996). Of these, unintended consequences and path dependence will be explored most heavily in this thesis. Path dependence, as described by Hall & Taylor (1996), is the idea that once an actor or institution begins on a certain path, it is likely that they will continue on that path as opposed to straying from it. This is because it is quite difficult to alter, and even more so to reverse a course particularly when many other actors or institutions have become accustomed to such a course. Unintended consequences, as its name suggests, describes the potential unforeseen ramifications of any given institution or institutional change. Both of these will be explored in greater detail in relation to the Danish and British opt-outs in Chapter 5.

Historical institutionalism also focuses on the importance of understanding and contextualizing history to understand institutional change and institutional decisions. As Steinmo (2008) describes, "History is not just an independent chain of events" (p. 166). History, instead, matters in the context of almost every decision that is made within an institution. One of the main reasons "history matters," is because present decisions are shaped by the past (Steinmo, 2008). This can account for why many institutional decisions are made. For example, a state with a successful track record of engaging in war with another state to achieve a desired outcome will

be more likely to engage in this type of behavior again since it provided a successful outcome in the past. This line of thinking can also be applied to Denmark and the UK's pursuit of opt-outs.

Regarding European integration, historical institutionalism provides the tools for analyzing how and why changes occur within the EU, and how these changes affect integration on state and EU levels. In the European Union, institutional change is vital to the structure and maintenance of a cooperative, integrated union; therefore, the European Union must constantly monitor its laws and institutions, in order to assess whether or not change is needed. The EU must also decide if there is any need for new institutions and how such institutions will be implemented, such that they contribute to the overall health of the European Union. If states decide to opt-out of such institutional changes, as Denmark and the United Kingdom have done, this would affect both the particular state's position in the EU, as well as the EU as a whole, since all institutional changes are connected in such a polity. Historical institutionalism in this thesis will therefore be applied to analyze European integration in terms of Denmark and Britain's commitment to accepting institutional changes in the EU.

## CHAPTER 3

### THE DANISH OPT-OUTS

As described in Chapter 2, Denmark's current constitutional system can be traced to 1849, with the adoption of the Danish Constitutional Act. This laid the groundwork for Denmark's constitution, known as "Grundloven." Much of the Danish constitution has remained unchanged since its adoption, leading many to criticize it for being outdated or irrelevant in the context of modern Denmark. The Grundloven does not, for example, refer to fundamental rights nor does it provide specific guidance regarding Denmark's entrance into a supranational union, such as the EU (Neergaard, 2016). This particular shortcoming has led to tension surrounding Denmark's participation in various aspects of the *acquis communautaire*, as some believe full participation would go against the Grundloven (Neergaard, 2016). The historical and political importance of Denmark's Grundloven provides some background and explanation regarding the consistent Danish "no" concerning many aspects of the EU *acquis*. This section will briefly outline Denmark's opt-outs from various aspects of EU law and treaties before providing a comparative view of Britain's opt-outs in the following section.

In 1992, the Maastricht Treaty was presented to members of the European Community for ratification. This treaty would lay the formal groundwork for today's European Union, introducing ideas such as a common currency, common security and defense policy, and common citizenship to one European Union. Requiring ratification by all members to pass, the treaty's passing was help up by one major player, unhappy with its provisions: Denmark (Adler-

Nissen, 2011). Denmark wished to retain as much sovereignty as possible while joining a supranational union, stemming greatly from the importance of following the provisions laid down by their constitution. This led to the negotiation of the Edinburgh Agreement, whereby Denmark was granted several notable opt-outs from the provisions of the Maastricht Treaty, therefore making the document acceptable to Copenhagen and allowing for its ratification (EUR-Lex, 1992).

Since the adoption of the Maastricht Treaty and the formal establishment of the EU in 1993, Denmark has been granted a total of four opt-outs in the areas of 1.) European Union citizenship, 2.) The Economic and Monetary Union, 3.) Common Security and Defense Policy, and 4.) the Area of Freedom, Security, and Justice. Most of these opt-outs remain today, with a few notable exceptions. Denmark's decision to opt-out of mandating Danish citizenship to the European Union ensured that EU citizenship would not replace Danish citizenship (Adler-Nissen, 2011). This was, however, made obsolete with the Treaty of Amsterdam in 1997, which states that Union citizenship shall not replace national citizenship in any context, but shall merely complement it (European Parliament, 1997). Though this opt-out has not technically been overturned, it is no longer effectual, therefore it will not be discussed further in this thesis. The other exception regards the Area of Freedom, Security, and Justice and concerns the Schengen Agreement. Denmark does participate in aspects of the Schengen *acquis* while maintaining an opt-out from all else of Area of Freedom, Security, and Justice, which will be expanded upon later in this chapter.

