



European Scrutiny Committee

Oral evidence: [UK Government's renegotiation of EU membership: parliamentary sovereignty and scrutiny inquiry](#),

HC 458

Wednesday 4 November 2015

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Members present: Sir William Cash (Chair), Geraint Davies, Richard Drax, Peter Grant, Kelvin Hopkins, Calum Kerr, Craig Mackinlay, Alec Shelbrooke, Graham Stringer, Mr Andrew Turner, Heather Wheeler.

In the absence of the Chair, Heather Wheeler was called to the Chair.

Questions [46-82]

Witnesses: **Charles Grant**, Director, Centre for European Reform, **David Green**, Director, Civitas, and **Professor Simon Hix**, Director of the Political Science and Political Economy Group, London School of Economics, gave evidence.

Q46 Heather Wheeler: Ladies and gentlemen, you may have noticed that this is not Bill Cash. I am Heather Wheeler and I am temporarily taking the Chair whilst the Chairman finds his way to Committee Room 6. However, we thought we would crack on because you are very high-powered people and your time is money, more than ours.

Ladies and gentlemen, thank you very much indeed for coming along to the European Scrutiny Committee. We have three fantastic gentlemen to give us some views and answer some questions: Charles Grant, David Green and—I cannot read that last one because my eyesight is so bad—Professor Simon Hix. My apologies. It seems to me the prerogative of the Chairman to always ask the first question, so I will crack straight on, if I may. You have had a briefing; you know why you are here. The jobs that you do already are very important and we are terribly interested in knowing about the UK Government's renegotiation of EU membership, particularly involving therefore parliamentary sovereignty and scrutiny. The first question is, if I may, gentlemen—and we will have a quick couple of minutes from each of you on the answers—are the results of the renegotiation likely to represent an opportunity to reform the EU and fundamentally change Britain's relationship with it, as stated by the

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Prime Minister in the House in March 2015? That is a nice easy curveball for you to start off with.

Charles Grant: I do not think anything in the deal that Mr Cameron and Mr Osborne negotiate will fundamentally change the way the EU works. Several things will improve it and make it work better. Steps towards greater competitiveness, which the EU is taking anyway in many respects, are highly desirable. It is highly desirable to give national parliaments like this one a greater say in policing the subsidiarity principle. I do not think whatever Cameron gets on benefits and migrants will change anything fundamental in the EU.

What could lead to significant changes in the long term, if not fundamental changes in the short term, are the two related areas of the ever-closer union becoming a multi-currency union and the safeguards of the single market against eurozone caucusing—the ins and outs question. There is at least a possibility that the merger of those two requirements or demands of the British could lead to some sort of vision—dare I use that word—for the future of the EU that keeps the integrationist countries happy with their ever-closer union for their eurozone and those, like the British and a few others, who do not want ever-closer union sitting in an outer ring not bothered by the obligation of an ever-closer union. Something along those lines may emerge, which will not change much in practical terms in the short term, but could be quite significant in the long term.

Q47 Heather Wheeler: Charles, that is really helpful, thank you. David, do you have a view?

David Green: Yes, I personally do not think that renegotiation will make any radical difference to our relationship. If you take the thing that has been very prominent, which is ever-closer union, first of all—for one thing—it is going to be terribly difficult to get a treaty change, because it does require treaty change in both the main treaties. However, even if you did, it does not make any difference, because it is not as though it is a phrase that underpins, for example, the authority of the European Court. Therefore, it would be a vast expenditure of political and diplomatic effort to no useful end. It is a symbolic form of words. However, the EU Court has supremacy in this country when it wants it because of the 1972 Act, not because ever-closer union is in a couple of the treaties. Did you want me to elaborate on that?

Q48 Heather Wheeler: No, that is depressing enough, thank you very much. Professor Hix, do you have some thoughts?

Professor Hix: I share a lot of what Charles has just said. I disagree somewhat with what David has just said. I do not see Britain's negotiation strategy as a multilateral strategy, meaning it is about fundamentally changing the EU as a whole; the strategy is geared towards a unilateral issue for the UK. That is how it is viewed by most of the other capitals across Europe. I do not think there is any appetite for getting rid of ever-closer union in general. There is the possibility of considering a British opt-out—some kind of protocol that says it does not apply to the UK. In all of the key negotiating baskets as it is being discussed, in the short term it will change Britain's relationship with the EU but will not fundamentally change the EU.

However, in the medium term, it could fundamentally change the EU exactly along the lines that Charles has mentioned. We are heading potentially for a two-tier, two-pillar or two-track Europe. I am concerned that is potentially very destabilising. I do not think there are many other member states who want that. Germany might want that and France might want that because they want deeper political union in the eurozone for legitimate reasons. Britain wants that because we do not want to be part of that deeper union. Most of the other member states do not want to be marginalised and do not want to see a two-tier Europe. Most of Eastern Europe and Scandinavia share some of the scepticism with the UK about how the EU



works, some of the sovereignty of national parliaments and various issues like that. However, what they worry about with a two-tier Europe is that it is the beginning of the end of the EU as they know it. I do worry about the sustainability of a continental-scale single market with an emerging two-tier or two-pillar Europe.

Q49 Geraint Davies: Do people think that the statements by the Prime Minister are either a sham or delusional? The reason I ask that is, first, he has to negotiate it within a very fixed timeframe. Secondly, everybody has to agree that one member can have a difference that triggers other members having those differences. Thirdly, it sets in train the fragmentation or at least this dualist approach, which will be fundamentally destabilising. We do not know where that would go and it undermines coherence. Is it not really the same line as, “I am going to go out there and get the best for Britain and change things.” It is just a political stunt that is likely not to afford any credible change?

Professor Hix: It could fundamentally change Britain’s relationship with Europe. It is not unreasonable for the Prime Minister to be primarily interested in Britain’s relationship with the rest of the EU. We are heading towards, if he is successful—and there is reason to suggest that he will be mostly successful in the areas in which he wants renegotiation—Britain being seen by a lot of the other member states as having some sort of associate relationship. It will not be a full member. There are potential domino effects and, in terms of the sustainability of the European project and the single market as a project, I would be concerned about that. The difference between being an associate member and being outside, but having access to the single market, is relatively marginal. It is much too overblown—the idea that we stay in but we have everything we want, or we are out and we still negotiate bilaterally. The difference is relatively marginal in my mind.

