

December 2015

# Cameron's EU reforms

## Will Europe buy them?

By Agata Gostyńska-Jakubowska



# Cameron's EU reforms: Will Europe buy them?

By Agata Gostyńska-Jakubowska

- ★ On November 10<sup>th</sup>, David Cameron sent a letter to European Council president Donald Tusk, finally setting out his demands for renegotiation of the terms of British membership in the EU. But Tusk believes that an agreement cannot be reached at the European Council of December 17<sup>th</sup>-18<sup>th</sup>. In his own letter to EU leaders on December 7<sup>th</sup>, Tusk said that Cameron's proposals were "difficult" but suggested that it would be possible "to prepare a concrete proposal to be finally adopted in February".
- ★ The CER has conducted interviews with government representatives and analysts from all the EU member-states and mapped their responses to Cameron's reform proposals. While the positions of member-states will certainly evolve during the negotiations, the CER's initial conclusions are as follows:

## What prospects are there for compromise on Cameron's reform proposals?

- ★ **The feasible:** David Cameron can claim a quick win on the EU's competitiveness agenda. He can also secure a greater role for national parliaments, although it is not yet clear if member-states will agree to turn 'yellow cards' into red ones, or merely strengthen the existing 'yellow card' procedure. The rest of the EU will also probably agree that the UK should not be obliged to pursue an 'ever closer union' although some member-states fear a domino effect, with populist parties elsewhere in Europe demanding similar exemptions. Cameron may also obtain a guarantee against funding Eurozone bail-outs. Member-states will probably agree to reassure Cameron that nothing the eurozone does should damage the single market.
- ★ **The possible:** Cameron will find it hard, but perhaps not impossible, to secure a mechanism enabling Britain and other euro-outs to delay decisions that in their view damage the single market. Member-states may also eventually compromise on Cameron's demand to curb child allowances for children who are not resident in the UK.
- ★ **The difficult:** Cameron will struggle to secure formal recognition that euro membership is voluntary for all member-states, though language may be found which acknowledges that EU countries use different currencies. But Cameron's hardest battle is on in-work benefits. Some member-states share his concerns about the strain that EU migration may put on public services or labour markets. But all EU countries, perhaps with the exception of Ireland and Finland, will oppose measures that discriminate between British and other EU citizens and therefore violate the current EU treaties.

## Which member-states will help Cameron and which will make his life difficult?

- ★ Cameron hopes he can count on his 'all-weather friends' in the EU like Sweden, the Netherlands and Denmark. These countries are most likely to vote with Britain in the Council of Ministers. But voting patterns in the Council of Ministers do not necessarily reflect the positions leaders will take on the British renegotiation. There is more at stake in negotiations on the British question than in ordinary Council votes on EU draft legislation.
- ★ Cameron will also find allies among member-states that enjoy strong historical and cultural bonds with the UK, such as Ireland, Malta and Cyprus.

- ★ Hungary and Poland will be Cameron's closest allies in Central Europe. But like many other member-states, they will strongly oppose measures that would discriminate between their own citizens and the British.
- ★ There are also several hardliners in other areas of negotiations. Austria, Belgium and Estonia do not share Cameron's ideas for safeguarding the interests of euro-outs in the wider EU. And Spain is opposed to giving a greater role to national parliaments. But opposition from one or a few countries to a particular reform is unlikely to torpedo the entire reform package.
- ★ The majority of member-states is prepared to meet Cameron halfway on most of his demands. Germany, France and Italy will be pivotal. If Cameron strikes a conciliatory tone and keeps his demands modest, they will help him and encourage hardliners to follow suit. But if Cameron bangs the table and questions fundamental principles of the European project, they will take a harder line, complicating his efforts to forge an agreement.

---

On November 10<sup>th</sup> British Prime Minister David Cameron set out the major themes of his proposed EU reforms in a letter to Donald Tusk, the European Council president.<sup>1</sup> Cameron's fellow EU leaders had been increasingly irritated by the lack of clarity over the UK's demands and had urged the British prime minister to put his proposals in writing. Ambiguity about what Cameron really wanted had made it difficult for them to respond in a meaningful way. Other member-states also hoped that if Cameron presented his wish list on paper, he would find it easier to resist the pressure of Conservative eurosceptics to raise additional demands at a later stage in the negotiations.

The letter to Donald Tusk led to a series of so-called confessionals, in which each member-state expressed views on Britain's demands to representatives of the European Commission's 'Brexit' taskforce (led by Jonathan Faull), as well as representatives of the Secretariat General of the Council and the cabinet of the European Council president. The UK was not represented in these meetings. The confessionals, plus a series of bilateral meetings between Cameron and EU leaders in late November and early December, led Tusk to conclude that a deal could not be reached when the European Council met on December 17<sup>th</sup>-18<sup>th</sup>.<sup>2</sup> David Cameron now hopes for the talks on his reform package to be concluded in early 2016, paving the way for a referendum on Britain's EU membership in the summer or autumn of that year.

This paper looks at whether Cameron can achieve consensus on his proposals and at the challenges that lie ahead. Between August and October 2015 the Centre for European Reform (CER) canvassed officials and experts from the other 27 member-states for their views on the key ideas for reform floated by Cameron: boosting the EU's competitiveness; enhancing the role of national parliaments; obtaining an exemption for Britain from

the 'ever closer union' principle; securing safeguards for non-euro countries against potentially harmful action by the eurozone; and limiting the number of EU migrants arriving in the UK. On the basis of these interviews, this paper identifies various red lines in the negotiations, and considers which member-states are likely to be the most and least helpful to David Cameron.

The CER has used a 'traffic light' rating system to illustrate countries' willingness to accept Cameron's proposals and produced five reform maps. Member-states which share Cameron's concerns and support his proposals are marked green on the maps. Countries which have reservations about his ideas but are ready to strike a compromise if he is flexible are marked amber. Finally, member-states which are most reluctant to compromise are marked red. The CER research also shows that on some issues, member-states may not share Cameron's concerns but are nevertheless willing to help him – if a majority of other member-states back his proposals, if he can compromise in other areas of the negotiation, or if they consider that the concession will help Cameron to recommend a 'remain' vote in the referendum campaign. Such countries are marked with stripes.

1: David Cameron, 'A new settlement for the United Kingdom in a reformed European Union', November 10<sup>th</sup> 2015.

2: 'Letter by President Donald Tusk to the European Council on the issue of a UK in/out referendum', December 7<sup>th</sup> 2015.

## Greater EU competitiveness: The least problematic area

In his speech on Europe at Chatham House on November 10<sup>th</sup>, David Cameron called for a “clear commitment that writes competitiveness into the DNA of the whole European Union”.<sup>3</sup> Cameron fears that without action to deepen the EU single market, reduce regulatory barriers and strike more ambitious free-trade agreements with third countries, the competitiveness of the EU will suffer.