### The Economic and Monetary Union

Denmark's opt-out from the Economic and Monetary Union is unique, in the sense that it can be reversed if and when the Danes desire. Under the provisions of the Edinburgh Agreement,

Denmark was not obligated to join the Eurozone at any time, unlike other the signatories to the Maastricht Treaty (save for the UK) or other countries who have since joined the EU, such as Sweden (Neergaard, 2016). However, the Edinburgh Agreement permits that Denmark may join the EMU at any time, provided the financial and economic criteria for membership are met (EUR-Lex, 1992).

Denmark has not always been staunchly against joining the Eurozone, unlike its opt-out peer, Britain. In fact, in 2000, when the idea of a single currency was growing to be a reality, the majority of Danes were in favor of adopting the euro and abandoning the Danish *krone*. When it seemed like the euro might become a reality however, aggressive anti-euro campaigning efforts emerged. The campaigns born during this time served to ramp-up euroscepticism among the Danish population, leading many people to have a change of heart regarding the adoption of the euro (Sørensen, 2004). Later in 2000, a referendum was held regarding the adoption of the euro to replace the Danish *krone*. This referendum was narrowly unsuccessful, with 46.8% for the adoption of the euro and 53.2% against it (Adler-Nissen, 2011). Since then, other referenda on the matter have been discussed, but have not come to fruition.

It is notable that the Danish *krone* is tied to the euro, with a fixed exchange rate of 2.25% to match the euro's fluctuation. This has led some to argue that since Denmark is already reaping the benefits of the Eurozone, it will never feel the pressure to join (Neergaard, 2015; Nielsen, 2015). This precedent ensures that Denmark retains a fair amount of autonomy over its currency and monetary decisions, while enjoying the same safeguards as members of the eurozone. The idea that Denmark is a "free-rider" when it comes to the Economic and Monetary Union is one that has been suggested, particularly by other EU members who were required to join the EMU as part of their accession agreements, and who would not have reaped the benefits of the EMU

had they not acquiesced. However, since Denmark does not have a full seat at the EMU table, at least not on paper, it could be argued that the extent of their “free-riding” does not extend to their voice being heard in terms of policy-making decisions of the Economic and Monetary Union (Naurin & Lindahl, 2009).

### Common Security and Defense Policy

Regarding Denmark’s opt-out from the Common Security and Defense Policy, this decision also stemmed from Denmark’s fierce desire to maintain as much sovereignty as possible while still enjoying membership to the European Union. According to the Danish Ministry of Defense (2016), Denmark shall not, and in fact cannot legally, “participate in the elaboration and the implementation of decisions and actions of the Union which have defence implications.” What this means is that Denmark is excepted from any and all EU military operations, or any processes which could lead to the enhancement of the EU’s military capabilities. Denmark is, however, a NATO member and does participate in NATO and UN military missions when necessary, often following examples set by its opt-out peer, Britain (Forsvaret, 2017; Nissen, 2016). Additionally, Denmark does not participate in providing troops or supplies to EU-led operations, be they defense oriented or not, if such operations take place in conflict zones. This particular provision of the CSDP was codified in the 1997 Treaty of Amsterdam (Danish Parliament, 2016). This is, again, illustrative of Denmark’s commitment to the protection of their own sovereignty. The defense opt-outs show that the Danes value autonomy regarding military and defense decision-making, as well as spending.

It is also notable that Denmark’s priorities concerning defense are slightly different than many of its fellow EU members. Denmark, for example, shares a land border with only one other country— Germany— and is fairly isolated from areas of military conflict, or even potential

conflict. Furthermore, Denmark has not had a large external military presence in recent years, meaning that its military and defense interests are not as widespread as other EU countries, like France for example. However, the Danish Ministry of Defense (2016) has made it clear that, despite this opt-out, Denmark is still committed to furthering European Integration, and certainly does not mean to hinder it with this particular opt-out, stating “Denmark will not prevent the development of closer cooperation between Member States in this area.” This illustrates that Denmark is aware of its unique position in being granted such impactful opt-outs and still demonstrates a commitment to facilitating cooperation and integration within the Union.

#### Area of Freedom, Security, and Justice

The final of Denmark’s opt-outs is that of the Area of Freedom, Security, and Justice. Denmark’s opt-out from AFSJ is similar to the opt out from the Economic and Monetary Union, in the sense that Denmark was able to pick and choose aspects of the policy that would suit it best during negotiations, showing just how much influence the small country had when signing the Maastricht Treaty. In the end, Denmark chose to be fully outside the Area of Freedom, Security, and Justice, securing a rather “rigid” opt-out (Peers, 2011).

