12-1-1996

Article 104(c) of the Maastricht Treaty and European Monetary Union: Does Ireland Hold the Key to Success

Joshua M. Wepman

Follow this and additional works at: http://lawdigitalcommons.bc.edu/iclr
Part of the Law and Economics Commons

Recommended Citation
Joshua M. Wepman, Article 104(c) of the Maastricht Treaty and European Monetary Union: Does Ireland Hold the Key to Success, 19 B.C. Int'l & Comp. L. Rev. 247 (1996), http://lawdigitalcommons.bc.edu/iclr/vol19/iss1/9
Article 104(c) of the Maastricht Treaty and European Monetary Union: Does Ireland Hold the Key to Success?

INTRODUCTION

The European Union (EU) was established in December of 1991.\(^1\) Its initial goal was the achievement of a true union through the dismantling of internal trade barriers by 1992, enabling Europe to assert itself as an economic power able to compete with Japan and the United States.\(^2\) In order to fully realize true union, the EU passed the Maastricht Treaty, known officially as the “Treaty of the European Union and Final Act” (the Treaty).\(^3\) The Treaty aims to promote the “harmonious and balanced development of economic activities, sustainable, non-inflationary growth which respects environmental considerations, a high degree of convergence of economic performance, high employment levels, a high degree of social welfare, improvements in the standard of living and quality of life, and economic and social cohesion and solidarity among the member states.”\(^4\)

Article 104(c) of the Treaty (the Article), one of the provisions related to economic cohesion, provides for an enforcement mechanism against states that do not comply with the economic targets set by the European Commission (the Commission)\(^5\) to achieve economic and monetary union (EMU) and a common European currency.\(^6\) Economic union is integral to the creation of a true federation.\(^7\) Thus, the

---


\(^5\) The European Commission is a body of representatives from the individual Member States whose responsibilities include: initiating and coordinating policies; implementing policies; and enforcing compliance with policies. See D. LASOK & J. W. BRIDGE, AN INTRODUCTION TO THE LAW AND INSTITUTIONS OF THE EUROPEAN COMMUNITIES 105–09 (1973).

\(^6\) See Maastricht Treaty, supra note 3, art. 104(c).

\(^7\) See id. The Treaty sets up several convergence criteria which must be met in order to advance toward European Monetary Union (EMU). See id. These criteria are related to the Member States’
Article is important because, during the process of economic inte­gration, it gives several EU governmental bodies the power to issue san­ctions against Member States that do not comply with the terms of the Treaty relating to monetary union. When Ireland failed to attain the settled targets contained in the Article, however, the Commission waived the enforcement mechanisms contained in the Article during its meet­ing in mid-1994. In light of this development, the Article’s future viability as an enforcement mechanism has become unclear and the attainment of EMU in the near future may be jeopardized.

Part I of this Note examines the three steps outlined in the Treaty aimed at establishing EMU. Part II explores the mechanics of Article 104(c) of the Treaty, the excessive debt provision, which is aimed at lowering the debts, rates of inflation and deficits of the Member States. Part III examines the conditions facing Ireland with respect to Article 104(c) and how the EU has responded to those conditions. Finally, Part IV demonstrates how flexibility in interpreting the criteria and applying sanctions against countries like Ireland, which are making a good faith effort to meet the Treaty’s convergence criteria, will help, not hinder, the progress of the EU. This note concludes that the EU erred in adopting a strict interpretation of the Article and should, instead, interpret Article 104(c) liberally in order to best achieve EMU.

I. History and Background of the Road Leading to European Monetary Union

Monetary union was defined by the Delors Committee as a currency area in which economic and monetary policies are managed jointly with a view to attaining common macroeconomic objectives. The Delors Committee recognized three conditions necessary for monetary union: (1) the assurance of total and irreversible convertibility of currencies; (2) the complete liberalization of capital transactions and economic stability. See Coopers & Lybrand, EC Commentaries, Economic and Monetary Union, July 7, 1994, available in LEXIS, Int’l Library, Euroscope File at p*6 [hereinafter Coopers & Lybrand].