Charles Grant: I would slightly disagree with Simon on that. You are either pregnant or you are not pregnant; you are either a member or you are not. The suggestion by some people, like Boris Johnson, that we could be a member of the single market and take part in the decision-making bodies—the Commission, the Council, the Parliament—for the single market, but not be a member for other policies that we do not like, is not a plausible scenario because I do not believe that Britain’s partners would agree to that. It would require completely renegotiating all the existing treaties, because the existing treaties do not allow for a half-in, half-out form of association. One reason they would not allow that is that other countries might ask the same thing too. Countries trying to join the EU might ask for the same thing too. It would change everything and they would not want that to happen. I do not think that is on the cards. Either you are a member or you are not a member, like Norway, with some rights to have access to parts of the single market.

On the fragmentation point that Mr Davies made, we already have quite a fragmented EU in practice, with not every country in the Schengen Agreement. Denmark is not part of defence co-operation; nine countries are not in the euro. Simon and I were perhaps talking about what may result from the renegotiation being more a formalisation of this differentiation. I do not think it would change very much in practice but, at a symbolic level, at the level of the picture that people see, it would make it clearer that some countries are going for hard-core integration and some countries are not. The difficulty with this scheme, as Simon alluded to, is that quite a lot of countries not in the euro do not want to be seen as being second-class citizens in a club led by the British. We are not very popular for reasons you might wish to get on to, but we are not greatly liked by many other Governments and political elites across the EU. The outgoing Polish government, at least, are very strongly opposed to thickening the line between the eurozone and the non-euro countries because they plan to join the euro in the long run. The new Polish Government may have a different view. It probably does have a different view. Therefore, some countries outside the euro do not



want to be branded as non-euro forever, and some countries outside the euro, probably more like the British, perhaps the Hungarians and a few others, are quite happy to be seen as outside the euro and defined as such.

Heather Wheeler: Our Chairman is here, so he is going to take over.

Chair: A slight emergency, I am afraid, but never mind. Thank you very much.

David Green: The question was from Geraint Davies and was whether the renegotiation process was a sham. Personally, it is primarily a presentation device, let's call it, to be polite. It is not intended to bring about any significant transformation. It is just meant to bring back enough to sell a deal to the British people. However, it is not impossible. Something will have to come out of it for it to be plausible to go to a referendum. One thing that might come out of it is what they are loosely calling "fairness"—that is to say, fairness between the 19 in the eurozone and the other members. I can see it being possible. On the one hand, the President of the European Union, in his Union address just in September, talked about the European Parliament being the parliament of the eurozone, and then a little bit later said that he wanted the British to stay in and would try to accommodate us. However, earlier on he had talked about the European Union and said there was not enough Europe and not enough Union, meaning not enough Brussels control, I think, in both cases.

Even though all of that was there, we face a serious risk if we stay in the European Union while 19 members are in the eurozone. Some people are saying there is tremendous risk if we leave, but the risks are greater if we stay in that kind of relationship with an institution for 19 members that is absolutely bound to change in the foreseeable future and change in very dramatic ways, with perhaps a central treasury combining fiscal policy, monetary policy and all the control over other policies that follow naturally from it. I can see possibly that there would have to be some change in that relationship and, if there is not, it really would not be worth us staying in. Because it makes such a big difference, I can envisage that the only possibility of significant change is in that relationship.

Professor Hix: We like to think of it as 19 in the Eurozone and then Britain being the leader of the rest of them, but that is not really how it is seen by most of the other member states not currently in the euro. Yes, 19 member states have signed up to the euro and the European Stability Mechanism, but all but two member states have signed up to the European Fiscal Compact Treaty; all but two member states have signed up to the Euro Plus Pact of harmonising macro-economic policy; and all but three member states have signed up to the banking union. The UK is the only member state that is on the outside of each of those new institutions that have been built to sustain the euro. The UK is the only member state, so it is not that there is a danger of 19 in the euro and then the other member states outside the euro in a second tier; it is more a danger, as I see it, of all the other member states heading, in their own minds, in the same direction, and they will eventually get into the euro, perhaps with the exception of Denmark, Sweden and the UK. There are not that many states on the outside on the second tier, and so I share some of David's concerns.

Q50 Geraint Davies: Is us being the odd man out sustainable?

Professor Hix: I do not think so.

Charles Grant: I disagree with Simon's analysis on that. If you look at the nine countries not in the euro and ask them when they are likely to join the euro, none of them will join in the next 10 years. The new Polish Government is strongly opposed to euro membership and has no intention of changing the constitution so it could join the euro. If you look at the other ones, they are either not ready or have no desire to join. Therefore, the view one often hears in Brussels and the European Parliament that it is only a few years until six or seven other countries join the euro is for the birds.



I also disagree with what David said about the eurozone preparing for fundamental change and dramatic integration. That is what some people would like; it is what some federalists would like and it is what the Five Presidents' report says will happen, but I am afraid that if you go and talk to the French and German Governments they have a very different view, because they fundamentally disagree on the next steps forward for eurozone integration. The Germans want more fiscal discipline and compulsory economic reform contracts. The French want a eurozone budget, Eurobonds and transfer union. The two visions are incompatible. Even if I am wrong and somehow, in a few years' time, they agree on a grand bargain of how to have a central treasury and more integration of decision-making policies in the eurozone, I do not believe the political elite or the electorates of France and Germany are prepared to give more power to supranational institutions. It is really not on the agenda. In my view, the eurozone will probably continue muddling through making incremental changes, as it has done in the last few years, not some grand centralisation of powers that British Eurosceptics and British federalists both agree is likely to happen. I think they are both wrong.

Professor Hix: That is the crux of the debate going on among us here. It is exactly that. What do you think is going to happen in the eurozone? If you think the eurozone is going to develop into deeper macroeconomic and political union, then it is very risky for us to be on that second tier. If you think it is not, for exactly the reasons that Charles gave, it is not such a threat for the single market and we will be able to remain at the top table.

Q51 Chair: The eurozone does not have a formal legal status; it is just a conglomeration of states that has taken a particular position. If you then say, "Everybody who is in the eurozone and not in the eurozone is within the EU," then the consequences of the movement towards a more consolidated, centralised eurozone, with all the powers that are being talked about to go with it—the Five Presidents' reports and all that sort of thing—surely leaves the others in the second tier of a two-tier euro. There is no real discussion going on about that and its impact on the United Kingdom. I wonder whether you might like to reflect on that for a second and then I will ask Kelvin.