Established as Justice and Home Affairs under the third pillar of the Treaty of Maastricht, the post-Lisbon “Area of Freedom, Security, and Justice” concerns all affairs relating to interstate cooperation in areas concerning criminal, judicial, and immigration matters (Peers, 2011). As one of the objectives of the EU is to ensure freedom of movement for all its citizens, AFSJ was established to protect and preserve the area of free movement, while serving to enhance cooperation and communication among member states, particularly surrounding criminal and judicial matters. AFSJ has been reshaped, rescoped, and renamed over the years, taking on more responsibilities as the area of free movement changes and expands. Today, AFSJ

includes many cooperative agencies, including Europol, Eurojust, and Frontex. The Schengen Information System and the European Arrest Warrant are also within the purview of AFSJ, showing just how much is included in this one large policy area (Peers, 2011).

Much of Denmark's basis for opting-out from the Area of Freedom, Security, and Justice stems from a desire to retain autonomy and control in regard to migration, immigration, and asylum standards. According to Rebecca Adler-Nissen (2011), "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" (p. 1106). As these policies are under the umbrella of AFSJ, Denmark would have had to give up control over such policies, and follow the guidelines created by Brussels if they had agreed to participate in AFSJ.

Denmark's reticence to let Brussels run the show is nothing new, as has been previously discussed in this thesis. However, it is notable that, when the Edinburgh Agreement was established, and Denmark's opt-out from what was then known as Justice and Home Affairs was agreed upon, it was established that "Denmark will participate fully in cooperation on Justice and Home Affairs," (EUR-Lex, 1992, section D). Over the years and with the successive treaties of Amsterdam and Lisbon, this stance changed. Today, Denmark's opt-out from AFSJ is quite rigid, with treaties stipulating that Denmark cannot work on a cooperative basis with the EU but can have bilateral agreements that may overlap with AFSJ (Peers, 2011).

Interestingly, Denmark has reached such bilateral (often called "parallel") agreements on many crucial aspects of AFSJ (Larsen, 2015). For example, Denmark is not a signatory to the Dublin II Regulation concerning asylum-seekers, with the Danes having obtained a parallel agreement with the EU regarding the adoption of Dublin II instead (Adler-Nissen, 2011). Similarly, Denmark participates in the Schengen Area and values this participation greatly, as it

allows for increased cross-border trade, commerce, and tourism. Participation in the Schengen Area also gives Denmark access to the Schengen Information System, which allows for state-to-state law enforcement cooperation and information sharing in order to ensure the external borders of the Schengen Area are safe and secure, therefore preserving internal security (European Commission, 2017b). Since Denmark does not fully participate in other cooperative law enforcement aspects of AFSJ, such as Europol, it is important both for Denmark and for the EU that the Danes do in fact participate in Schengen, and the SIS, as this allows for both parties to share valuable information and resources on a cooperative level.

In all, this chapter has demonstrated that Denmark has had the ability to decide, carefully and consistently, which policies of the EU *acquis* in which they wish to participate. Though a small country, Denmark clearly has importance to the EU, as the EU granted Denmark opt-outs from the Treaty of Maastricht in order to ensure the Danes would join the European Union. Though Denmark does value its participation in many aspects of EU law, particularly in regard to the single market, Danes remain reticent to give Brussels full control of their currency, military, and overall security. With this in mind, the next chapter will provide a comparative look at the opt-outs secured by Denmark's opt-out peer, the United Kingdom.

## CHAPTER 4

### THE BRITISH OPT-OUTS

As Winston Churchill proclaimed, “We are in Europe, but not of it” (Glencross, 2015, p. 305). This quotation accurately sets the stage for what would become a unique relationship between Britain and “Europe” over the course of the 20th century. Britain’s official partnership with the European Community began the same year as Denmark’s, with the United Kingdom joining the EC in 1973. Yet, Britain showed reticence to integrate almost from the beginning of its partnership with the EC. As previously described, almost immediately following Britain’s 1973 accession to the European Community, a referendum was held to solidify the UK’s position as a member of what the Britons often referred to as the “Common Market.” As Curtice (2016) states, the outcome of this referendum, held in 1975, “appeared to settle the matter” (p. 209) of membership, as the public voted to remain in the EC.

In spite of this, the UK has remained reluctant to integrate fully into many aspects of the EU *acquis*, owing mainly to the British fear of being subsumed by “Europe” and losing vital aspects of identity, culture, and rights. For this reason, Britain has pursued various opt-outs from the EU *acquis*, being granted a total of four opt-outs in the areas of 1.) The Economic and Monetary Union, 2.) The Schengen Area, 3.) Area of Freedom, Security, and Justice, and 4.) The Charter of Fundamental Human Rights. It should be noted that for the purposes of consistency, the Schengen Area will be discussed in conjunction with the Area of Freedom, Security, and

Justice. This chapter aims to provide an analysis of the British opt-outs, while also presenting reasoning behind each opt-out and comparing relevant policy opt-outs to those of Denmark.