Cameron’s push for greater economic liberalism in the EU will be the least contentious issue in the negotiations. Longstanding efforts by Britain and other economically liberal member-states to improve the EU’s business environment gained ground when Jean-Claude Juncker, president of the European Commission, appointed Frans Timmermans as first vice-president in charge of better regulation. Timmermans is the former foreign minister of the Netherlands – a country which agrees with Britain on the need to deepen the single market and simplify regulation. In May 2015 Timmermans presented a ‘Better Regulation’ package and announced that the Commission would make it a priority to ease the regulatory burden on small and medium-sized enterprises. Eurosceptic critics of Cameron say that he is asking for insignificant – rather than ambitious – reforms, because the Commission is already pushing for greater EU competitiveness. There is little doubt, however, that British determination to promote economic liberalism in the EU helped get the ball rolling – a fact the Commission should be willing to acknowledge.

In September 2015, the UK and 16 other member-states signed a joint letter calling on the Commission to take an ambitious approach to completing the single market in goods and services.<sup>4</sup> In another letter, sent to Frans Timmermans on November 26<sup>th</sup>, 18 member-states backed a British idea to set targets for cutting ‘burdensome’ red tape.<sup>5</sup> CER research confirms that most member-states back Cameron’s competitiveness agenda (see map 1). But this positive approach should not be mistaken for a blank cheque. Latvia, for instance, supports cutting red tape, but opposes the British idea of a ‘one-in one-out’ principle, whereby new regulations

are offset by removing existing ones.<sup>6</sup> Instead, Latvia would prefer to judge case by case whether the EU should modify or withdraw existing EU laws to ease the regulatory burden. Estonia and Portugal back Cameron’s calls for further liberalisation of the single market, but warn against shifting from an agenda of ‘better regulation’ to one of ‘deregulation’.

*“But this positive approach to Cameron’s competitiveness agenda should not be mistaken for a blank cheque.”*

Some member-states have more concerns than others, so are marked amber on the CER reform map. The centre-left governments of Greece, France and Sweden, and the grand coalition in Austria, fear that Cameron’s competitiveness agenda, if fully implemented, could weaken employment rights and environmental protection. And Belgium seems sceptical about the UK’s push to complete the single market in services (as it has been since the negotiation of the services directive in 2006).<sup>7</sup> These countries could still support the British prime minister, but Cameron will have to twist a few arms to claim victory.

Interestingly, Austria, France and Sweden signed the British letter in November and urged the Commission to set targets for reducing EU regulation. This is perhaps because the letter acknowledged that cutting red tape should take into account “proper protection of consumers, health, the environment, employees and financial market stability and respect existing protection standards”. As long as Cameron can dispel suspicions that his real goal is to destroy ‘social Europe’, which includes measures like the working time directive, he should be able to garner the support of the more reluctant member-states. Despite pressure from his own backbenchers, he has wisely refrained from making a fetish of rolling back social Europe.

3: David Cameron, ‘The future of Britain’s relationship with the EU’, Chatham House, November 10<sup>th</sup> 2015.

4: The letter was sent to Jyrki Katainen, the European Commission Vice President, responsible for jobs, growth, investment and competitiveness, and Elżbieta Bieńkowska, Commissioner for the internal market, industry, entrepreneurship and SMEs. It was signed by the UK, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, Slovakia and Slovenia. *Euractiv*, ‘Ministers’ letter signals support for some UK-backed EU reforms’, October 1<sup>st</sup> 2015.

5: Joint letter to European Commission First Vice President Frans Timmermans on EU better regulation, signed by Austria, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Lithuania, Malta, Slovakia, Slovenia, Spain, Sweden and the United Kingdom, November 26<sup>th</sup> 2015.

6: ‘Cut EU red tape: Report from Business Task Force’, [www.gov.uk](http://www.gov.uk), February 24<sup>th</sup> 2014.

7: John Springford, ‘How to build European services markets’, CER policy brief, September 2012.



## Greater EU competitiveness

**Proposal:** David Cameron wants the EU to adopt measures that will boost the EU's competitiveness and restore growth in Europe. He wants further deepening of the single market and a reduction of EU red tape.

- |   |  |
|---|--|
| <span style="display: inline-block; width: 15px; height: 15px; background-color: green; margin-right: 5px;"></span> Yes   | <span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; margin-right: 5px;"></span> No to proposals that undermine social or environmental standards. The objective should be to regulate better, rather than deregulate. |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #90EE90; margin-right: 5px;"></span> Yes, if a majority of member-states agree, or if Cameron can compromise in other areas of the renegotiation, or if this helps Cameron to recommend a 'yes' vote in the referendum campaign. | <span style="display: inline-block; width: 15px; height: 15px; background-color: red; margin-right: 5px;"></span> No to Cameron's competitiveness agenda.  |



◆ The interviews with Portuguese and Croatian officials were conducted before parliamentary elections in these countries. The interviews with Romanian experts were conducted before the resignation of the government led by Viktor Ponta.

## A greater role for national parliaments: The EU will meet Cameron halfway

In his letter to Donald Tusk, Cameron called for a group of national parliaments to be able to stop undesirable EU legislation, but he has remained vague on the specifics of how many national parliaments he thinks would have to club together in order to halt a Commission proposal.

National parliaments can already signal opposition to a Commission proposal when they think that member-states are better placed to deal with the subject than the EU (the subsidiarity principle). Under the current system, each national parliament has two votes (one vote per chamber in bicameral parliaments) that it can cast against a Commission draft law. One third of all the votes (or a quarter in relation to justice and home affairs proposals) constitute a 'yellow card'; more than half an 'orange card'. But even after an orange card, the Commission can still press ahead with the proposal, unless it is overruled by the Council of Ministers or the European Parliament.<sup>8</sup> Cameron thinks this should change: in his view, national MPs have a stronger grasp of public concerns than Commission technocrats and are better placed to judge whether an EU proposal will benefit citizens.

The British prime minister will struggle to win formal veto powers for a group of national parliaments (an idea known in EU jargon as a 'red card').<sup>9</sup> Probably only the Netherlands, Hungary and Poland, under its new, right-wing government, will support this idea (see map 2). In the Netherlands, public disillusionment with EU institutions became obvious when the Dutch people voted down the EU constitutional treaty in a referendum in 2005. This prompted the Netherlands to start looking for sources of democratic legitimacy in the EU other than the European Parliament. The Hague thinks that national MPs could help to narrow the gap between the EU and its citizens. Budapest and Warsaw see red cards as an opportunity to prevent what they view as the Commission's gradual encroachment on national competences.

There are several member-states that Cameron may be able to talk round to his point of view. Ireland, Malta and Cyprus may not be fully convinced about the rationale behind red cards but they will be reluctant to put their longstanding ties with the UK at risk over the issue of national parliaments. Austria is also interested in a creative solution that could strengthen the democratic legitimacy of the EU, as long as it does not give a veto to every national parliament. Croatia, which is the newest member-state in the EU and still formulating its EU policy, will be flexible: if other member-states sign up to Cameron's idea, Croatia will too.

<sup>8</sup>: Under existing procedures, when parliaments show an orange card to the Commission, a vote by 55 per cent of the member-states in the Council of Ministers or a simple majority of the European Parliament can block the Commission proposal.