David Green: That is the situation. If Charles is right and there is not going to be this great entrenchment of central power within the eurozone and they are just going to muddle through, as I think you said, the eurozone is going to remain fundamentally unstable. If you compare the eurozone with the United States of America, you have very rich areas and very poor areas, and you have vast flows of money going from the rich areas to the poor areas through the federal system and through various acts in their Congress. You can, in America, be living in Boston and look up the local newspaper online in Los Angeles, get a job and drive all the way there in a couple of days. You can move about easily and you can fit in easily, and there are vast flows of money from rich to poor areas. However, that is not happening in the eurozone. There is no solidarity for that.

We saw recently that the Germans were brutal towards the Greeks, despite the fact that their GDP had dropped by 25% and half their young people are unemployed and, by the way, that only counts for the ones who are still there. Many of their young people have already left to get jobs elsewhere. All the young people you need to rebuild an economy have gone and they are still going. Despite that brutality and the deep instability that creates—and it is not just Greece but Portugal and Spain as well, and to a lesser extent Italy—if what Charles is saying is right the eurozone is going to be force for harm or risk in that sense, or it is going to get its act together and become more like a single country and then threaten us.

Charles Grant: Can I just qualify that? I share some of David's analysis. I agree that the eurozone, as it currently operates and exists, is very suboptimal in terms of economic performance. It is clearly not doing very well in some respects, but my difference perhaps



with him is that he implies that you would need fundamental structural change to fix it. I just think you fix it with better policies. We have had some of those better policies already. We have had the creation of the OMT. We have had the creation of a banking union, although it is too small. You need to soften the fiscal austerity somewhat further than it has been softened already. You need to rebalance the German economy.

The biggest problem of the eurozone is that the German economy imports, consumes and invests very little, which destabilises the whole eurozone. Germany has a current account surplus of almost 8% of its GDP. If it had a more normal, balanced economy it would have a tremendously positive impact on the rest of the eurozone. You need to write off some of the debts in Greece, and you do need structural reform. The Germans are right about that. If you improve the policies, the eurozone could function quite a lot better than it functions now without the centralisation and creation of the eurozone treasury that I think David was implying that it needs.

Professor Hix: I share some of that because it is easy in Britain to miss the architecture that has been put in place and how significant that is for the member states involved. The European Stability Mechanism is an enormous back-up fund. The banking union is hugely significant. Once we see it playing out, we will see that. The Fiscal Compact Treaty is exactly the other pillar in return for the European Stability Mechanism.

Chair: Fiscal Compact is not a treaty.

Professor Hix: I understand that, but the member states in it have signed up to it. You have to see it as part of the architecture that has been built. The view that the eurozone is not sustainable unless there is a eurozone treasury is not correct. The architecture that has been put in place has a long way towards building the type of architecture that needs to be in place for the euro to be sustainable.

Q52 Kelvin Hopkins: The reality is that the eurozone is a mechanism for sustaining the German manufacturing industry by sustaining a low parity of the German Deutschmark against all the other currencies, rigidly, so they cannot do anything about it and devalue against Germany. There are serious possibilities of some countries leaving the eurozone. We have had this crisis in Portugal in the last couple of weeks, where a majority left Government has been denied power by the President because he knows that if they introduce their leftist policies of opposing austerity they might recreate the escudo and leave the eurozone. There are anti-euro movements in many countries, including even in France, some from the right and some from the left. There is real possibility, is there not, of the euro dissolving in time when people get the message that it is all about sustaining German manufacturing?

David Green: I would have thought that is true and highly likely. It is always foolish to predict the future, but I cannot see how these movements questioning the euro cannot grow in strength in the near future in the countries that suffer economically because of their membership.

Charles Grant: The interesting thing is that they have not grown strongly. I share some of Mr Hopkins' and David's analysis in this. I happen to agree that the German dominated policies have not been very good for some of the countries in the eurozone. However, it is amazing in Greece that most people want to stay in the euro. You have to listen to the people, because they are terrified.

Kelvin Hopkins: They are terrified of the Turks.

Charles Grant: Possibly that is part of it, but in Portugal too; they are not terrified of the Turks, and people in Italy. In Italy quite a lot of people do not want to stay in the euro, but in most EU countries in the euro the majority want to stay in despite the economic hardship that they have suffered. That suggests, in a way, that the euro is about more than just economics.



Professor Hix: I agree with that. We do not realise in Britain that for almost every other member state of the EU it is not just an economic project; it is fundamentally a political project. This is about building a European Union that is a political union for a variety of reasons for different member states. For Germany, it is its history and its legacy; for southern Europe it is stability and democracy; for Eastern Europe it is security and the threat of Russia. You can go round Europe and it is deep in the psyche, not just with the political elites but among the public. If you live in the continent and you travel around the continent, you get a sense that a political union of some sort has been created. It does exist. You saw that with the eurozone crisis: no matter how bad the economic situation was in Greece, overwhelmingly the polls were showing that people did not want to leave the euro. They were willing to bear the terrible economic consequences and costs for that decision. That is fundamentally the difference between the UK and, perhaps, Sweden.

It is interesting that Denmark has moved enormously. When Denmark joined the EU, public opinion polls in Denmark were exactly the same as they were in the UK. The UK is the least pro-integrationist of all the member states in Europe. Denmark is now one of the most pro, so Denmark has transformed dramatically over the last 20 years. Sweden is perhaps the only other member state that does not have this political view of European integration. We can talk all we like about economics, but for most other member states it is not about economics.

Chair: Yes but, equally, Germany has its investment in these other countries and, as Charles Grant mentioned—and it is very important that we bear this in mind—its dominant position in the eurozone and, for that matter, in the EU, for the reasons I gave earlier, because of a qualified majority vote. Those countries dependent upon Germany—and geographically—have a continuing need to satisfy what it is that Germany wants. That is a real problem. Our relationship with the European Union, to come back to the question, and the change of it has to address the question of whether or not it is a two-tier Europe dominated by Germany or whether we will be better off out, and whether that is a matter, for example, that George Osborne addressed yesterday, which he did not.