9 The Delors Committee was established by the Hanover Summit which was comprised of the then 12 Member States with instructions to explore and formulate tangible steps toward economic and monetary union. See Nancy Louise Kessler, Note, Banking on Europe: 1992 and EMU, 60 FORDHAM L. REV. S395, S418–19 (1992).

the full integration of banking and other financial markets; and (3) the elimination of margins of fluctuation and the irrevocable locking of exchange rate parities.\textsuperscript{11} The Delors Report outlined a three step plan to achieve monetary union for the twelve (now fifteen) Member States of the EU beginning in July of 1990.\textsuperscript{12} The first stage included the institutionalization of the practice of "multilateral surveillance" within the Economic and Finance (ECOFIN) Council (the Council)\textsuperscript{13} to cover all short and medium term aspects of economic and monetary policy,\textsuperscript{14} as well as the coordination by Member State governments of their monetary policies.\textsuperscript{15} The second stage is the important transitional stage to full economic and monetary union.\textsuperscript{16} During this stage, each Member State is to get its "economic house in order" through a reduction in its fiscal deficit, its public debt and its rate of inflation.\textsuperscript{17} Finally, in the third stage, the Member States will set up an independent European Central Bank, develop closely coordinated economic and fiscal policies, and establish the European currency unit (ECU) as the irrevocable fixed currency of the EU.\textsuperscript{18}

A. The First Stage of Economic and Monetary Union: Elimination of Obstacles to Integration

In order to successfully complete the first stage of currency integration, the Delors Report, and subsequently the Treaty, mandated that obstacles to financial integration be removed, and cooperation on

\textsuperscript{11} Id.
\textsuperscript{12} See Coopers & Lybrand, supra note 7, at p*4.
\textsuperscript{13} The Economic and Finance (ECOFIN) Council is responsible for regular examination and assessment of Member States' economic and monetary policy guidelines which are based on studies submitted to the Council by the State in question, and upon which the Council is invited to make recommendations. See id. at p*5. In doing this, the Council considers: the economic conditions, prospects and policies in the EU and the Member States; whether these individual policies are compatible with the EU taken as a whole; and the external economic environment and its interaction with the Union's economy. Id. Additionally, the Council has the power to formulate country-specific recommendations to correct any potential or actual economic developments in one or more Member States which threaten the EU's economy. Id. This power is conferred upon the Council by Article 104(c) of the Treaty and is based on standards set up in the protocol on the excessive deficit procedure annexed to the Treaty. Maastricht Treaty, supra note 3, art. 104(c), para. seven.
\textsuperscript{14} Coopers & Lybrand, supra note 7, at p*9.
\textsuperscript{16} Coopers & Lybrand, supra note 7, at p*9.
\textsuperscript{17} See id. at p*6.
\textsuperscript{18} See id. at p*8.
monetary policy be intensified.\textsuperscript{19} This stage of EMU is complete.\textsuperscript{20} Following the mandates from the Treaty, the EU dismantled controls over capital movements for eight of the Member States effective July 1, 1990.\textsuperscript{21} During this same period, an amendment to the "1964 Decision on cooperation between the Central Banks of the Member States"\textsuperscript{22} was passed to formalize cooperation procedures and to form the Commission of Central Bank Governors to oversee and coordinate monetary policy.\textsuperscript{23} This Commission's recommendations are not binding.\textsuperscript{24} Instead, their recommendations are passed on to the Council who may draft binding recommendations to correct any economic development in a Member State which threatens the economy of the EU and its progress toward a common European currency.\textsuperscript{25}

Results of the first stage have been disappointing.\textsuperscript{26} Although strides toward lowering inflation were taken, the public finances of the Member States have deteriorated over the past three years.\textsuperscript{27} Much of the turmoil is attributable to the recent European recession.\textsuperscript{28} Despite the disappointing results of the first stage, however, the political leaders of the various Member States are still committed to pursuing EMU.\textsuperscript{29}

\textsuperscript{19} See Delors Report, \textit{supra} note 10, at ¶ 31–32; see also Kessler, \textit{supra} note 9, at 421.