<sup>9</sup>: This section builds on Agata Gostyńska-Jakubowska, 'Power to the parliaments! But will Cameron's EU partners join his crusade?', CER insight, October 16<sup>th</sup> 2015.

Most member-states, however, including Germany, France and Italy, are reluctant to give national parliaments a red card. Spain, which believes in strong supranational institutions, seems to be the most vehemently opposed. Officials from various member-states point to MPs' lack of knowledge of and interest in European affairs. Giving 'uninformed' MPs the power to block legislation could, in their view, create chaos and paralyse the EU. German officials emphasise that a national parliament's primary role should be to oversee its government's European policy, rather than the EU decision-making process, which they regard as the job of the European Parliament. Germany and Belgium worry that too big a role for national parliaments could slow down the already cumbersome EU law-making process. Smaller member-states like Belgium, Slovenia and Latvia also worry that a greater role for national parliaments would come at the expense of EU institutions; these countries have traditionally relied on the Commission and the Parliament to balance the political weight of larger member-states and their greater policy-making capabilities and resources.

*“Most member-states, however, including Germany, France and Italy, are reluctant to give national parliaments a red card.”*

But if pressed, all these member-states (with the possible exception of Spain) would agree to improve the yellow card procedure. One idea already being debated by national parliaments would be to give national chambers more time than the current eight weeks to decide if they wish to show a yellow card.<sup>10</sup> Some chambers, including the British House of Lords, struggle to submit their opinions in time, due to their parliamentary timetables.

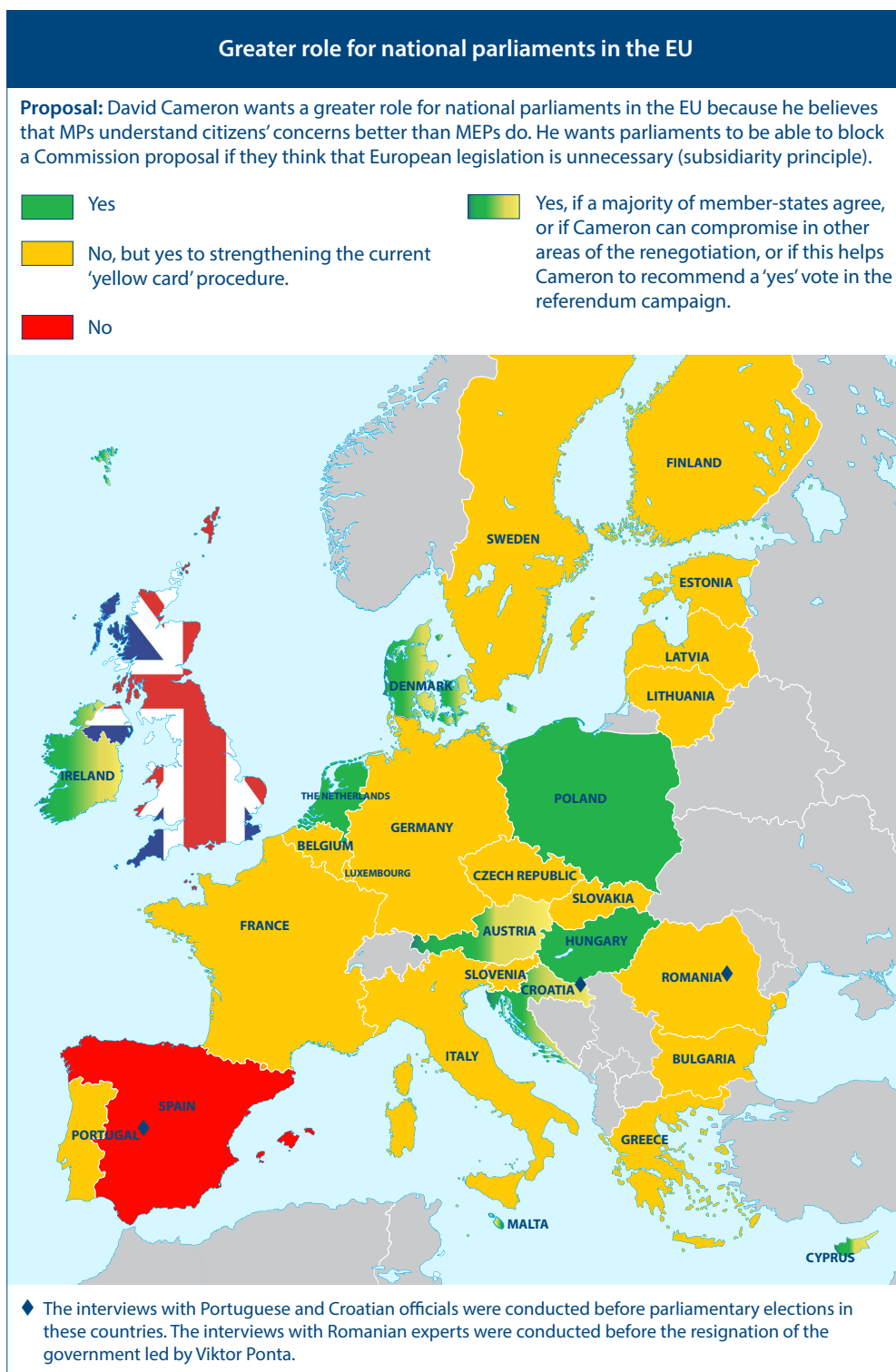
Introducing a red card procedure would require treaty change. The role of national parliaments in the EU decision-making process is laid out in protocol 2 to the EU treaties, which covers the application of subsidiarity and proportionality. Protocols form an integral part of the EU treaties; amending them means re-opening the treaties themselves and there is no appetite in Europe to do that. However, in 2013 Frans Timmermans, who is also in charge of the Commission's relations with national parliaments, suggested in the *Financial Times* that turning the yellow card into a red one should be possible without revising the treaties. David Cameron could remind Timmermans of his words and try to persuade the Commission that

<sup>10</sup>: Chamber of Deputies, Luxembourg parliament, 'Information note in relation to the COSAC Working Group October 30<sup>th</sup> 2015, Luxembourg 'Yellow card' procedure'.

it should promise to withdraw a proposal voluntarily if parliaments show it a yellow card. Another option could be a gentleman's agreement between member-states, whereby they would agree to block any Commission proposal if national parliaments show an orange card. Such arrangements would be more likely to command consensus if the number of parliamentary votes needed to block a proposal were higher than the number for yellow and orange cards. Setting a higher threshold for the new procedure would leave the existing yellow and orange card system intact, making it harder to argue that the procedure contravened the treaties.

This arrangement could be acceptable to member-states with a more federalist approach, such as Germany, France, Belgium or Spain, precisely because it would be unlikely to change the status quo. Yellow and orange cards have been available to national chambers for the last six years, but parliaments have reached the threshold for a yellow card only twice and are yet to show an orange card. A new arrangement would be unlikely to result in an avalanche of red cards but would allow Cameron to claim he has empowered national parliaments.