Q53 Alec Shelbrooke: I have a couple of comments and a question for you. Charles Grant said it is very much like being pregnant: you are or you are not. I would argue that you can be pregnant but you may be having one child, two children or three children, which is a very different type of pregnancy. Given the idea that the German and the French cannot come to a position they agree on on the fiscal partnership and where they want to move forward, and bearing in mind all of the comments made about Germany driving forth its manufacturing base, what do you feel are the chances of a three-tier Europe? You would have the ultimate “United States of Europe”, with certain countries, maybe only six, led by Germany with full fiscal integration, and economic, treasury and taxation control across those countries on the motoring and manufacturing side—which countries are in that can be debated later; then the second tier of countries that are using the euro but are not part of that one bank and that one fiscal policy; and then a third tier of countries who have a trading agreement but none of the fiscal integration. I wrote an article on this about four years ago because it seemed fairly obvious that that is where it may move to, so I ask for your comments on that idea.

David Green: I cannot see how the eurozone could develop in that way at the moment. I could see a few people peeling away from it, such as some of the countries that are in the most trouble, but it would not work as a core unless France and Germany were both in it—the hard core, on the topic of the basic idea. I agree with what Charles was saying—that there are big differences between the French and the Germans at the moment. They are likely to go towards a more centralised model, with tighter and tighter fiscal control alongside the monetary policy. One or two countries might peel away, but I cannot see it being so different



that there would effectively be three statuses. There are a few people who have talked about associate membership. Jacques Delors brought that up once and then was it Verhofstadt, the former Dutch prime minister?

Chair: On Sunday, on *The World This Weekend*, he specifically said the European Union is a mess; it is chaotic; it is dysfunctional; and he then started talking about the concept of associated status. That is different from an association of nation states, but that is another issue.

Q54 Peter Grant: Briefly, as I am aware that we are still, I think, on question 1, I would like to go back to another question, which is whether there will or will not be fundamental change in the UK's relationship with the EU. It is specifically for you, Simon. You seem to be more upbeat about the possibility of fundamental change coming out of this process. Could I ask you to clarify that? In the same way that you are either dead or you are not, it is either fundamental or it is not fundamental. Are you talking about fundamental change that would require a treaty negotiation? Do you believe it is possible to have fundamental change in a relationship without treaty negotiation? The evidence we have had so far from the Foreign Minister and others is that there does not seem to be an appetite anywhere outside the UK to renegotiate the treaty. My two questions are: would you agree that treaty renegotiation is simply off the table and is not going to happen and, secondly, can there then be a fundamental change in our membership of and relationship with the EU without having renegotiation?

Professor Hix: I would make a distinction between fundamental change in how the EU works as a whole and fundamental change in Britain's relationship with the EU; they are two very different things.

I do not think we will have treaty change. We are going to get something that probably looks like a protocol, agreed at the level of the heads of government, which is legally binding because then it is added to the treaty the next time there is treaty change, and some sort of commitment to reform of various other things, for example the free movement of labour, the 2003 directive on the free movement of persons, some new competitiveness agenda and perhaps something about national parliaments. Whether that is fundamental or not is like "how long is a piece of string?" It is significant. It is not significant for anyone else, but it could be potentially significant for the UK, which is how I see it. It could be potentially significant for the UK particularly around the idea that we are opting out of the ever-closer union provision.

The key thing is not the national parliaments or the free movement of people. For me the key thing is the relationship between the eurozone and the other member states in the single market, recognising the euro is not the only currency of the EU. That would be quite significant, if that was stated legally somewhere in the protocol. Saying that Britain is opting out of ever-closer union legally perhaps is not significant in the short term but is symbolically very important. It is symbolically important for things like how Britain relates to the whole process of the growing politicisation of the EU. We voluntarily opted out from the campaign for the election of the Commission President. We saw what happened there when Cameron thought he had a whole line-up of Governments in Northern Europe who would back him and, ultimately, they all lined up against him. We will see symbolically the idea that Britain is opting out of ever-closer union leading more and more to a question to Britain: "We are discussing these things—are you on board with this?"

I see it more negatively. It would marginalise us in a de facto way. In that sense, it is potentially significant.

David Green: I can see two possible things coming out of it. If it looks as if we might leave and they really do not want us to leave, one thing they could do, which would not be a



very big change but would look like one, is to concede. We already have yellow cards; one-third of parliaments can make the Commission reconsider. There is an orange card, which is a little bit stronger, and this Committee proposed what you called a red card, I think. I may be mixing it up with the House of Lords report, which had green cards.

Chair: That is the green card.

David Green: Yes, they had a green card. Anyway, the point is that there is a third idea, distinct from the yellow and the orange, which is to allow a specific number of national parliaments to block a measure and take the initiative and have the European Parliament consider something, so that the European Commission was not the only body that could put matters before European Parliament. Then this Committee put forward the idea of a single nation veto in the 2013 report. I cannot see them agreeing to that, but I can see them agreeing to something like a red card, so that might happen.

The second thing, just very quickly, is that there is already a bit of movement on welfare reform and this is mainly due to the initiatives at the European Court. There was a case only in September, the Alimanovic case, if I am pronouncing that correctly, regarding the lady from Bosnia who lived in Germany for about 10 years, went to Sweden, then came back and had three children, one of whom was grown up and one of whom worked there for about 11 months. They were then told ultimately that they could not claim in-work benefits. That is quite a big change in the attitude of the court, so that suggests that there is a consciousness that you can have perverse effects of welfare not based on the reciprocity of the nation state. That is all very murky. It may lead to nothing, but there is slight movement on that front as well.

Charles Grant: I have a couple of responses to what David said in the earlier question. I disagree that it is plausible to get a red card. Only the Hungarians and the Dutch are really sympathetic to that idea, of the 27. Even if the British threaten to storm out and leave, I am afraid the others are not going to suddenly say, “We will give you a red card if you stay.” I do not think that is plausible. They will all agree to an enhanced yellow card procedure. That will, I am sure, motivate millions of people to demonstrate down Whitehall in support of EU membership if they get an enhanced yellow card procedure to make it easier for national parliaments to wield the yellow card.

On the benefits, I have noted with interest the ECJ rulings. The trouble for David Cameron is that these rulings are about out-of-work benefits, making it quite easy to withhold out-of-work benefits, like employment pay, from people who have not lived in, say, Britain for several years. None of these rulings, as far as I can see, help David Cameron in his ambition to reduce the in-work benefits like tax credits or universal credit, which is really the nub of the problem on that issue, which is why that is the one issue of the renegotiation where I personally do not see how Cameron can get out of the hole he has dug himself. What he is asking for is incompatible with the treaties and the jurisprudence of the European Court of Justice. I hope somebody has a very clever scheme, but I have not worked out what it is.