\textsuperscript{20} This first stage was completed on January 1, 1994. Janet Bush, \textit{Playing Politics While EMU Flies on a Wing and a Prayer}, \textit{The Times} (London), Jan. 5, 1994, available in LEXIS, World Library, Allnews File; see also Nölling, \textit{supra} note 4, at 146; Coopers & Lybrand, \textit{supra} note 7, at p*6.

\textsuperscript{21} Nölling, \textit{supra} note 4, at 146.

\textsuperscript{22} The 1964 Decision on cooperation between the Central Banks of the Member States was designed to formalize the cooperation procedures that had evolved between the Central Banks of the European Monetary System members. Coopers & Lybrand, \textit{supra} note 7, at p*5. The amendment strengthened the Commission of Central Bank Governors' mission to promote cooperation between the central banks of the Member States. \textit{Id.}

\textsuperscript{23} \textit{Id.}

\textsuperscript{24} \textit{Id.}

\textsuperscript{25} See \textit{Coopers & Lybrand, supra} note 7, at p*5.

\textsuperscript{26} See \textit{id.}

\textsuperscript{27} The recession which engulfed the European Union was part of the same one which gripped the world in the late 1980's and continued through 1993. See Gillian Tett, \textit{FT Exporter}, \textit{The Financial Times}, Oct. 5, 1994, at 22; Peter Norman, \textit{Survey of World Economy and Finance}, \textit{The Financial Times}, Sept. 30, 1994, at 1. During this period, the EU was hit with high unemployment, with 18 million people out of work during the recession. \textit{Worldwide Slump Ending at Last says IMF: Canada to Lead Industrial Countries' Growth Again}, \textit{Calgary Herald}, Sept. 29, 1994, at E4.

\textsuperscript{29} See Coopers & Lybrand, \textit{supra} note 7, at p*5. For example, several member states have begun to ready themselves for convergence by preparing to make their central banks independent. \textit{Id.}
B. The Second Stage of EMU: Economic Convergence

EU Member States are currently undergoing the second stage of EMU.30 This stage began January 1, 1994, with the formation of the European Monetary Institute (EMI).31 During this second stage the Member States are expected to avoid excessive government deficits; in addition, they are expected to announce their plans for the eventual independence of their central banks.32

The Treaty assigns a number of target criteria relating to economic convergence33 which each Member State is responsible for meeting:

- Each Member State’s annual inflation and long-term interest rates must be no more than 1.5 percent to two percent higher than the three best performing Member States;
- Each Member State’s fiscal deficit must be no more than three percent of its gross domestic product (GDP);
- Each Member State’s debt-to-income ratio must not exceed sixty percent of its annual budget; and
- Each Member State must not have devalued its currency under the Exchange Rate Mechanism34 within the intervening two years.35

The EU has experienced some problems with these convergence criteria. First, a world-wide economic recession during the period prior to the implementation of the second stage slowed the economies of the Member States.36 Second, the convergence criteria are difficult to