Map 2



## The debate on 'ever closer union': The danger of a domino effect

British eurosceptics have long complained that today's EU is not the project the UK signed up to in 1973. The British people, in their view, joined a common market, not the political union that the EU has since been moving towards. Eurosceptics have blamed the European Court of Justice (ECJ) for pursuing an integrationist agenda; they think the Court has used the concept of an 'ever closer union' – enshrined in the preambles to both the Treaty on European Union and the Treaty on the Functioning of the European Union, as well as in article 1 of the former – to justify decisions which promote more integration.

The European Parliament and the European Commission have also, eurosceptics complain, been pushing for political union. The Parliament introduced the *Spitzenkandidaten* mechanism, whereby the candidate nominated by the largest party in the European Parliament becomes the president of the Commission. Despite strong British opposition, the European Council endorsed the *Spitzenkandidaten* system, which resulted in Jean-Claude Juncker becoming European Commission president. As a consolation to the British, the European Council acknowledged in June 2014 that "the concept of 'ever closer union' allows for different paths of integration for different countries, allowing those that want to deepen integration to move ahead, while respecting the wish of those who do not want to deepen any further". But this is not enough for Tory backbenchers: as long as 'ever closer union' is in the EU treaties, they fear, Britain risks being dragged into deeper political co-operation. By asking the EU to recognise that 'ever closer union' does not apply to Britain, Cameron hopes to assuage the fears of some eurosceptics.

The vast majority of member-states think the British concerns are exaggerated. They point out that the Treaty on European Union talks about the objective of "ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity".<sup>11</sup> This wording, according to other EU governments, does not indicate that member-states should aim for a 'United States of Europe', as some eurosceptics have suggested. Instead, the concept refers to strengthening bonds among European citizens. A recent analysis by the House of Commons library has also debunked eurosceptics' argument that the ECJ refers to the 'ever closer union' as a way of pushing for greater integration, showing that in fact the Court rarely refers

to this concept in its judgements.<sup>12</sup> And when it does so, it usually cites it in the context of trying to ensure better access to documents from EU institutions. If the idea of 'ever closer union' has had any practical effect, it has been in promoting greater transparency of EU decision-making rather than the centralisation of powers.

Only Budapest and Warsaw seem to sympathise with British concerns about the phrase. They have no wish to be pulled into 'ever closer union'. As for other member-states, they see the concept as having little relevance and therefore appear ready to accommodate Cameron's concerns (see map 3). They understand this would facilitate Cameron's efforts to sell the outcome of the renegotiations at home and advocate a 'remain' vote in the referendum. The majority of member-states would be ready to accept that 'ever closer union' does not apply to Britain. Language to this end could be incorporated in the treaties by adding a protocol the next time they are revised.

*"The vast majority of member-states think the British concerns about the 'ever closer union' notion are exaggerated."*

Several member-states, however, including France, Germany, Belgium and Austria, are reluctant to go beyond repeating or slightly reformulating the text of the European Council conclusions of June 2014. Lithuania and Sweden fear that concessions on this point could create a domino effect, triggering comparable requests from other member-states. The Latvian government has similar concerns; it fears that concessions to the UK would encourage Latvian politicians who want opt-outs from certain EU policies. These concerns could delay a deal, although Donald Tusk, the European Council president, who is in charge of co-ordinating the Brexit talks, will do his best to help Cameron. Tusk has been criticised for the way he moderated discussions on the refugee crisis, so a successful negotiation on the Brexit question would help him improve his standing.





<sup>11</sup>: Article 1 of the Treaty on European Union.

<sup>12</sup>: Vaughne Miller, "Ever closer union" in the EU treaties and Court of Justice case law; briefing paper, House of Commons Library, November 16<sup>th</sup> 2015.



## Exemption from 'ever closer union' for Britain

**Proposal:** David Cameron wants to obtain an explicit exemption for Britain from the 'ever closer union': he wants the eurozone to prosper, and supports its further integration, but he wants the EU to recognise that ever closer union does not apply to Britain.

- |   |   |   |  |
|---|---|---|--|
|  | Yes   |  | No to an explicit exemption for Britain but yes to reiterating the June 2014 European Council conclusions confirming that 'ever closer union' allows for different paths of integration. |
|  | Yes, if a majority of member-states agree, or if Cameron can compromise in other areas of the renegotiation, or if this helps Cameron to recommend a 'yes' vote in the referendum campaign. |  | No   |



◆ The interviews with Portuguese and Croatian officials were conducted before parliamentary elections in these countries. The interviews with Romanian experts were conducted before the resignation of the government led by Viktor Ponta.

## European integration as a multi-currency project

David Cameron has also asked European colleagues to recognise that the “EU has more than one currency”. Since EU leaders already confirmed in June 2014 that ‘ever closer union’ allows for different paths of integration, Cameron sees no reason why they should not acknowledge that some EU countries do not want to join the eurozone. France’s president, François Hollande, is apparently sympathetic to the idea; the French have long advocated a multi-tier Europe with stronger eurozone governance, and that could be compatible with Cameron’s thinking.<sup>13</sup> The idea of a multi-tier Europe is also increasingly popular in Rome. Italy has always been an integrationist member-state, but recognises that deeper eurozone co-operation may be difficult to reconcile with the idea that every member-state should move towards a common destination. Britain and Denmark already enjoy opt-outs from the euro, while no other member-state is likely to join the eurozone in the foreseeable future. The Italians see the advantages of recognising that not every member is heading for euro membership, as long as the eurozone is free to integrate as it sees fit. The problem for Cameron is that formal recognition of the EU as a multi-currency union would be incompatible with the Treaty on European Union which states that the EU’s objective is an Economic and Monetary Union whose currency is the euro.

Even if Cameron managed to convince several euro countries to back his idea, he would struggle to sway all of them. Athens fears that Cameron’s proposals could reignite discussion of expelling Greece from the eurozone, a possibility floated in July 2015 by the German finance ministry. The current treaties do not include any provision on excluding a member-state from the eurozone.<sup>14</sup> But if the treaties were amended, some northern eurozone countries might be tempted to introduce such a mechanism.

Cameron cannot be certain of the support of the euro-outs either. Hungary and Poland, under its new right-wing government, are exceptions, but other Central European countries may be sceptical about a multi-tier Europe. Although Bulgaria, Romania and the Czech Republic may not currently want to join the eurozone, as it struggles to achieve economic growth, many of their politicians hope to do so in the future. For these countries, eurozone membership is a matter of geopolitical choice, rather than pure economic calculation. Squeezed between Russia and the West, they wish to cement their position within the EU and its institutions, which eurozone membership could help them achieve. These countries have supported arrangements to give ‘pre-ins’ (member-states planning to adopt the euro) a stronger voice in eurozone governance.