Finally, on Mr Grant’s direct question about treaty change, I more or less agree with what Simon said. However, there will not be a treaty change before the referendum, but there will be a promise of treaty change in the protocol that Simon referred to. However, we have to be very careful about this protocol. There is an eminent legal expert, who may have given evidence to your committee at some point, called Jean-Claude Piris, who was Head of the Council’s Legal Service.

Chair: Yes, he wrote the Lisbon treaty.

Charles Grant: Yes, he was Head of the Legal Service of the Council for 22 years.

Chair: He also said, by the way, that he thought he got it wrong.

Charles Grant: He is now very exercised about this promise of treaty change. He says that you can only have a legally binding promise of treaty change that is deposited with the



United Nations and counts as legally binding for the time it is made if that promise is compatible with the existing treaties. If it contradicts the existing treaties, it is not legally binding. There is nothing to stop the European Council saying, “We would like to make a future change that changes the existing treaty.” They can say that but it will not be legally binding. However, if the British Government is clever, it will comply with the Piris doctrine. If there is a treaty change along the lines of, “Nothing the eurozone does shall damage the single market,” and if there is another one that says, “National parliaments can wield a yellow card in a slightly different way,” or something on ever-closer union, arguably such changes need not contradict the existing treaties. Therefore, maybe the Piris doctrine could be complied with, and therefore the promise could be treated as legally binding from day one.

Q55 Craig Mackinlay: You have answered a lot of my questions. We go back to this March 2015 statement from the Prime Minister on fundamental change. Obviously that can only be done by treaty change. That is not going to happen. We had a look at the length of time it took the Lisbon Treaty to march through and then get ratified in various parliaments. There is the problem: a lot of the treaty change will need to be ratified across quite a number of countries. We will not get treaty change before a referendum. How powerful are protocols? How powerful is that document at the UN? We need to examine this a little further. It looks like that is going to be as good as we are going to get in advance of a referendum.

Professor Hix: The precedent a lot of people talk about is the Danish protocol attached to the Maastricht Treaty. That was pretty fundamental for Denmark. I do not think it was fundamental necessarily for the rest of the EU. I do not think it would be a fundamentally different EU in the short term as a result of anything that comes out of these negotiations with the UK. However, it would be significant for the UK’s relationship in the same way that the Danish relationship was significant. That protocol was agreed. It was attached to the treaties, and that protocol did provide Denmark with a whole range of opt-outs and things from the treaty that were specifically for Denmark. The treaty has lots and lots of protocols attached to it that are legally binding. The standard procedure is that you agree a protocol at some European Council meeting, and the next time there is a change to the treaties, whether that is fundamental treaty reform through an inter-governmental conference or whether it is even enlargement of the EU, you attach that protocol to the treaty at that point. That is possible. It is possible to have a protocol for the UK agreed at a European Council meeting, and then when the next member state joins, whoever that might be, this gets attached to the treaty at that point. That is different and that is ambitious.

Craig Mackinlay: There would need to be treaty change for the Five Presidents’ type of integration with the eurozone.

Professor Hix: There would be. There is a lot of scepticism. I do not think there is appetite in the German or French Governments to open up treaty change along the lines of the Five Presidents’ report yet. That might be well down the line. They realise that treaty change would need ratification in all the member states, and that would mean referendums in a lot of member states. Nobody wants to go down that route at the moment, particularly with the current economic and political climate in Europe, with the migrant crisis, the economic crisis and so on. Nobody wants to risk it.

Q56 Alec Shelbrooke: I found what Professor Hix just said there very interesting, because that is the point, isn’t it? They do not want to have the treaty changes for the referendums because they are worried about what the result will be, but we are having a referendum and a lot of the comments being made today are still a political elite argument; they are not based on the fact that 46 million people are going to go and have their say—yes



or no. I wonder what your opinion is of the leaders of the EU, bearing in mind that, as you say, they do not want to have those referendums because they are worried about them. How much weight do you think the fact that 46 million people in Britain are going to have their say carries? If they do not get some of these things, they are going to walk out the door. No matter what the polling or political elite say, as members of Parliament, we are on the doorsteps and, unless something is done to handle this, we are walking out the door. It is a question of how you perceive the other European leaders reacting to that strength of ours.

Professor Hix: Everyone across Europe is aware of Britain's situation and the British public's view and see it as perfectly within Britain's right to have this debate, have this referendum and hear what Britain is saying. I travel a lot and give talks around Europe and meet policymakers. I was in Bucharest two weeks ago talking to senior advisers to the Prime Minister and President there, and they understand exactly the situation in the UK and they see this as legitimate. However, they see it very much as a domestic UK problem. The problems they are facing are fixing the euro and the eurozone crisis, the migration crisis and the threat of Russia, if you are Romania. They are the crises that they face. They scratch their head and think, "What is this obsession with national parliament red cards and in-work benefits?" and all of these things the Brits obsess with. They see this as a bit like the Danish obsession with not allowing Germans to buy houses in Denmark when negotiating the single market, which was a peculiar Danish obsession. It is very much a British obsession—a bunch of British obsessions; we need to find a British solution to these things. It is legitimate that Britain has these problems and if Britain wants to have a referendum, so be it. They hope that Britain does not leave.

Chair: Professor Hix, I know you are not saying that you believe that to be the case, but you know perfectly well that the real question that lies at the heart of this is whether we retain the democratic system based on general elections and voters making decisions. That has now moved into the whole question of migration and other matters, but it is not an obsession; it is a fundamental principle of the way in which we are governed and who governs us. I would like now to move on to Peter Grant for the second question please.

Peter Grant: Chair, I will skip question 2. We have had quite a lot of that answered, unless anyone else particularly wants to ask the rest of the question.

Q57 Kelvin Hopkins: We have already talked about the concept of ever-closer union and having ever-closer union possibly removed from the EU treaties, if that happened, or the UK's disengagement from it. It has been suggested, and there has been some discussion of this already, but is that debate likely to change anything? Is it going to slow down or halt further EU integration? Are other countries just going to go ahead anyway with ever-closer union or will there be a rethink?