---

30 See id. at p*6.
31 Maastricht Treaty, supra note 3, arts. 109e-f. The European Monetary Institute (EMI) is the forerunner of the European Central Bank which will be the central bank for the EU and will be established during the third stage of EMU. See Coopers & Lybrand, supra note 7, at p*9. The EMI is entrusted to provide for all relevant technicalities necessary to EMU and with coordinating closer cooperation between the central banks of the individual Member States. See NÖLLING, supra note 4, at 146. Additionally, the EMI will play a large role in evaluating the progress made toward EMU (i.e., setting the convergence criteria mentioned in the Treaty of Maastricht). See id.
32 Coopers & Lybrand, supra note 7, at p*6.
33 Economic convergence is the process whereby the 15 Member States of the European Union are supposed to move progressively toward the economic virtue required for membership in EMU. Lionel Barber, Not a Bible, But a Primer for Single Currency, THE FINANCIAL TIMES, May 31, 1995, at 2.
34 The Exchange Rate Mechanism (ERM) is designed to keep the currencies of the Member States aligned. Kevin Muehring, EC: EMU’s Bitter Medicine - Tough Rules May Discourage Membership, INSTITUTIONAL INVESTOR, April 30, 1992, available in LEXIS, World Library, Allnws File. The ERM is a central exchange rate set in ECUs, that serves as the basis for calculating exchange rates among the member currencies. Kessler, supra note 9, at S420.
36 See Goldstein, supra note 1, at 118.
meet. These criteria, however, are necessary to achieve the main goal of the second stage of monetary convergence: attaining a sustainable financial position for the EU Member States.

Recognizing that the convergence criteria are difficult to meet, the drafters of the Treaty designed a flexible timetable for entry into the third stage. If a majority of the Member States meet the convergence criteria, the EU can decide by a two-thirds majority to form a single currency and central bank on January 1, 1997. Even if those conditions are not met, however, the ECU will be automatically implemented on January 1, 1999 with the regional central bank in place six months earlier. The States must still meet the convergence criteria if they are to take part, but any number of qualifying States can adopt a single currency without a further ruling by the EU. Because this adoption procedure would seem to leave the door open for Member States to avoid meeting the criteria, the EU created Article 104(c) to temper or eliminate this practice.

II. THE MECHANICS OF ARTICLE 104(c)

Article 104(c) of the Treaty, commonly known as the “excessive deficit reduction provision,” sets controls and provides the Council with the power to issue sanctions and recommendations to Member States who do not meet the criteria of the protocol annexed to the Treaty (the protocol). Paragraph six of Article 104(c) states, “The

---

37 See Muehring, supra note 34.
38 The Maastricht Agreement on Economic Union, WORLD ECON. OUTLOOK (Int’l Monetary Fund), 1992 available in LEXIX, World Library, Allnws File. “Sustainable financial position” is defined as a general government deficit no greater than three percent of GDP and a ratio of public debt to GDP of no more than 60%. Id.
40 Id. At a meeting of the EU finance ministers in Luxembourg, 1997 was effectively ruled out as the EMU launch date in favor of 1999. Lionel Barber, UK Well Placed to Clear EMU Hurdles: Finance Ministers Rally Behind 1999 as Launch Date for Single EU Currency, THE FINANCIAL TIMES, June 20, 1995, at 2.
41 Riding, supra note 15, at A18.
42 Id.
43 See Maastricht Treaty, supra note 3, art. 104(c).
44 See id.; see also Coopers & Lybrand, supra note 7, at p*8. If a Member State does not fulfill the ratio of government deficit to GDP (it must not exceed three percent at market prices) and the ratio of government debt to GDP criteria (it must not exceed 60 at market prices) then the Commission of Central Bank Governors may prepare a report to be given to the ECOFIN Council which decides whether any excessive deficit exists. Coopers & Lybrand, supra note 7, at p*7, p*8. If the Council decides that one does exist and the Member State persistently fails to act on the Council’s recommendations, the Council can decide whether to take one of several measures. Id.
Council shall, acting by a qualified majority on a recommendation from the Commission, and having considered any observations which the Member State concerned may wish to make, decide after an overall assessment whether an excessive deficit exists.\textsuperscript{45} Paragraph seven states, "Where the existence of an excessive deficit is decided according to paragraph six, the Council shall make recommendations to the Member State concerned with a view to bringing that situation to an end within a given period."\textsuperscript{46} Although these sections describe how the enforcement mechanism is to operate, neither paragraph mandates enforcement of the criteria outlined in the protocol;\textsuperscript{47} instead, the decision whether to proceed with sanctions is left to the discretion of the Council, according to paragraph two.\textsuperscript{48}

