

Interview with Pierre Pescatore: the signing of the Rome Treaties (Luxembourg, 10 September 2003)

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[Étienne Deschamps] Let us move for a while, if you do not mind, from Brussels to Rome. When it came to the signing of the Rome Treaties on 25 March 1957 in the Capitol, the final text of the Treaty had not been translated and printed in time. Could you recount this anecdote for us?

[Pierre Pescatore] It is more than an anecdote. What happened is this: when the Treaty was approaching its final phase, the finishing touches concerning protocol and diplomacy needed to be added. At that point, Mr Calmes asked me if there was an official in the Luxembourg Ministry of Foreign Affairs who was well informed about the protocol issues involved in the signing of international treaties. I gave him the name of the person who was my assistant at the Ministry of Foreign Affairs, Joseph Kasel, with whose help I had set up the International Treaty Service in the Ministry of Foreign Affairs. So Joseph Kasel was also invited to Rome by the Conference Secretariat, and he was given the task, with my assistance, since I was present, of putting the two Treaties in a form whereby they could be signed; he was to see to issues such as the order in which the contracting parties were listed, the final clauses and a suitable layout. All in all, he was being asked to do a notary's job. In this way, by working with him, I was able to exercise a personal and direct influence on the completion of the text that was to be signed. It is interesting, because what we had brought to Rome was a Treaty consisting of duplicate copies, complete with crossings-out, therefore a kind of potential being: a Treaty that existed primarily in the minds of the negotiators and that had been put down on paper entirely provisionally.

All this had to be formatted by the Italian Government printing office, in fine Roman lettering, and this work had not been completely finished when it came to the signing ceremony. In the end, the advice that we gave to the Conference Secretariat and to the Italian Government, given that the date had already been fixed, was to ensure that the first page, which bore the names of the contracting parties, and the last page, which bore the final clauses, were completely ready and to see later on what could be done about the signing. The truth is that the type had been set up at the Italian Government printing office, so the text was in existence, but the printing had not been finished in time. I can still see, in my mind's eye, my friend Kasel in front of me, testing the weight of the provisional document plus the sheets that had been sent from the Italian Government printing office, then inserting them between the title page and the final clauses. He had received instructions from Mr Calmes and myself to make sure that the people, the eminent figures who were to sign, should see the endpaper clearly before he presented them with the page for the signatures while grasping the block of pristine paper in between with two fingers. The main problem was to stop the journalists from poking their noses in. But it all worked out well, did it not? It all worked out well.

The Ministers were not aware that they were signing a bundle of white sheets of paper. Anyway, a Treaty has to be sealed only *ex post facto*, and at the sealing the intermediary sheets were there and they were checked, so ... But it was not an act of deception. However, I did learn one thing: every international treaty is, at the start, an intellectual entity. Every legal agreement is a potential being. A legal agreement is created in the brain of man, then the *instrumentum*, as it is called in Latin, the *instrumentum* is laid down in writing as a notarial act, a law or a treaty, and all this is a process that takes place in all honesty. That is how these things were done and how the Treaty came to be signed.

I should like to add, on the subject of the signing, one detail that is more of an anecdote: it is that we, as members of the Legal Group, had prepared the Protocol of Signature just for the Foreign Ministers. It ought to have been the six Foreign Ministers. We had not accounted for the personal ambition of the Heads of Delegation, and it was the Heads of Delegation who imposed themselves, at whatever diplomatic level I know not; we were obliged — and this I know all too well, because I had to do it — we were obliged to leave two spaces for the signatures of each delegation, one for the name of the Foreign Minister and another for that of the Head of Delegation. That is the reason why you see the double signatures figuring in the Rome document. We did so against our will, because we knew that the bulk of the negotiation had not taken place at the level of those who signed alongside the Ministers. There were some who had exercised real influence and others a purely diplomatic influence, but the significant agreements had been reached at quite a different level, and it irritated us, as negotiators, to disappear completely and to see the co-signatures of

our Heads of Delegation displayed, those whom we, as lawyers, had always avoided in the way that I have explained. But that was the truth of the matter; go to Rome and look at the original, and you will see the fine signatures at the foot of this instrument.