David Green: I think they are, yes. However, as I said, it is a complete waste of time to try to remove the phrase "ever-closer union" from the preamble of the two main treaties. Even if you did, nothing will really change because none of the jurisprudence of the court, for example, depends on that phrase. That is not the starting point of jurisprudence. It just symbolises the general intentions of this alliance of countries, so it would be, to me, a complete waste of time and would not achieve anything.

Q58 Kelvin Hopkins: Alec Shelbrooke mentioned the political class and the political elites; is the whole project not driven by the organisation of the political elites and leaving behind a lot of the people who have Eurosceptic views? The elites are sustained by the media as well. Will there not come a time when people become tired of being driven around by their elites and their political class? There is certainly evidence of that in Scandinavia—in



Norway, for example. In Norway, there is total opposition to membership of the European Union, despite what the political elitists try to do with it.

David Green: I agree that it is an elite project driven by a group of people who are basically empire builders and have scant regard for the interest of nation states and the great political achievement that each national democracy is. However, I do not think getting rid of the phrase “ever-closer union” will make any difference to it. It will be a waste of diplomatic effort.

Q59 Kelvin Hopkins: One other thought occurs to me: if Britain left and prospered outside, as I am sure we would, and in fact we are doing rather better than the eurozone now—I do not want to give too much credit to a Conservative Government, being a left-wing Labour MP, but nevertheless we are doing better outside of the eurozone than those countries inside it—would there not come a point when people in other countries say, “We want some of that; we would like to be more independent and we would like to run our own economies and have our own democracy based in our country rather than being run by a European bureaucracy”?

Professor Hix: There is a lot in that. One issue is: would there be a domino effect in some other countries of Britain leaving? Yes, there probably would be, but I would not overestimate how many countries that would go to. It would raise the issue of an in-out referendum in Denmark and Sweden; goodness knows what it would do in the French Presidential election, because I think the Front national in France would say, “We want the same as Britain.” I would not necessarily go beyond that. I want to repeat that it is very easy to sit here in London and say, “It is just some elitist project and people want to be run by their national parliaments and not by bureaucrats in Brussels.” That is not how most people living on the continent see that. There is a minority that have that view. The majority view, which we know repeatedly from opinion polls every six months, is that people trust the EU institutions. Trust has declined but they trust European institutions more than their national parliaments in every other member state in the six-monthly opinion polls. They see this as a political project.

At the heart of this debate was Britain saying the EU needs to be more accountable and more democratic; there needs to be more openness. Then, for a lot of the rest of Europe, they say, “Why were you so opposed to there being an election of a Commission President? We see that as being more open and democratic. That is part of the whole process of making the EU more open and democratic.” They do not accept the British view that there can never be a European demos. It is a fundamental mistake of Britain to assume that that is a mainstream view of every other country in Europe.

David Green: It depends on the history of each country, doesn’t it? The recent fascist countries like Spain and Portugal, for example, probably do trust Brussels more than their own government. Each country has its own story. Germany, for example, and its Constitutional Court, is constantly asserting the primacy of German basic law. The Czech national court has done so. The French Conseil d’État has repeatedly done so. The Dutch court has done so.

Professor Hix: Yes, but the German Constitutional Court in its Brunner judgment said that the EU needs to be more democratic. It is partly in response to the Brunner judgment that you now have an election of a Commission President. That was the view of the German Constitutional Court—that the EU needs to have more direct democracy.

David Green: I am just contradicting your claim that it is a British obsession. Many other nation states value their autonomy.

Charles Grant: Let me deal with Kelvin’s point. The other countries in the EU are democracies, meaning that the Governments are chosen by the people, and it is possible that



at some point Marine Le Pen could win in France or some very Eurosceptic party could win in another country, but they do not win elections at the moment. That is because most people in these countries do not want to vote for a party that would quit the EU. Even some of the supposedly Eurosceptic parties like Alternative für Deutschland or the Five Star Movement are not actually for leaving the EU; they are Eurosceptic and anti-euro, but most of them are not for leaving the EU, so let's wait and see.

On the ever-closer union, I agree with what others have said. It has been cited by the European Court of Justice in a number of judgements, although not in a tough, significant way, or not in a way that would make any difference to the case under review.

David Green: Not as a foundational authority.

Charles Grant: No, so I do not think it has had any real impact on the EU Court judgments, so I would agree with that.

I would like to say something about Mr Shelbrooke's earlier point about what the other Governments think about this British business. As somebody who wants Britain to stay in the EU, I am concerned that some of them are quite indifferent to whether we stay or not. Some of them really want us to stay in. Let's be specific: the Italians are terrified of us leaving because they do not want to be—as one of them said to me—left alone in the room with the French and the Germans. The Nordics and the Dutch are terrified of us leaving because they share our economic philosophy—the Germans are the same to some degree. The Irish, of course, are the most worried about us leaving for obvious reasons to do with the Northern Ireland peace process.

Professor Hix: The Germans are split, depending on whom you talk to.

Charles Grant: Yes, there are some federalist Germans who would not be sad to see the back of us, but I think the prevalent view in Germany is that they would be sad to see us leave. That means a lot of countries, including many of those in Central Europe who should be our best friends, are indifferent—they do not want us to leave, but are they going to make concessions to keep us in? Have you talked to any Belgians about this issue? I am staggered by how many countries are not prepared to move heaven or earth to keep us in, because some people would be quite happy if we went. We are the problem country. We are the people who always put a break on institutional integration. We always want special treatment. We are very Atlanticist. We are very free-market orientated. A lot of people find us a pain in the arse and would be quite happy if we left.

Q60 Chair: Yes. In terms of the question of whether or not removing the concept of ever-closer union would make one jot of difference to the existing *acquis* as regards the treaties that have been entered into or, for that matter, any of the laws made under the *acquis*, the short answer is that there will be no change whatsoever in those, so that the concept of moving to ever-closer union is only something that would be, to use Professor Simon Hix's term, "symbolic of the future". It would not have anything to do with the past. From that point of view, it would lead to no fundamental change, unlike the assertions that the Prime Minister seems to be making.

Charles Grant: I would largely agree with that.