Although the European Commission has decided to construe the criteria strictly, their absolute nature is questioned.\textsuperscript{49} Commentators wonder whether "the convergence criteria require an end result smack on target . . . or whether a country will be admitted to stage three if it is simply on a trend moving toward them."\textsuperscript{50} Thus, the provisions of the Article and the protocol are open to a variety of interpretations which may lead to disputes over how to apply them.\textsuperscript{51}

\textsuperscript{45} Maastricht Treaty, \textit{supra} note 3, art. 104c, para. six.
\textsuperscript{46} \textit{Id.} at para. seven.
\textsuperscript{47} \textit{Id.} at para. two.
\textsuperscript{48} Paragraph two, in relevant part, states:

The Commission shall monitor the development of the budgetary situation and of the stock of government debt in the Member States with a view to identifying gross errors. In particular it shall examine compliance with budgetary discipline on the basis of the following . . . criteria: (a) whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value, unless . . . the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value; (b) whether the ratio of government debt to gross domestic product exceeds a reference value, unless the ratio is sufficiently diminishing and approaching the reference value at a satisfactory pace.

\textit{Id.}

\textsuperscript{49} Nathaniel C. Nash, \textit{To Calm Markets, Europe Backs Plan for 1 Currency}, N.Y. \textsc{Times}, Oct. 2, 1995, at D2; Muehring, \textit{supra} note 34.
\textsuperscript{50} Muehring, \textit{supra} note 34.
III. THE CASE OF IRELAND

Ireland has come a long way in the past decade toward fulfilling the convergence criteria outlined in the Treaty. In 1985, for example, Ireland did not fulfill any of the criteria. In contrast, Luxembourg and the Federal Republic of Germany fulfilled all of the criteria, and several other Member States fulfilled two of the four criteria. In 1993, however, Ireland fulfilled two of the requirements, while only France and Luxembourg fulfilled all of the criteria.

Ireland has consistently improved its record. Its public debt has declined from 116 percent in 1987 to ninety-three percent in 1994. Although a ninety-three percent public debt is far above the sixty percent limit set by the Treaty, this large reduction strongly demonstrates a movement toward eventually meeting the criteria. Additionally, although Ireland has not fulfilled the inflation criterion, its inflation rate is close to the 1996 target rate of between two and three percent for the Union and each Member State. Moreover, Ireland is the only country whose indebtedness has fallen since 1989. Finally, Ireland's public deficit does satisfy the debt criterion set out in the Treaty.

Although Ireland's trend toward meeting the criteria appears promising, Ireland still has met only two of the four criteria. Therefore, under the enforcement provisions of the Treaty, Ireland, as well as the

52 See Nölling, supra note 4, at 168.
53 Id.
54 Id.
55 Id. At the same time, Denmark, Germany and the United Kingdom had fulfilled three of the criteria; Belgium and Netherlands (in addition to Ireland) fulfilled two of the four criteria. Id.
56 Budget Honours, supra note 8.
57 Id.
58 See Maastricht Treaty Protocol, supra note 35.
59 See id.; Muehring, supra note 34. This is a relative, rather than an absolute criterion, which is determined by taking the average inflation rates of the 12 Member States and adding 1.5% to it. EU: Commission Approves Its Recommendation on Broad Guidelines of Economic Policies, Agence Europe, May 26, 1994, available in LEXIS, World Library, Curnws File [hereinafter Economic Policies]; see Muehring, supra note 34. This provision is problematic because States such as Germany fear some of its economically weaker colleagues will use this loophole to have a higher rate of inflation and drive up the average inflation rate, thereby improving things for the stronger performers who may become less virtuous. See Muehring, supra note 34.
60 Economic Policies, supra note 59.
61 Budget Honours, supra note 8.
62 See id. Ireland's debt is below three percent of its GDP which is the limit set by the Treaty. See id.
63 See Nölling, supra note 4, at 168.
other nine countries failing to meet all of the criteria, should have been reprimanded.64 Ireland, however, was excused, much to the dismay and disappointment of several of the other Member States, who were reprimanded despite exhibiting progress toward fulfilling the convergence criteria.65

