

Giving MPs more power over the UK's EU representatives would do far more for parliamentary sovereignty than a 'red card'

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The European Council summit scheduled for 18-19 February is expected to produce a deal on the UK's renegotiation. Ahead of the meeting, [Sara Hagemann](#) writes on David Cameron's attempts to negotiate further powers for national parliaments over EU decision-making. She notes that while a deal may be achieved on this point, including a possible 'red card' that would allow parliaments acting in tandem to veto policy proposals, the real way to increase the British Parliament's role would be to allow for greater input by MPs and members of the House of Lords into the policy work of UK representatives in Brussels.



In their 2015 election manifesto, the Conservative party promised to give parliaments powers to block EU legislation. Amongst the Tories, many argued that this would be a way to 'bring powers back from Brussels' and for the UK parliament 'to regain control over our own law'. Now negotiations on the UK's continued membership of the EU are (possibly) coming to an end at this week's European Council summit, Eurosceptics will want David Cameron to deliver on the pledge.

The deal on the table

While the political context for the EU summit is delicate – to say the least – a deal does seem possible on this particular question: At first, Mr Cameron's proposal to give a veto to national parliaments was met with cool opposition from a number of countries, including Germany, Belgium, Poland (with its previous government), France and Spain. Their worries related to their own domestic situations of regional/separatist pressures and increased influence of opposition parties in parliaments and public opinion. They did not want to hand parliaments a tool to mobilise against their governments.

Now, however, the situation is changed: few countries still actively support the UK proposal to increase powers for parliaments to block EU legislation (only Hungary and Netherlands are keen), but most member states have softened on the issue. Also, the draft negotiation text, prepared by European Council President Donald Tusk, now proposes a 55 per cent majority of national parliaments required for blocking legislation, and its scope is narrowly defined to apply only to cases where an argument can be made that member states are better able to regulate individually, rather than collectively at the EU level (the 'subsidiarity principle'). Importantly, the current proposal also makes it clear that this 'red card' system does not apply to existing EU legislation.

The implications are, therefore, that the red card system is unlikely to be used on many (if any?) EU legislative proposals, as it is hard to imagine a policy proposal which would have the agreement of a qualified majority of governments in the EU Council and of members of the European Parliament, but where 55 per cent of national parliaments would oppose the proposal, [as evidenced here](#).

Hence, most member states do not foresee this mechanism as having any real implications for EU policy-making and they are therefore likely to give Mr Cameron a 'win' on this negotiation point. The question is, however, if Mr Cameron himself will ask for more than the current draft proposes?

What will happen at the summit?

As a compromise now seems increasingly likely on the red card system, and as other issues on this week's summit agenda will require extensive diplomatic efforts to result in unanimous agreement, the question of national

parliaments may no longer be the main focus for Mr Cameron's negotiation partners.

However, in the UK's debate, Mr Cameron is still under pressure to deliver a significant 'concession' from the negotiations in Brussels on this point, and the proposed 'red card' requirements may simply not cut it. The UK debate on EU membership is as much about 'democracy' and 'sovereignty' as it is about immigration and economic benefits. In the run-up to the summit, senior political figures within the Tory party are still arguing for a need to 'repatriate' powers from Brussels to Westminster, and assert British parliamentary sovereignty vis-à-vis the EU.

One possible ask from Mr Cameron may be to insert some form of declaration on the sovereignty of Parliament. This idea has been mentioned in recent weeks, and would be seen as a significant win by the government. It could have considerable implications too: As part of this, the UK Supreme Court could be given the power to establish the compatibility of EU legislation or rulings by the European Court of Justice with Britain's constitutional order.

While such a declaration would not be dissimilar to the situation in Germany, where the German constitutional court has the powers to investigate the legality of EU laws vis-à-vis German laws, the UK Supreme Court may take a stronger stance than its German counterpart. The proposal could also become challenging as other governments could feel compelled to make similar requests, possibly questioning the established supremacy of EU law overall. Such snowball effects would not be in the interest of any EU government.

The bigger picture

The bottom-line is that the UK government very much needs a success story with respect to the negotiations over an increased role for national parliaments in EU affairs. It is of utmost importance to Cameron's audiences at home, not least within his own party.

We should note, however, that the question of a substantial role and influence of national parliaments in EU affairs is in fact a matter for national parliaments and governments themselves to decide on domestically, rather than collectively at the EU level. The EU institutions can – for good reasons – only go so far in terms of granting national parliaments a say on EU policy-making.

The real change for the House of Commons and House of Lords, in terms of influence over EU politics, would be to be granted more extensive powers regarding the input into, and scrutiny of, UK representatives' policy work in Brussels. Many of the parliaments on the continent have much more far-reaching powers in this respect compared to the Westminster system.

An agreement on the red card system in Brussels should therefore be seen as a very strong willingness by the UK's counterparts to accommodate the British government at the summit negotiations. But any substantial increase in parliaments' powers will have to happen at home.

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