### The Economic and Monetary Union

One of the most important of Britain's opt-outs, in terms of scope and in terms of preserving state sovereignty, is the opt-out from the Economic and Monetary Union. As the EC was founded as a Common Market, the EMU has always been one of the tangible goals of the European Union, with the idea being proposed as early as 1969. Despite this, however, the creation of an Economic and Monetary Union and with it a common currency, was not foreseen in the original treaty of the EC (European Commission, 2014). Many countries who joined the European Community therefore did not see a monetary union and common currency as one of the attainable goals of the EC. With the formal establishment of the European Union in 1993, the idea of a monetary union with one single common currency became even more of a reality, with the Treaty of Maastricht highlighting the completion of the Economic and Monetary Union as a formal objective (Parliament of the United Kingdom, 2013). From the start of such talks, the United Kingdom was once again, sceptical.

Britain's scepticism toward such a union was hardly new, however. In 1979, the European Monetary System (EMS) was established within the European Community in an attempt to achieve currency stability in Europe by urging states to coordinate their monetary policies. By utilizing the European Exchange Rate Mechanism, the EMS sought to alleviate extreme exchange rates among member states and achieve relative monetary stability in the area (Parliament of the United Kingdom, 2013). Britain, however, was sceptical of this plan, believing that it may give more power to certain currencies, such as the Deutsche Mark, "thus keeping Germany more competitive and other countries less so" (Keegan, 2015). The United

Kingdom, therefore, was the only EC member not to join the European Monetary System at that time,<sup>2</sup> showing their early reticence to submit to a supranational monetary and exchange system (Parliament of the United Kingdom, 2013).

With this in mind, it should not have come as a surprise when the United Kingdom chose to pursue an opt-out from the EMU proposed by the Maastricht Treaty. Though Britain's motivations for joining the European Union have often been seen as largely economic, giving up the Pound Sterling was never in Britain's plan (Sørensen, 2004). The EMU opt-out was negotiated by the Prime Minister at the time, John Major, as part of his efforts to secure Britain's position as in Europe, but also outside it (Parliament of the United Kingdom, 1998). With this opt-out, the United Kingdom secured its place as one of the main "euro-outsiders."

As described by Glencross (2015), despite an official opt-out from the EMU, Britain's participation in the single market has not been "diluted." In fact, Britain holds a great deal of influence on the Eurozone stage, due to the fact London plays host to a large number of European banks and financial institutions. Though different from the "free-rider" critique of Denmark, some argue that this gives Britain an unfair role in the EMU, reaping benefits while maintaining an opt-out (Glencross, 2015). Indeed, this EMU opt-out has not led EMU-members to shy away from working with opt-out countries. As described by Naurin and Lindahl (2010):

Rather than being upset by the 'free-riders', the representatives from the Euro-countries who in the sample are working closest to the monetary policy field are even more inclined to cooperate with Denmark and the UK than their colleagues in other policy fields...One interpretation could be that the Euro-outsiders are attractive

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<sup>2</sup> Britain would later join the EMS in 1990, following the unification of East and West Germany; however, initial scepticism was strong and Britain's membership to the EMS lasted only 2 years (Parliament of the United Kingdom, 2013)

as cooperation partners because they are perceived as having important qualities as negotiators, such as being skillful, active and informed on many issues. (p. 501)

Similar to Denmark, the UK does retain the ability to join the EMU, contingent on dropping the opt-out and meeting accession criteria (EUR-Lex, 1992). This was never a likely option, however. As shown by Eurobarometer, since the 1990s the majority British citizens have not been in favor of adopting the Euro, becoming increasingly against the idea in recent years (European Commission, 2018). In light of the 2016 Brexit vote, this is certainly no longer on the table.

#### Area of Freedom, Security, and Justice

As described in Chapter 3, the opt-out secured by Europe's other opt-out "champion," Denmark, is rather rigid in the Area of Freedom, Security, and Justice. The UK on the other hand, secured a more flexible opt-out, being able to opt-in or opt-out of proposed legislation on a case-by-case basis (Mitsilegas, 2017). The details of this will be further discussed in this section. As previously touched upon, AFSJ encompasses a variety of institutions, policies and programs, and has a broad goal of ensuring "the free movement of persons and to offer a high level of protection to citizens" (EUR-Lex, 2016). Among the institutions included in AFSJ are Europol, Eurojust, Frontex, and Schengen (Peers, 2011).