*“Hungary and Poland are exceptions, but other Central European countries may be sceptical about a multi-tier Europe.”*

They may fear that if they follow Cameron’s lead on a ‘multi-currency union’ they could be left on the EU’s sidelines. Cameron’s ideas, if taken further, could make euro-ins less willing to admit new members to the eurozone in the future. Even Denmark, a country with an opt-out from the euro, is unsympathetic to the idea of thickening the line that separates euro-ins and outs; many of its political elite hope that in the long run it will join the single currency.

<sup>13</sup>: Policy Network, ‘Britain’s EU renegotiation: the view from our partners’, October 2015.

<sup>14</sup>: Agata Gostyńska-Jakubowska and Camino Mortera-Martinez, ‘Thomas Cromwell or the executioner’s axe? Options for a Grexit’, CER insight, July 10<sup>th</sup> 2015.

## Cameron's fairness agenda: Eurozone efficiency is a priority

The British prime minister hopes the interests of euro-outs will be better protected in an avowedly multi-currency EU. The UK has long worried that further eurozone integration could damage British interests, particularly in financial services. Eurozone countries now have a built-in majority in the Council of Ministers and Cameron fears they could gang up on Britain. Given the divergent views on economic policy among euro countries, this risk is likely to be largely hypothetical.<sup>15</sup> British officials had their worst fears confirmed, however, on July 13<sup>th</sup> 2015, in the middle of the night, during an emergency summit: the eurozone countries attempted to use the European Financial Stabilisation Mechanism (EFSM), an obscure bail-out fund, to provide a bridging loan to Greece. They wanted to do so without consulting the euro-outs, which had all contributed to the fund, and despite a previous agreement that the EFSM should not be used for eurozone bail-outs. In the end, the euro-outs were given financial guarantees to protect them from any potential EFSM losses. The British nevertheless saw that, in a crisis, the eurozone countries were willing to disregard existing agreements for the sake of the euro.

In his letter to Donald Tusk, Cameron insisted on four points: the EU should ensure that the strengthening of the eurozone does not damage the single market; euro-outs should be free to decide whether to participate in further eurozone integration, such as the banking union; and British taxpayers should not be liable for the cost of any eurozone bail-out programmes. Finally, Cameron wants all 28 member-states to decide on matters that affect the entire union. He has not, however, specified exactly how he would like to protect the interests of Britain and other euro-outs. Charles Grant, the CER's director, recently floated several ideas.<sup>16</sup> One option would be to give the euro-outs an 'emergency brake': if one or several of them thought that a law proposed for the interests of the Eurozone might damage the single market, a decision could be postponed for up to, say, a year while the European Council reviewed it. Another option would be to revive the 'loannina bis' mechanism, which enables a group of member-states to delay a decision that they do not have the power to block (because they lack a blocking minority in the Council of Ministers), when they believe the decision would damage vital national interests. This mechanism was written into EU treaties in 2007, at the request of the Polish government, but has never been used. Britain could also ask for observer rights at Eurogroup meetings, to limit the risk of the eurozone caucusing and then presenting euro-outs with *fait accomplis*.

Cameron will get some sympathy from the euro-outs. The Swedes (who voted in 2003 not to join the euro)

and Danes (whose currency is pegged to the euro even though they have an opt-out) admit in private that they fear the eurozone imposing its interests on the rest of the EU. They were also upset about the use of the EFSM to bail out Greece, and criticised the Luxembourg presidency for excluding euro-outs from an informal meeting of eurozone ministers of employment and social affairs in the second half of 2015. Stockholm and Copenhagen would agree with Cameron that the euro-outs should only take part in any future eurozone bail-outs on a voluntary basis. They would also support his calls for greater transparency of eurozone decision-making and for protecting the integrity of the single market. But neither Denmark nor Sweden will want to sign up to proposals that could strain their relationships with the eurozone. They both seem more interested in arrangements that could give them a greater say over the governance of the eurozone, than in securing safeguards for euro-outs.

*“Euro-ins, for reasons of principle or self-interest, are not sympathetic to ideas that could impair efficiency of the eurozone.”*

Euro-ins, for reasons of principle or self-interest, are not sympathetic to ideas that could put the efficiency of the eurozone decision-making at risk. They would probably agree to reassure Cameron that nothing the eurozone does should damage the single market. But they are reluctant to support the idea of new mechanisms which would allow Britain and other euro-outs to delay decisions on the grounds that the single market is endangered.

CER research shows that Belgium, Austria and Estonia are the most hostile to Cameron's ideas on safeguarding the interests of euro-outs (see map 4). They fear that the future of the euro could be jeopardised if Britain slowed down decision-making. Some German officials say that in a crisis, the eurozone may need to act speedily, and if some of those actions injure the interests of euro-outs or the single market, that is too bad. Other German officials say there is already plenty of transparency: the morning after the Euro Group meets, euro-outs attend an informal breakfast with eurozone ministers at which the outs can question the ins on what they are doing (this breakfast precedes the wider meeting of all 28 finance ministers).

Even British allies like Malta and Cyprus will be reluctant to compromise in this area of renegotiations. Germany, rather than Britain, is Malta's most important trade partner and the Cypriot banking sector relies on financial assistance from the European Stability Mechanism,

<sup>15</sup>: John Springford, 'Will the eurozone gang up on Britain', CER insight, July 14<sup>th</sup> 2014.