IV. THE PROSPECTS FOR THE FUTURE OF ECONOMIC CONVERGENCE AND EMU

An expected consequence of Ireland's preferential treatment by the Council is resentment from the other Member States who also failed to achieve the necessary economic levels and were subsequently reprimanded.66 Germany, which was considered for exemption but insisted on being put on report with the other non-complying Member States, is especially critical of the Council for exempting Ireland.67 Given the Member States' discontent with the decision of the Council not to impose sanctions on Ireland pursuant to the terms of the Treaty, the ability of Article 104(c) to act as a viable enforcement mechanism is questionable.68

The Council may have unwisely compromised the power of Article 104(c) at the very time when a strong enforcement mechanism is necessary for the movement toward the third stage of European currency integration.69 As a result, some of the less economically stable Member States may try to avoid meeting the criteria altogether in expectation of the automatic implementation of the ECU in 1999.70 Not only would this delay the installation of the ECU as the common currency of the EU, it may also mean that at the time of its entrance some of the Member States' economies may not meet the stability requirements for complete integration.71 For these reasons, it is not surprising that the European Commission has since decided to interpret the criteria strictly.72

64 See Maastricht Treaty, supra note 3, art. 104(c), para. 3; Nolling supra note 4, at 168.
65 EU Monetary Committee Approves Excessive Debts Reports, THE REUTERS EUROPEAN COMMUNITY REPORT (Reuters Limited), Sept. 6, 1994, available in LEXIS, World Library, Curnws File [hereinafter EU Monetary Committee]; see also Budget Honours, supra note 8.
66 See EU Monetary Committee, supra note 65.
67 Id.
68 See Muehring, supra note 34.
69 See id.
70 See Riding, supra note 15, at A18.
71 See id.; see also Coopers and Lybrand, supra note 7, at p*9.
72 Nash, supra note 49, at D2.
The Council’s treatment of Ireland demonstrates, however, that Article 104(c) does allow the Commission to interpret the criteria liberally and allows the Council, in its discretion, to excuse Member States who show a strong trend toward meeting the convergence criteria of the “excessive deficit reduction” procedure. Contrary to some of the views stated above, a liberal interpretation may act to speed, rather than threaten, the movement toward EMU because more states will be permitted to begin the third stage even though they have not met all of the convergence criteria. Some commentators feel this result is desirable because they see no absolute economic rationale for the convergence criteria. Rather, the criteria represent the Union average for each of the economic indicators at the time of negotiations. Thus, contrary to the opinion of the ministers of the Commission, there is no compelling need to strictly adhere to the criteria. Rather, a demonstration of movement toward the criteria may be a better standard than the criteria themselves.

Some of the fears of the Commission, however, are reasonable. For instance, decisions concerning the level of strictness used in evaluating each Member State’s economic situation with regard to the convergence criteria are political decisions. Some States want the criteria to be interpreted loosely, while others, such as Germany, insist on strict standards.

Allowing the Council a large degree of discretion to exempt Member States based on mere movements toward fulfilling the criteria, however, may unreasonably endanger the future of EMU because it too consists of politicians who may be swayed by public sentiment in their respective countries. Although the Treaty gives the leaders of the Council discretion to decide whether to sanction a Member State, this discretion may be economically damaging to EMU because EMU requires

---

73 See Maastricht Treaty, supra note 3, art. 104(c), para. 2; see also Budget Honours, supra note 8.
74 See id.
75 See id. Additionally, another commentator noted that the economic targets are not absolute; a movement toward them may be sufficient. See Barber, supra note 33.
77 See Nash, supra note 49, at D2.
78 NÖLLING, supra note 4, at 172. “Almost all the Member States (with the sole exception of Greece) would stand a chance of entering into EMU ‘if the conditions are interpreted with a certain degree of generosity.’” Id.
79 See Muehring, supra note 34.
80 See NÖLLING, supra note 4, at 172.
strict criteria if the EU is to emerge with a strong and stable common currency. In fact, before the Treaty establishing the convergence criteria was enacted, the Delors Report stated that such criteria and their enforcement were necessary "to impose constraints on national budgets to the extent to which this was necessary to prevent imbalances that might threaten monetary stability." Thus, interpreting the Treaty to allow a good deal of discretion may be damaging to EMU in the long run and is counter to the intent of its drafters.