Similar to the Danish case, Britain's opt-out from AFSJ dates back to 1993 with the Treaty of Maastricht. It was at this time that Prime Minister John Major, "discovered the route of opting out as possibly the best answer to the dilemma that he faced" (Parliament of the United Kingdom, 1998). This "dilemma," of course, referred to the British desire to retain sovereignty, yet remain part of the European project. Britain therefore agreed to take part in what was then known as Justice and Home Affairs on a case-by-case policy basis. This allowed the UK to be

able to pick and choose what policies they would take part in and leave the others behind, preserving sovereignty while still participating in key aspects of EU policy (Peers, 2011).

One such aspect of AFSJ in which the UK has exercised its flexible opt-out is the case of the Schengen Agreement. According to the Schengen *acquis*, which has been integrated into the Framework of the European Union, the UK may request to take part in some or all provisions of Schengen. The UK, therefore, participates in some aspects of Schengen, such as collaboration in police and judicial areas, but does not participate in the border control elements. This ensures that the UK has access to the Schengen Information System and solidifies its commitment to judicial cooperation in civil and criminal matters, as well as police cooperation, yet allows for Britain to maintain more localized control over matters relating to migration (Mitsilegas, 2017).

Indeed, much of the UK's reticence to fully acquiesce to the policies of AFSJ has to do with a desire to have individualized control over issues of immigration, migration, and asylum. As former Prime Minister Tony Blair described of the opt-out in 2004, Britain has "the absolute right to opt in to any of the asylum and immigration provisions that [Britons] want to in Europe... And what this actually gives us is the best of both worlds" (Geddes, 2005, p. 723). This "best of both worlds" scenario can be seen in the opt-outs (or rather, opt-ins) to EU policies under the Blair government. From 1999 to 2004, Britain decided to opt-in to over half of the EU-proposed legislative directives regarding immigration and asylum (Geddes, 2005). This shows that, while Britain has been on the path of continuing to seek opt-outs and distancing itself from the EU on a policy level, it has not completely precluded Britain from adopting EU directives regarding the Area of Freedom, Security, and Justice.

## Charter of Fundamental Rights

The final of the British opt-outs regards the European Charter of Fundamental Rights. This opt-out is unique to only two countries in the European Union: the United Kingdom and Poland. Secured during the negotiations of the Treaty of Lisbon in 2007, the UK pursued an opt-out from this Charter due to a concern regarding the language of the Charter and its effect on domestic labor laws. The UK feared that the Charter could be used as a legal basis upon which labor unions could strike more often. For this reason, Britain pursued, and was granted, an exception from the Charter of Fundamental Rights. Different from prior opt-outs secured by the UK, this is not a full “opt-out,” but rather, a provision that precludes aspects of the Charter from being valid in Britain (European Scrutiny Committee, 2007). According to the European Parliament (2017):

The European Charter of Fundamental Rights sets out the basic rights that must be respected both by the European Union and the Member States when implementing EU law. It is a legally binding instrument that was drawn up in order to expressly recognise, and give visibility to, the role of fundamental rights in the legal order of the Union.

As can be garnered from the mission statement of the Charter, it is first and foremost a legal document, with precedent across the European Union. Additionally, the ECFR highlights six areas in which European citizens are guaranteed such fundamental rights. These areas are dignity, freedoms, equality, solidarity, citizens’ rights, and justice (European Parliament, 2017). During the negotiations of the Lisbon Treaty, the British government took issue with the “solidarity” aspect of the Charter, making it clear that they would not sign the treaty if certain

demands were not met.<sup>3</sup> Such demands included a provision to protect UK labor laws from being altered by the ECFR (European Scrutiny Committee, 2007). In an effort to get the UK on board, the EU acquiesced to Britain's demands, providing them with a partial opt-out to ensure the treaty was passed. This avoided a deadlock, allowing the Treaty of Lisbon to come into force, and once again, showing the UK's power as a negotiator on the EU stage (Adler-Nissen, 2009).

As was shown in this chapter, the UK has been on a path of seeking opt-outs since it entered the EU in 1993. Indeed, the UK has been unsure of its commitment to the European project since the early days of its entry to the European Community, as can be seen by the 1975 referendum, as well as the refusal to take part in the European Monetary System. In the past 25 years, the UK has solidified its role as an "opt-out champion" on the European stage, pursuing a formal opt-out from the *acquis* as recently as 2007, with the Charter of Fundamental Rights. This demonstrates a problem inherent in the granting of opt-outs: countries with opt-outs always seem to want more. The following chapter will clarify this problem in a theoretical context.

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<sup>3</sup> Title IV ('Solidarity') ensures protection for the rights of workers, including the rights to collective bargaining and action and to fair and just working conditions (European Parliament, 2017).