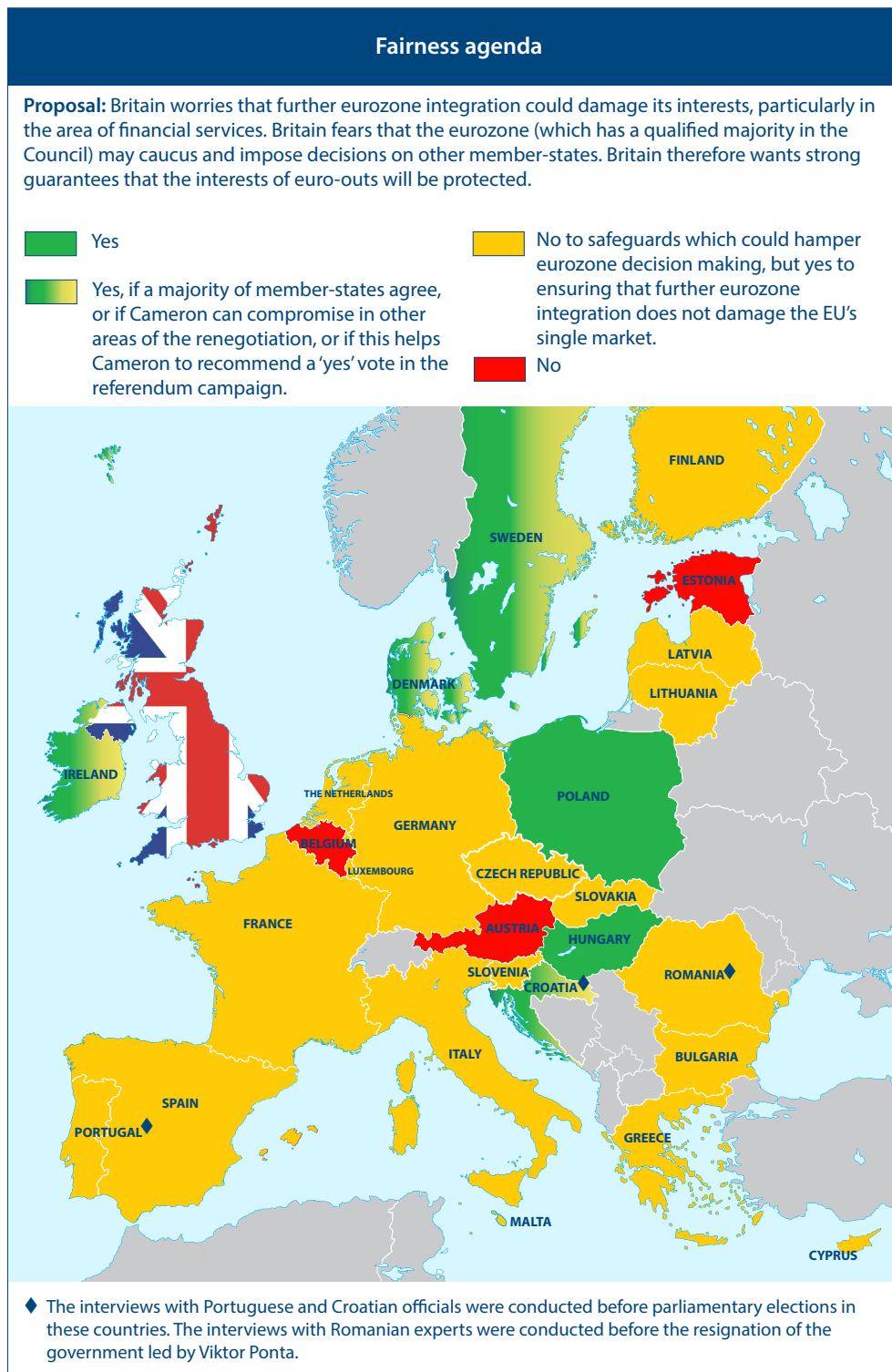
<sup>16</sup>: Charles Grant, 'Cameron's EU gamble: Five reforms he can win, and ten pitfalls he must avoid', CER policy brief, October 2015.

funded by the eurozone. Siding with Cameron could be seen as an act of disloyalty towards its creditors.

But in the end Germany, with the support of Italy and France, will probably try to bridge the gap between the hardliners – Belgium, Austria and Estonia – and the British. Both Chancellor Angela Merkel and Prime Minister Matteo Renzi enjoy good working relationships

with David Cameron and are determined to keep Britain in the EU. And though Paris is often seen as a hardliner, this may be an exaggeration.<sup>17</sup> When Cameron demands an emergency brake, Berlin, Paris and Rome are unlikely to reject the idea completely; instead, they will try to ensure the mechanism can only be used in specific circumstances and for a limited period of time.

Map 4



17: Vivien Pertusot, 'France: The French are looking for a fair deal for France and the EU, not just for Britain', LSE EUROPP blog, October 7<sup>th</sup> 2015.

## Limiting access to in-work benefits for EU citizens: An uphill struggle for Cameron

When the CER first conducted its interviews, Cameron had still not revealed his reform plans on welfare benefits. In their election manifesto, the Conservatives promised to stop access to out-of-work benefits for EU jobseekers and to child allowance for children who were not resident in the UK. The Conservatives also proposed that, if the EU were to admit a new member, its citizens should not have the right to work in other EU countries until their economies converged to a certain degree with existing member-states. Finally, the Tories promised to limit access to in-work benefits for EU citizens until they had lived in the UK for four years.

The CER has long argued that a compromise on out-of-work and child benefits is possible. And since no country is likely to join the EU until well into the 2020s, a proposal to restrict free movement of labour for citizens from new member-states would not make any difference in the short term, although it would damage Britain's reputation as a supporter of EU enlargement.<sup>18</sup> But Cameron's plans to restrict access to in-work benefits for EU citizens would amount to discrimination between Britons and other EU citizens, which is forbidden by article 45 of the Treaty on the Functioning of the European Union. The CER's John Springford has pointed out that withdrawing in-work benefits from EU citizens would lead to British workers receiving higher income than EU migrants for doing the same work.<sup>19</sup> This would be a serious violation of the rules of the single market, whose main aim is to reduce barriers to doing business elsewhere in Europe, not to reinforce them.

Several member-states share Cameron's concerns that EU migrants put a strain on public services or the labour market. Shortly before returning to power in June 2015 in a minority government, Denmark's Liberal Party signed a joint political declaration with other Danish right-wing political parties expressing their support for a wider EU reform of access to welfare benefits for EU citizens. Belgium agrees with Cameron that paying child benefits to non-resident children is unfair. For its part, the Netherlands is worried about 'social dumping', whereby a company is registered in a member-state with lower employment costs – for instance, in Central Europe – but its employees work in a member-state with higher costs, such as the Netherlands. The Hague thinks that the posting of workers directive should be amended as it fails to ensure that employees in the same location have the same employment conditions.

But Cameron has made a fetish of in-work benefits in his negotiations. On November 30<sup>th</sup> he even asked his fellow EU leaders for a protocol giving Britain an opt-out from existing rules, so that he can restrict access to in-work benefits for EU citizens. Cameron has thus put himself in

a very difficult position: on this issue, he is alone against 25 member-states. For the moment only Ireland and Finland may appear to be more flexible: keeping Britain in the EU seems to be more important to them than any 'red lines', even in this area (see map 5). But even these governments feel uneasy about Cameron's support for discriminatory measures. In his December 7<sup>th</sup> letter to the European Council, Tusk concluded that there was no consensus on Cameron's request to curb in-work benefits for EU citizens until they have lived in the UK for four years.

*“Central Europe recognises that cutting access to in-work benefits would do little to reduce flows of people to Britain.”*

But Cameron is not giving up. On December 9<sup>th</sup>–10<sup>th</sup> Cameron visited Poland and Romania – Central European countries which are even more likely to resist a compromise on Cameron's proposals for access to welfare benefits than Western ones. He hoped that he could convince member-states in Central Europe that his reforms would benefit these countries as well as the UK, by stemming the brain drain that deprives them of skilled workers. And he hoped that these governments could be prepared to bargain away their opposition to his ideas on in-work benefits. But Warsaw and Bucharest gave Cameron's idea a frosty reception.

The Central Europeans still resent the fact that when British tabloids portrayed their citizens as welfare scroungers, Cameron did little to set the record straight. These countries were also upset when Cameron said that opening up the British labour market to Central Europeans after their EU accession in 2004 was a mistake. Besides, the member-states in Central Europe recognise that cutting access to in-work benefits would do little to reduce flows of people to Britain – and certainly not highly-skilled workers, most of whom earn too much to be eligible. They value their citizens' rights to unconstrained free movement above all. And because many EU migrants return home in the long run, the 'brain drain' argument is overdone.