On the other hand, the EU's current interpretation is also potentially troublesome. From a practical standpoint, achieving the criteria may prove to be impossible or exceedingly dangerous for certain States' economies. Some of the Member States' economies are not currently strong enough to implement a program of reducing their inflation rates and cutting their budget deficits. Such high criteria coupled with a recession-wracked Europe could be problematic. This may result in a long period of low growth because of the fiscal tightening necessary to meet the strict criteria, especially those involving debt and inflation. Thus, instead of endangering economic stability, giving the Council a good degree of discretion may actually be a stabilizing force. Additionally, programs to achieve convergence would be strongly "antigrowth" and thus detrimental to the national economies of the Member States. Weak national economies may, in turn, cause political unrest and revolutions and may even result in the ousting of Unionist leaders, bringing a wave of nationalists into power in some of the Member States. Anti-Unionist sentiment could grow in the

81 See Peter B. Kemen, EMU After Maastricht 79 (1992). Fiscal convergence is needed to stave off political and market pressures. See id.
82 Delors Report, supra note 10, at ¶ 59.
83 Nölling argues that the convergence criteria were debated and adopted after a period of intense and difficult negotiations and that, therefore, they were meant to be more absolute than the alternative interpretation would allow. See Nölling, supra note 4, at 172.
84 See Kemen, supra note 81, at 78.
85 See id.
86 Id.
87 Steven Greenhouse, The European Summit; Europe's Pact on Money Seen as Business Boon, N.Y. Times, Dec. 12, 1991, at A18. There is fear that this process of lowering inflation and slashing budget deficits could cause a lot of economic hardship in the European Union. Id.
88 See Central Banks, supra note 76.
89 See id.
90 See Goldstein, supra note 1, at 118-120. For example, Prime Minister John Major delayed ratification until his government had regained the voters' confidence. Id.
91 See Muehring, supra note 34.
wake of fiscal tightening and the higher unemployment resulting from the projected decade of low growth during the drive to convergence.92

IV. Conclusion

The convergence criteria maintained in the Treaty must be followed in order for EMU to occur, and for the ECU to be established as the currency of the EU. The convergence criteria, however, should not be interpreted as absolute goals. Such an interpretation may result in economic recessions or depressions with high unemployment, social and political unrest, and possibly revolution in several of the Member States. These situations would endanger the future of the EU. Additionally, the strict convergence criteria would be virtually impossible for every State to attain.

The Commission should allow the Council to construe the convergence criteria of Article 104(c) liberally. By using evidence that a Member State is moving toward meeting the convergence criteria, the Council should be allowed to determine whether the Member State has improved enough to avoid sanctions or other penalties. Such a view is consistent with paragraph two of the Article and would not undermine the legal mandate given to the Council by paragraphs seven and eight of Article 104(c). Therefore, in cases such as Ireland, where the Member State has shown progress toward meeting the convergence criteria, the Council should have legal authority to use discretion to excuse such a State from sanctions. Such a move will apply to, and eventually benefit, each Member State through the attainment of EMU. Thus, each State should be amenable to this interpretation. In conclusion, although effective debt-reduction is integral to EMU, the Commission should not read the Treaty so strictly as to undercut its eventual success.

Joshua M. Wepman

92 See id. Unemployment in the EU stands at 11 % (compared to six percent for the United States) and the projected growth of the developing world’s economies make the future for the EU very uncertain. Norman, supra note 28, at 1.