## CHAPTER 5

### AN HISTORICAL INSTITUTIONALIST ANALYSIS OF INTEGRATION

After having outlined Denmark and the United Kingdom's respective opt-outs from the EU *acquis*, the following section seeks to analyze what effect, if any, these opt-outs have had on each state's ability to integrate into the European Union. Using the theory of historical institutionalism, I will compare and contrast the Danish and British positions within the EU, in terms of their ability to be integral members of the European Union. Within the theory of historical institutionalism, I will evaluate the integration of Denmark and the UK based on each state's acceptance of new policies and participation on the EU level. Moreover, I will focus on two main tenets of historical institutionalism in my evaluation: path dependence and unintended consequences. This section synthesizes the information presented in prior sections and provides a deeper theoretical analysis of both the Danish and British positions in the European Union, ultimately serving to show that the path of opting-out could be a slippery slope, leading to unprecedented, unknown consequences.

#### Denmark

As has been previously discussed, Denmark has been granted four major opt-outs in the areas of 1.) EU Citizenship, 2.) the Economic and Monetary Union, 3.) Common Security and Defense Policy, and 4.) Area of Freedom, Security, and Justice. Denmark sought such opt-outs mainly to retain state sovereignty and to protect the efficacy of their constitution. These opt-outs come with a price, however; many scholars, politicians, and policy-makers have questioned

whether or not Denmark remains an integral member of the EU in light of their decision to opt-out of major areas of cooperation and integration. This section uses the theory of historical institutionalism to show the link between history, functional institutions and policies, and European integration, seeking to find a connection between the Danish opt-outs and integration.

As argued by Rebecca Adler-Nissen (2011), “One of the most important ways in which the EU moves forward is through law” (p. 1100). From an historical institutional perspective, this is true. Politics move forward due to institutional change, of which laws are a large part. Denmark’s opt-outs from key provisions of EU law could be seen as going against important aspects of progress and in turn, integration. Indeed, Denmark appears to be resistant to many progressive actions taken by the EU to further integration and cooperation on a European level. This resistance has led to their many opt-outs and based on their historical reticence to fully commit to the European Union, does not appear to be changing any time soon. For example, the most recent Danish referendum regarding a potential opt-in to aspects of Area of Freedom, Security, and Justice took place in late 2015, with a narrow majority voting to reject an opt-in to this policy area (Etzold & Opitz, 2016).

The idea that Denmark has been on a trajectory toward less integration, not more, can be explained by the idea of path dependence within the broader theory of historical institutionalism. Path dependence posits that once an actor or institution begins on a certain path, it is likely that they will continue on that path as opposed to straying from it (Hall & Taylor, 1996). This is because it is quite difficult to alter, and even more so to reverse a course particularly when many other actors or institutions have become accustomed to a such a course. This can be seen in the Danish opt-outs.

Additionally, historical imperatives play a large role in institutional decisions, including referenda (Steinmo, 2008). Since Denmark has successfully pursued opt-outs in the past, voters see the power Denmark has had as a negotiator at the EU table and therefore, do not feel the need to suddenly opt-in to policy areas in which they have never (or rarely) taken part. Since 1992, when the Danes formally decided to opt-out of many EU provisions, there has been little movement within Denmark to alter this course; in fact, Denmark has secured even more opt-outs, with nearly all referenda on the matter of “opting-in” to certain EU policy areas having a negative outcome (Larsen, 2015). This could be because so many other aspects of Danish law have come to depend on the current relationship between Denmark and the EU, which is based on opt-outs of the major policies outlined in this thesis. This shows the importance of historical policy trajectories in understanding the reasoning behind past, present, and future Danish opt-outs, as well as Denmark’s degree of integration.

Despite the formal procedures taken by Denmark to curb the degree to which the country has become integrated into the EU, the Danish voice is nevertheless heard on an EU level, with Denmark having a seat at the table despite their many opt-outs. Interestingly, scholars have shown that countries with many opt-outs, namely Denmark and the United Kingdom, see similar levels of integration, at least on a policy level, as they do in areas to which they have opted-in. As Adler-Nissen (2011) describes, “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” (p. 1109). This could lead to the conclusion that opt-outs do not have the divisive, disconnecting effect that one might attribute. However, Adler-Nissen goes on to acknowledge that, if countries like Denmark continue on the path of opting-out, as seems to be supported by the historical imperative surrounding path dependence, such “negative

referenda” could impair the development of the EU, leading to a less closer union than would be preferred (Adler-Nissen, 2011).