Germany will be pivotal in reconciling these east-west differences. Though irritated by the lack of solidarity shown by the Central Europeans during the refugee crisis, the German chancellor is unlikely to resile from her previously-stated strong support for the principle of free movement of people. In any case, the German government believes it is unlikely that a compromise on access to welfare benefits would tip the balance in the referendum and prevent 'Brexit'.

<sup>18</sup>: Camino Mortera-Martinez, 'Cameron's migration speech and EU law: Can he change the status quo?', CER insight, December 4<sup>th</sup> 2014.


<sup>19</sup>: John Springford, 'In-work benefits for EU migrants: How the British government dug itself into a hole', CER insight, November 10<sup>th</sup> 2015.





## Limiting access to in-work benefits for EU workers

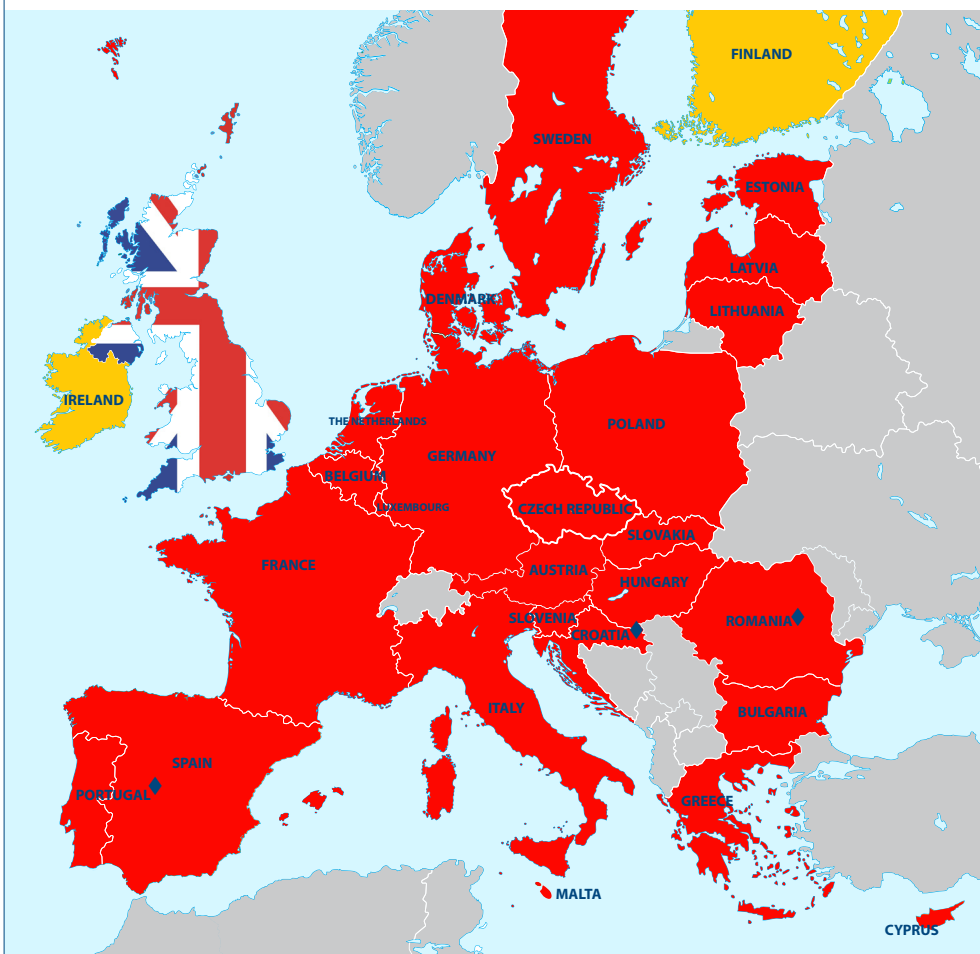
**Proposal:** David Cameron wants to reduce incentives for EU migrants to move to the UK; he is worried that uncontrolled immigration to Britain will put a strain on the UK's public services and its labour market. He thinks that by limiting access to in-work benefits for EU workers he will be able to achieve this goal.

 Yes

 Yes, if a majority of member-states agree, or if Cameron can compromise in other areas of the renegotiation, or if this helps Cameron to recommend a 'yes' vote in the referendum campaign.

 Generally opposed to proposals which could discriminate between EU and British workers, but willing to look for alternative solutions.

 No to any proposals which could discriminate between EU and British workers, and resistant to a compromise.



◆ The interviews with Portuguese and Croatian officials were conducted before parliamentary elections in these countries. The interviews with Romanian experts were conducted before the resignation of the government led by Viktor Ponta.

## Conclusions

David Cameron's letter to Donald Tusk met a mixed response across Europe. The Danish prime minister praised it as "a good basis for concrete proposals". Others, such as Poland, signalled their sympathy with most of Cameron's ideas but also indicated strong opposition to discrimination between British and other EU citizens. But no-one dismissed Cameron's reform plans entirely or refused to negotiate with him. The EU likes to find consensus and the member-states will look for compromises on all elements of the British reform package.

David Cameron should be able to claim a quick win on competitiveness; the Commission is already implementing many of his ideas, and it probably has the political acumen to allow the British prime minister to claim some of the credit for what it is doing. Cameron can also secure a greater role for national parliaments, although it remains to be seen if other member-states will agree to turn yellow cards de facto into red ones, or merely strengthen the existing yellow card procedure. An agreement on a British exemption from 'ever closer union' is also likely. Eurozone countries will probably be willing to reassure Cameron that euro-outs will not have to participate in the banking union or any other element of deeper eurozone co-operation, unless they opt in voluntarily or adopt the euro. Cameron may well win the promise of an article in a future treaty stating that eurozone countries should do nothing that damages the single market. He can probably forge an agreement on greater transparency in eurozone decision-making.

Cameron will struggle, however, to secure formal recognition that euro membership is voluntary, though possibly language may be found which acknowledges the reality that EU countries use several different currencies. He will find it hard, but perhaps not impossible, to secure a mechanism enabling Britain and other euro-outs to delay decisions by the eurozone that they claim are injurious – for example, on the grounds that the single market is endangered. But eurozone members, including Britain's close allies like the Netherlands and Germany, will oppose any mechanism that would impair the efficiency of eurozone decision-making.

Cameron's hardest battle is certain to be on welfare reform. His partners in Europe may eventually help him curb child allowances for children who are not resident in the UK but Cameron will struggle to convince them either that his proposals on in-work benefits will create real disincentives to migration to the UK, or that they will benefit other member-states by reducing their brain-

drain. And other leaders will ask: if these proposals not only undermine a fundamental EU principle but also fail to achieve their stated objectives, why pursue them?

The unpredictability of the outcome of the referendum works to Cameron's disadvantage in the renegotiation.<sup>20</sup> Predicting voting intentions is probably harder in a referendum than in a general election. Voters' opinions may well change as a result of the campaign or for extraneous reasons, such as the refugee crisis; and the electorate may use the referendum to express unhappiness with the government.<sup>21</sup> EU leaders know that there is no guarantee that the deal they reach with Cameron will produce a vote for staying in. This uncertainty makes some leaders reluctant to risk compromising on important EU principles: if the UK then left anyway, the EU would be encumbered with a set of reforms that many members neither liked nor agreed with.