Professor Hix: Yes, I would agree with that, except that, ironically, it could have more of an impact if we are the only member state that opts out of it, because then what you are doing is saying that there is a difference for the UK. Going down the pipe, I can see situations where, in big negotiations, Britain will be able to say, "We do not sign up to this because we are not signed up to ever-closer union." Therefore, if you remove it from the treaty for everybody, it has no impact at all; if you just remove Britain from it, it could have an impact.



Q61 Richard Drax: Professor Hix, before I ask a question, you just made a point that this was a political project. I think that is what you said. I would agree that it is a political project. That is why it will fail. It will fail because there will be a democratic deficit at some point. It is growing around the EU at this very stage. The fact that we feel it so strongly is because we are an island nation. That has been very much a part of our tradition. That is just an observation; this project will fail, in my view.

Can I move to national parliaments? The various suggestions and declarations that have been made to boost the powers of national parliaments range from a strengthening of current arrangements, including inter-parliamentary co-operation, to the introduction of red and green cards, which you have mentioned already. How should the power of national parliaments be increased in a manner that is politically and legally realistic? Mr Grant?

Charles Grant: This is one of the most interesting areas of the renegotiation. I have a slightly different view from Simon Hix on this, and I am not as big a fan of the European Parliament as some people are. It is quite out of touch with European voters and electorates. Although it does useful work in some areas and it certainly will not go away, the British will have to learn to live with it, if not love it, and they will have to learn to use it and instrumentalise it. Having said that, national parliaments should play a bigger role in the way the EU works because they have a legitimacy and are closer to electorates than some MEPs are.

Q62 Richard Drax: How is that going to work if you want ever-closer union? How is that possible? The two are going to contradict, surely?

Charles Grant: I do not see any contradiction. The phrase “ever-closer union”, as we have just more or less agreed, is meaningless. It is symbolic. It is like motherhood and apple pie, but I do think you can enhance the role of national parliaments through improving the yellow card procedure to give them a greater role in policing subsidiarity without preventing the EU working effectively. I also like the work that the House of Lords here is doing on the green card, and Lord Boswell has been very interesting with this, in trying to persuade national parliaments to come together and ask the Commission not to legislate but to act on some aspect of food waste.

My view is that, if national parliaments took more interest in the EU, it would be good for the national parliaments and good for the EU. I have a problem with national parliaments, which is that they do not take much interest, this Committee excepted I am sure. They do not know very much about it, and therefore are not able to contribute very much to making it work better. I want to insert them in more places in the way that EU machinery works without slowing down law-making too much, which would not be very good.

Q63 Richard Drax: Everyone is producing cards; is there not a risk, to use a football analogy, you will have no more players on the pitch?

Charles Grant: At the moment, one of the problems with the yellow card procedure is that national parliaments only have eight weeks in which to issue a reasoned opinion and then talk to the other national parliaments and work out if they are going to collaborate to try to raise the card. They need a bit longer. There needs to perhaps be better machinery to facilitate co-operation among them—you, I am sure, would know more about that than I would—making it easier to show a national card, and also I would like a political agreement. The Commission should sign up to an agreement with the Council to simply promise to treat a yellow card as a red card unless it really does not want to do that, in which case it has to go to the European Council and explain why. You do not have to change the treaty to do that. You can give national parliaments a de facto blocking right over laws they think breach subsidiarity without changing the treaty, so long as the Commission would agree to treat a



yellow card as a de facto red card. You could put it into the treaty later, but you could operate it right away. Something along those lines is probably going to happen.

Chair: Could I just mention that last weekend I was in Luxemburg with the other national Chairman and this was the main issue for the discussion—exclusively the green card. It was agreed by all the people there that there would be an informal arrangement. It would not be more than informal, but it was interesting that when the questionnaire, which had been distributed among all the member states, had come back, as regards the scope of the green card, only 22 out of the 28 replied, as it happens. However, of the 22 who did reply, 18 said that they wanted to repeal existing legislation, and 20 of the 22 said they wanted to amend existing legislation, which is very interesting because that is what they wanted their national parliaments to be able to achieve. Therefore, you may care to look at that, because you can get access to this questionnaire and draw your own conclusions from it. However, I thought it might be worth at least mentioning that the degree of desire to amend or repeal existing legislation by national parliaments is much greater than sometimes people may imagine. I thought I would just make that point.

Q64 Richard Drax: Mr Green, could you answer the same question, which is how the powers of national parliaments can be increased?

David Green: At the moment you have the yellow card, which the Commission has to reconsider. You could have various steps. A one-third majority could block and put a new proposal to the European Parliament, bypassing the Commission, or you could have a national parliament veto, which is what we had in the beginning. It is sort of implied by what was for a long while called the Luxembourg compromise. When a nation got terribly upset about something, they could say, “No, that is not going to work.” That is the range of options, whether they are called yellow, orange, green or red. Personally, I cannot see the European Union agreeing to a national veto through national parliaments. I would be very surprised if they agreed to give even one-third of national parliaments the initiative to put matters to the European Parliament—to bypass the Commission and go straight to the Parliament.

A group of nations could go through the Commission to the Parliament as well; that would be another way of doing it. I do not think they want national parliaments to have the initiative, but they might well strengthen the current yellow card procedure, which would allow, let’s say, one-third of countries to really put a stop to it. You had Professor Chalmers, didn’t you, a few weeks ago? He said that when yellow cards had been used there were hardly any cases when measures had gone through anyway. It does in fact amount to a blocking mechanism because it means that so many people are against it and it cannot go through. Anyway, my conclusion is that the only thing worth having is a one-nation veto. Each nation should be able to disallow particular measures.

Q65 Chair: Is it worth mentioning at this stage that, in the White Paper in 1971, which preceded the enactment of the 1972 Act, which we entered into voluntarily but only got through by six or seven votes or whatever it was—a cross-party rebellion—it quite explicitly stated in relation to the now existing arrangements in terms not of the successive treaties but of the structure of the European Communities Act 1972 that we would retain the national veto in our national interest and to do otherwise would endanger the very fabric of the European Community itself? I simply put that on the record because that is what the White Paper did say. You are saying that you think there ought to be a national veto. Our Committee said much the same unanimously in the last parliament, but the question is whether or not this would be regarded as something that is achievable. Simon Hix?



