

What a fair relationship between ‘euro ins’ and ‘euro outs’ could look like

 democraticaudit.com/2016/01/30/what-a-fair-relationship-between-euro-ins-and-euro-outs-could-look-like/

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2016-1-30

*The relationship between Eurozone members and non-euro states has been cited by David Cameron as one of the key issues in his attempted renegotiation of the UK's EU membership. **Nicolai von Oндarza** writes that while some actors have proposed stronger blocking powers for non-euro states, a far better arrangement would be to simply give these countries the power to delay decisions. He argues this would generate increased public scrutiny over outcomes, encouraging Eurozone members to find a suitable compromise that takes the views of non-euro states into account.*



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In the public debate surrounding the British demands for EU reform, most attention has focused on migration. Controversial as this issue may be, the most important element for the future place of the UK in the EU is arguably a different one – the relationship between the Eurozone and non-euro states in the single market. But while safeguards against discrimination by the Eurozone are legitimate, the EU should resist calls to introduce any mechanism that amounts to a quasi-veto for the non-euro states. Instead, a mechanism that drives political compromise would be to the benefit of the UK, the Eurozone and the single market.

Fear of discrimination

Cameron's demands on 'economic governance', i.e. the relationship between euro 'ins and outs', has put two very distinct issues on the table. First, the UK prime minister is calling for a ban on discrimination and greater transparency in Eurozone decision-making. As one example of discrimination, British Chancellor George Osborne cited an ECB decision of 2011 under which clearing houses trading primarily in euros must also be based in the Eurozone. From the British perspective this decision clearly discriminated against the City of London. The UK subsequently successfully challenged the decision before the European Court of Justice.

From the European perspective this concern should also be regarded as legitimate. Enhanced cooperation, the general tool in the EU treaty framework for differentiated integration, already stipulates that decisions made under its scope must have no discriminatory effect on the internal market. In its ruling on the ECB decision, the European Court of Justice suggests that this principle also applies implicitly in relation to the Eurozone. A legal anchoring of such a prohibition of discrimination would therefore be acceptable to the Eurozone and the EU. And as long as this principle can only be enforced through the courts, the decision-making of the Eurozone would not be impaired.

The unfounded fear of a Eurozone caucus

A second issue is the question of safeguards against a 'Eurozone caucus' emerging in general EU decisions. This possibility has existed since November 2014, when a transition period expired and the decision-making procedures of the Lisbon Treaty fully came into force. Under the new arrangement, euro states now possess a qualified majority on their own so they could, in theory, push through decisions even against all nine non-euro states. This is assuming that they were able to agree in advance on a joint position.

But in reality the Eurozone is further away than ever from such a unified position. During the debt crisis and the protracted Greek rescue, fundamental differences in economic policy alignment – not least between Berlin and Paris – have snowballed into open disagreement. Equally significant, no structural dominance of the euro states can be discerned in practice, not even towards the United Kingdom. Examining the roughly seven hundred votes the Council of the EU has published since 2009, the United Kingdom was outvoted in 12.6 per cent of cases (43 no votes, 46 abstentions).

That is by far the highest figure of all the EU states. But this has little to do with its status as a non-euro state. The next three on the list are Austria, Germany (each 5.6 per cent) and the Netherlands (4.8 per cent), all three of which are euro states. Moreover, of the fifteen states with which the United Kingdom most frequently voted together, only two are non-euro states (Sweden and Denmark), the rest are euro states. In practice, there is clearly no Eurozone caucus at present.

No quasi-veto

What further complicates the negotiation in this area is that David Cameron has not laid out a specific demand on how to avoid a perceived Eurozone caucus, but merely insists that questions that affect all member-states must also be negotiated and decided by all. However, two principal options are under discussion, both of which are unacceptable to the Eurozone for different reasons:

On the one hand, the British think tank Open Europe and others have [proposed](#) new blocking options for non-euro states, to permit them to continue to assemble a blocking minority. The model for this is the special arrangements for the European Banking Authority (EBA), in which important decisions require a majority among both euro members and non-euro members. Thus five non-euro states possess a de facto weight equal to that of ten euro states.

Applied to the EU as a whole, the proposal is that the threshold to block decisions in the Council should be significantly lowered, so that either three non-euro states or states representing 20 instead of 35 per cent of the EU population could block a proposal. In essence, both proposals would make it significantly easier for London as the most populous non-euro state to stop any EU initiatives it disapproved of, even if not directly connected to the Eurozone, such as on financial market regulation. This would hamper the decision-making capabilities of the EU and could even be abused by other member states.

The second option discussed in London – an 'emergency brake' for non-euro states in the internal market – is problematic for other reasons. The EU already has such emergency brakes, for example in justice and home affairs, where a group of EU states can in certain cases stop a legislative procedure in the Council and have it referred to the European Council. The latter then has four months to reach an agreement, but now by consensus. If that cannot

be achieved, the other EU states can establish an enhanced cooperation via a simplified procedure.

This proposal comes with two central problems. First, the treaty framework forbids the use of enhanced cooperation in areas that would endanger the internal market, turning this in essence into a quasi-veto on financial regulation. Second, from the British perspective, forcing differentiation could in some instances even be advantageous, if it permitted the City of London to insulate itself from stricter regulation in the rest of Europe. For example, the British government vehemently rejects the cap on bankers' bonuses adopted by the EU in 2013 and would certainly have used an 'emergency brake' to detach itself from this to gain a competitive advantage, even in matters where the decision had nothing to do with the relationship between euro and non-euro states.

A mechanism for political compromise

Thus, from the European and German perspectives, neither of the two proposals are acceptable. Lessons should instead be drawn from the one case that British representatives cite as a prime example of a Eurozone 'caucus': in the summer of 2015, the European Commission proposed to use the European Financial Stabilisation Mechanism (EFSM) to assign bridge funding to Greece. However, the EFSM is funded by all twenty-eight member states and the non-euro states were given a political commitment in 2011 that it would no longer be used to support euro states.

Britain, whose prime minister had explicitly promised not to participate in rescuing euro states, was extremely displeased, as were Sweden and Poland. In subsequent negotiations, it was agreed that while the EFSM could be used, the non-euro states received a guarantee that the euro states would bear their losses in the event of Greece becoming insolvent during the bridging period. The decisive aspect here is less the technical nature of the agreement but rather the political solution, which ultimately led to a compromise acceptable to all. So what the Eurozone and the non-euro states need are not new blocking instruments, but a mechanism that forces compromise in an increasingly differentiated Union.

A solution to guarantee a fair relationship between euro ins and outs could therefore be to implement the emergency brake proposal in a purely suspensive form. Under this model any EU state that believed the fundamental principles of equal participation had been violated could delay a legislative procedure in the Council for a maximum of three months or until the next European Council, whichever comes first. This period of heightened political attention would force the heads of state and government to search for a compromise.

If they fail, the decision can be taken anyway. But the majority must then accept that it is outvoting the minority under full public scrutiny. This approach would avoid decisions being held up indefinitely, while the pressure to find a compromise could contribute considerably more to cohesion in the Union than divisive new veto options.

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