*“If EU governments concede too much to Cameron they will find it difficult to resist pressure from eurosceptics at home.”*

David Cameron has failed to convince other member-states that several of the reforms he is trying to secure will benefit the whole EU, rather than just appease British voters. Some other member-states worry that if the renegotiation gives the UK special treatment, far-right parties in countries like France, the Netherlands, Hungary, Finland or Denmark could demand their own unique deals. Even Italy, which has always supported deeper political integration, is under increasing pressure from eurosceptics. Half the parties in the Italian parliament have run eurosceptic campaigns.<sup>22</sup> If EU governments concede too much to David Cameron, and above all if they agree to re-open the treaties, they will find it difficult to resist pressure from eurosceptics at home to make even more changes.

Not only eurosceptic parties, but also some governments may see the British renegotiation as an opportunity to get concessions in areas of particular interest to them. Since London can ask for a preferential treatment, there is no reason – they may think – why they should not be allowed to do so too. Poland, for instance, is not happy about EU climate policy or the way the EU is dealing with the refugee crisis; it may want to obtain some concessions on emission targets or on refugee quotas as the price for

20: Almut Möller, 'Germany: Doubts that Britain really knows what it wants', LSE EUROPP blog, November 11<sup>th</sup> 2015.

21: Sara Hobolt, 'What lessons can Britain learn from other EU referendums?', What the UK Thinks, October 23<sup>rd</sup> 2015.

22: Eleonora Poli, 'Italy: A Brexit would create a dangerous political precedent for Italy', LSE EUROPP blog, September 30<sup>th</sup> 2015.

its support for the British reform package. But this would not help Cameron because it would probably delay an agreement around his reform package.

Donald Tusk will do his best to ensure that the UK renegotiation does not trigger such a domino effect. In his acceptance speech, delivered in August 2014, Tusk said he would seek compromise among all member-states on the British question. Since he took over from Herman Van Rompuy, Tusk has been subject to heavy criticism, both in Brussels and national capitals, for his handling of issues including the eurozone and refugee crises. Tusk's legacy may depend on whether he can deliver a successful result in the British renegotiation. However, the determination of the European Council president to hammer out a deal between Cameron and the rest is only one factor influencing the result of the negotiations. The final say over Cameron's reform package belongs to all member-states, which the German Constitutional Court called, not without reason, 'masters of the treaties'. Tusk is only a mediator, albeit an important one.

### Building a coalition of the unwilling

Britain has some 'all-weather friends' in the EU like Sweden, the Netherlands and Denmark. Cameron hopes he can count on them during the renegotiation. Research led by Simon Hix of the London School of Economics shows that between 2009 and 2015 these countries were the most likely to vote the same way as Britain in the Council of Ministers (although voting happens rarely, and only when a Council presidency has failed to find a compromise).<sup>23</sup> Interestingly, the LSE research showed that Germany was the member-state least likely to align with the British.

But voting patterns in the Council of Ministers do not necessarily reflect the positions leaders will take at the European Council on the British renegotiation. This is mainly because the European Council rarely takes decisions by vote. There is also more at stake in these negotiations than in ordinary Council votes on EU draft legislation. Cameron should therefore expect to have allies not only among the northern countries that support the UK's liberalising economic agenda, but also among member-states that do not always agree with Britain's policies, but enjoy strong historical and cultural bonds with Britain. Citizens of Ireland and of Commonwealth members Malta and Cyprus who are resident in the UK are eligible to vote in the referendum. CER research shows that these citizens' governments are highly likely to be helpful to Cameron.

Hungary and Poland will be close allies too. In four out of five areas both member-states were marked green on the CER reform map. The anti-federalist rhetoric of the Hungarian prime minister, Viktor Orbán, is in many ways compatible with the thinking of British Conservatives.

Orbán has heavily criticised the Commission for what he sees as its effort to expand its competences and its interference in countries' domestic affairs. He was also the only leader to back Cameron in opposing the nomination of Jean-Claude Juncker as Commission president. The Law and Justice party, which came to power in Poland in October 2015, sits in the same group as the Tories in the European Parliament and shares many of their views on European integration. Like the British Conservatives, Law and Justice supports a stronger role for member-states in the EU's institutional architecture. But the remaining countries in the Visegrad group – Slovakia and the Czech Republic – may be reluctant to join forces with Cameron.

*“The good news for Cameron is that the majority of member-states is prepared to meet him halfway on most of his demands.”*

The Visegrad Four will be more coherent in their opposition to the idea of limiting migrants' access to welfare benefits, although some will be more vocal than others. Slovakia, for instance, may want to keep a low profile in the negotiations; it will hold the presidency of the Council of Ministers for the first time in the second half of 2016, and will not want to offend any of the EU's major players or create any impression of bias. If elements of a deal on Cameron's reform package require changes to EU secondary legislation, Slovakia may have to co-ordinate the negotiations with the Commission and the Parliament on behalf of the Council.

The good news for David Cameron is that the majority of member-states is prepared to meet him halfway on most of his demands. Here, Germany, France and Italy will be pivotal. If Cameron strikes a conciliatory tone and keeps his demands modest, they will try to help him and encourage hardliners to follow suit. But if Cameron bangs the table and questions the fundamental principles of the European project, they will take a harder line, complicating his efforts to get an agreement.

The CER's research also shows that several member-states oppose compromise on one or another element of Cameron's reform package. Austria, for example, does not share Cameron's concerns about eurozone decision-making causing damage to the wider EU, but is willing to contemplate a red card for a group of national parliaments. Spain is opposed to giving a greater role to national parliaments as a way of increasing the EU's democratic legitimacy, but seems ready to compromise on 'ever closer union'. Belgium will show little appetite for Cameron's 'fairness agenda' of safeguards for euro-outs. But fortunately for Cameron, opposition from one or a few countries to a particular reform is unlikely to torpedo

<sup>23</sup> Simon Hix and Sara Hagemann, 'Does the UK win or lose in the Council of Ministers', LSE EUROPP blog, November 2<sup>nd</sup> 2015.

the entire reform package. If the UK gets Germany, Italy and France on board, they will help him talk the hardliners round. But Cameron will need to show flexibility too; some member-states may want to trade off their support in one area if Cameron can back down in another. If Cameron shows willingness to compromise, his chances of achieving an agreement increase. The choice is his.

Agata Gostyńska-Jakubowska  
**Research fellow, CER**

**December 2015**

### **Acknowledgements**

I would like to thank all the officials and experts who offered their time to talk off-the-record to the CER and share their views on their governments' approach to Cameron's proposals. This publication is the product of teamwork, and I am grateful for my colleagues' hard work in editing, proofing and the design of this policy brief. I am particularly grateful to Sophia Besch for her research assistance, including her help in preparing the data for the maps in this publication.