In all, Denmark has been consistent in its desire for and pursuit of opt-outs. Since joining the EU, Denmark has made its position clear: maintaining sovereignty while remaining European. It is undeniable that Denmark has been successful in achieving this goal. Not only has Denmark successfully secured opt-outs when it wished, but it has remained a vocal and cooperative partner on the European stage, showing that the country is willing to work with partners to achieve results benefitting the whole of the EU (Naurin & Lindahl, 2009). Denmark’s integration into the EU has been hindered by its pursuit of opt-outs, however, as its reticence to accept new policies and institutional changes show. In short, it is clear Denmark will never have the same power or position as a country which has been fully integrated from the start, such as Germany, but it would appear that the Danish opt-outs have not been as damaging (for Denmark) as once thought. What the opt-outs hold for the EU, however, is harder to predict.

### The United Kingdom

The UK, as can be seen in Chapter 4, has been consistent in pursuing opt-outs since becoming a member of the European Union. The motivation for these opt-outs has been influenced by a desire to preserve sovereignty and ensure that British culture, values, and institutions will not be subsumed by Europe. To a larger extent than its opt-out peer Denmark, the UK has been on a continual path of pursuing opt-outs throughout its membership to the European Union. As can be garnered by behaviors and statements of Britain’s former leaders, including Winston Churchill and more recently, John Major, a British desire to be both in and out of Europe is historically consistent. Additionally, Britain’s successive pursuit of opt-outs show that it is not easily satisfied. With this in mind, I will analyze how this has affected its

integration into the EU, followed by an analysis of why such opt-outs could prove dangerous on an EU level.

As discussed, Britain's opt-outs have been spurred by a national sense of euroscepticism. This has had an effect on European integration as well. The issue of European integration has been reflected in the British public through various Eurobarometer and British Social Attitudes surveys. As Catharina Sørensen (2004) describes of British views on European integration:

The British public remains divided on most issues concerning European integration, including the issue of membership itself. Unlike populations in other member states, it is not uncommon for a majority of Britons to oppose membership in public opinion polls. Deep-running divisions with regard to the European issue are also a characteristic of the British media and the political parties. (p. 18)

Though the British public may be divided in terms of their views on European integration, this does not mean that Britain is unwilling to form cooperative partnerships and exercise its voice on the EU level; nor is the EU unwilling to work with Britain to further its integration into the Union. In fact, the EU has gone out of its way so to speak, to include Britain in cooperative talks. This was not something foreseen in Britain's original pursuit of its opt-outs, expecting to be staunchly "outside" Europe in many senses. As Adler-Nissen (2011) describes, "the opt-out protocols are somewhat undermined in order to allow the UK...to participate in the integration process as much as possible" (p. 1108), thus allowing Britain to be a part of the "ever closer union" in more aspects than were initially thought. Britain's acceptance of this participation shows that the country, at least on a representative level, believes in the efficacy and importance of European integration, despite its many opt-outs. It also shows that the EU is willing to bend to Britain's whim in some cases.

By setting a precedent with its first opt-outs from the Treaty of Maastricht, Britain was able to secure its role as one of the de facto opt-out states of the EU. Other countries who acceded at the time, and since, have not been afforded the same luxury. This put Britain in the unique position of realizing the power it had and using this power for its own gain. As Sven Steinmo (2008) describes, “any significant political outcome is best understood as a product of both rule following and interest maximizing” (p. 163). Though rules regarding opting-out of EU law were not in place at the time, Britain and Denmark essentially set the bar for opt-outs and served to further their individual state’s interests, reflecting the truth of Steinmo’s statement.

In 1998, Baroness Williams of Crosby of the House of Lords proclaimed, “The United Kingdom Government [is] moving away from the endless seeking of opt outs” (Parliament of the United Kingdom, 1998). An idealistic proclamation, this proved to be untrue with the UK seeking an additional formal opt-out from the Charter of Fundamental Rights in 2007. From an historical institutional perspective, this should not come as a big surprise. As with the case of Denmark, Britain has been inspired, not deterred, by its previous opt-outs throughout the course of its relationship with Europe. Inspired by a past where Britain was able to “put its foot down,” so to speak, and negotiate its way to achieving its goals, Britain has followed a path of opting-out that is not easily altered or reversed. Again, fueled by successful historical imperatives whereby the European Union acquiesced to Britain’s demands and provided the country with desired opt-outs, Britain is unlikely to be deterred against pursuing further opt-outs. This demonstrates path dependency and the importance of history’s role in influencing present decisions.

Perhaps one of the largest “unintended consequences” of the EU affording Britain its many opt-outs has indeed been the British response to continue to seek more opt-outs. This came to a head with the 2016 Brexit referendum. In what could be seen as the be-all and end-all of opt-

outs, the UK voted to leave the European Union (Etzold & Opitz, 2016). Taking into account the history of euroscepticism and opting-out, the Brexit vote does not seem so surprising; it was merely the next step in Britain's path away from Europe. Such a path, as has been discussed, is not easily altered. In fact, Britain's continual pursuit for more, not less, independence over the years was a certain indicator of this path. Viewing Brexit through the lens of historical institutionalism provides an explanation for the negative outcome of the referendum.

As Steinmo (2008) argued, "expectations are molded by the past" (p. 165). The British public's expectation was grounded in the idea that Britain is an exceptional country, being granted special privileges and caveats to EU law. With this idea in mind, Britons took to the polls and demonstrated once again, that they are not wholly "of Europe." This idea could be challenged, however. If one views the 1975 referendum on the continuation of British membership to the European Economic Community as the historical precedent for the 2016 referendum, it is clear the results are not the same. Despite this, the Brexit vote can certainly be traced to other historical precedents in Britain, notably successful negotiation of various opt-outs.

In all, Brexit could prove to be a so-called "critical juncture" in the realm of European integration. What this means is that it is likely to provide a window for "substantial institutional change," allowing for "historical development [to move] onto a new path" (Hall & Taylor, 1996, p. 942). As the activation of Article 50 and with it, the formal process of leaving the EU, has never been done before, the EU will likely need to reevaluate its institutions during this process. This will likely lead to institutional change, and perhaps other fundamental, historical changes within the European Union. Whether or not Denmark, as the only de facto opt-out player left in a post-Brexit EU, will willingly participate in these changes, and therefore strengthen Danish integration in the EU, remains to be seen.

## **CHAPTER 6**

### **CONCLUSION**

All in all, this thesis has shown a connection between the two major opt-out states of the European Union, being Denmark and the United Kingdom, and European integration. By exploring the cultural and historical contexts in which each states' opt-outs are based, I have provided the reader with a deeper understanding of the reasoning behind each opt-out. The subsequent theoretical analysis sought to show that, while opt-outs do not always have an alienating effect on the member state in question, states which have pursued opt-outs are purposefully deciding not to participate in key aspects of EU treaty law. This means that Denmark and Britain themselves are hindering further integration into the European Union by choosing to reject institutional change, instead opting-out. As Maya Sion (2004) describes,

The negative side of opt outs is obvious – breaking the unity of the integration process among the Member States and creating Europe á la carte, a menu of integration policies from which Member States can 'pick and choose' in which policy field to participate and of which to stay out. (pp. 2-3)

Indeed, the path of allowing opt-outs could prove to be a slippery slope, leading to unforeseen, even undesirable consequences. This can be seen in the case of the UK's Brexit decision. This thesis has shown that, while opt-outs can be an effective way for EU members to preserve sovereignty, opt-outs should not be granted lightly, as they can lead countries to demand more. As demonstrated by using the theory of historical institutionalism to analyze

Britain's opt-outs, this path of opting-out is one of the factors which led to the Brexit vote, showing just how important opt-outs are on the European stage.

Future research could explore what effect, if any, the Brexit proceedings will have on the negotiation of current and future opt-outs by the other opt-out champion, Denmark. This is especially interesting and note-worthy, as Denmark and the UK share a large trade, ideological, and inter-institutional relationship. Bilateral trade between Denmark and Britain amounts to about £10 billion a year, showing the immense monetary value of the Danish-British relationship. Britain and Denmark also share a military bond via NATO membership, with Denmark often following British cues militarily, such as in the case of Afghanistan in the early 2000s (Davis, 2017). Denmark and Britain are also two of the staunchest promoters of free trade and free market liberalization, meaning that, in order to secure and protect its interests, Denmark will need to exercise its voice on the European stage even more once Britain has left the EU (Nissen, 2016). In short, the Brexit decision will cause Denmark to lose a great partner on the EU level. This might serve to promote even more Euroscepticism within the Danish population, though it is too early to tell.

Additionally, given the tendency for countries, most notably the UK, to demand more and more independence with each opt-out, I am curious to see if the EU will see the danger in this pattern and be more hesitant to allow Denmark to pursue opt-outs from major policy areas in the future. The EU has indeed intimated that the era of opt-outs is over. However, the reality of this is dubious, given the historical path of allowing Denmark to exercise its small but powerful voice, particularly when a treaty's ratification rests on all member states' acceptance. Indeed, what the future holds for Denmark is rather questionable. Having entered the EC in the same year as Britain and having pursued similar opt-outs, it will be no small wonder if a "Dexit" is on

the horizon. Coupled with Denmark's consistent "negative referenda" regarding EU partnership, this could serve to hinder cooperation and integration within the Union. As other member states, as well as EU allies and partners, begin to see dissatisfaction among players such as Britain and Denmark, this may also serve to impact the EU on a scale never seen before, showing again the immense effect opt-outs have had over the course of modern European history.

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