Professor Hix: I do not think it is achievable; I do not think the other member states would agree to it. I also do not think it is in the interests of the British Government and the British Parliament in the following sense: it goes against the competitiveness agenda. The competitiveness agenda is going to require passing laws that will liberalise further, for example, the services sector in Europe. Do you really want the French National Assembly to have a veto over any of that? You want reform of the single market. If you are a reformer, you want change. If you want change, giving people vetoes prevents change. It does not go hand in hand with that.

I agree with—this might surprise Charles—almost everything he said. I would even add to it and say that there is a lot of room for manoeuvre in the treaties currently. I do not think there needs to be treaty change necessarily on this. What you said, Mr Chairman, is quite right, in that I would think that the way to make this work is to get together with the other national parliaments and figure out the best procedure, from the national parliaments' point of view, to work within the current treaties and to improve relations a) between the national parliaments, and b) between national parliament committees and the European Parliament.

I have said this in previous evidence to this Committee: unlike many other national parliament European affairs committees, this Committee does not have close relations with its MEPs, whereas a lot of the others do, for example the Danish or the Bundestag committee. If you are drafting legislation—if there is legislation coming down the pipe—it is sitting in the European Parliament. The people who know about these things, and know a lot about what is possible, what could be changed and what needs to be changed, are the people sitting in those committees in the European Parliament. With modern technology, I do not know why you cannot develop closer relations with not just the British MEPs but other key MEPs involved in drafting legislation. That is how I would like to see democracy develop in Europe. If that happens, the EU legislative process would be far more accountable and democratic.

Q66 Chair: Charles Grant, do you have a thought on that issue?

Charles Grant: Very briefly. Mrs Thatcher got it right. She understood perfectly well in December 1985—the Luxembourg Summit—that if you want to have a single market, you have to have majority voting. I know she changed her mind on that, but she was absolutely right. If you have the national veto that David wants, you lose the single market. Think of the public procurement directives that went through some time ago. The French were against them. If you want to open up public procurement in the EU so that British firms can compete for contracts in other countries—as they do and they quite often win them—the French National Assembly would have just blocked that. If you want a single market, you have to have majority voting. Simon is absolutely right on that.

David Green: The single market has been a trap, right from the first stage when Mrs Thatcher signed up to it. It has led to harmonisation. It has been a trick. We have waited all these years for services to be part of the single market, but they are still not and they are never going to be. It is not going to happen. They will wriggle out of it; they have done so far. If we are going to remain in the European Union, we should not think in terms of harmonisation of regulations but of competing regimes. The whole argument for a free market is that individual companies learn from each other about the best way to make this product, provide that service or the best way to combine labour, capital and so on. Why do we not learn from each other about a better way to regulate banking, regulate industry, regulate health and safety and so on—so competing regulatory regimes. That would be, to my mind, more desirable than the thrust towards harmonisation.



Q67 Chair: I ought perhaps to mention that I did put down an amendment in 1986 that, to paraphrase it, said, “Nothing in this Act shall derogate from the sovereignty of the United Kingdom Parliament.” In those days, I was not even allowed to debate it. My amendment was not selected and I had a bit of a row with the Chairman of Ways and Means, who refused to allow it to be debated.

Professor Hix: So much for our great British democracy.

Chair: The Speaker said that I would not be allowed to debate it either. However, now you can. The circumstances have changed and, therefore, the question of sovereignty in that context as against qualified majority vote is something that is accepted through what is known as the “notwithstanding formula”.

Q68 Heather Wheeler: You have possibly covered a bit of this, but I would like to tease it out a bit more, if I may. Even if the Government achieve their renegotiation objectives, would that address a perceived democratic deficit in the EU, given that it would leave unchanged current legislative practice and procedure, such as trilogues, qualified majority voting etc.?

David Green: I will go first and you can knock me down—I will give you something to attack. I do not think there is the slightest chance of the demos—often we call it the democratic deficit—being changed within the EU. The fact is, in some ways, it is—as Kelvin said before—an elite project. There is a parliament; there are elections; there is a procedure whereby the Commission can be removed by the Parliament—they did it once. They have got all these devices that look as if they are acting with accountability, but if you compare it with our system, it has evolved since the revolution of 1688-89 but essentially there are elections, the Government are accountable, and a majority in the House of Commons can get rid of the Government immediately and you would have an election within a few weeks. That has happened several times. That is what you need. You do not have to do it very often for it to be real. It has happened. The European Parliament can, as I said, get rid of the Commission. It did it a few years ago, and they reappointed about a quarter of them and three-quarters were new. But it did not have another election. That is what you must have.

Professor Hix: The US is not democratic, then.

David Green: I am not talking about whether it is democratic or not. I am saying the Westminster system is superior to a fixed-term parliament. It is very important that you have this immediate possibility of making the MPs go back to the people. That is what we have. You are never going to have that in the European Union. Secondly, you do not have the solidarity between people, not to mention the fact that we do not even speak the same language. Within a free society, you have to have this sense of solidarity. You have to have the solidarity that comes from being a participant in the discussion. We all know that one voice does not amount to very much, but we all can speak our minds and take part in campaigns. It matters. We have this sense of the reciprocal rights and duties that we all owe to each other. The nation state is the scythe that allows for mutual self-sacrifice, you might say—certainly, mutual civic virtue, let’s call it. That is perhaps a better term. There is nothing resembling that. There is not the slightest chance of that emerging in the European nations collectively. We can have all sorts of agreements with other countries, but there is never going to be what has, in the past, been called a demos, with enough in common and enough sense of solidarity and reciprocity to make a true democracy work.

Q69 Chair: What does Charles Grant think about that?

Charles Grant: Simon has thought more about this than I have. There are a lot of problems in the EU. There are many deficits but not, to me, a democratic deficit, because power is accountable in the EU. A lot of power is held by the Governments, which are



elected, and by the Parliament, which is elected. The Commission has some modest powers and is appointed by and is responsible to both the Governments and the Parliament. There is a deficit, though. The deficit, to me, is one of legitimacy. A lot of the EU institutions are not legitimate. There is a deficit of complexity, because the EU institutions are too hard to understand. There is a deficit of understanding. There is a deficit of geography. A lot of the problem is the EU is a long way away, physically, from where most people live and work. There is a language deficit, as David said. It does not work in people's own languages in a way they can understand. There are many problems.

The EU is not, of course, a nation state in the way that David outlined, so you do not have this sense of community linking together its peoples. However, some decisions in my view need to be made at European level because they are better made at European level and it is more efficient and effective. Tackling a single market, climate change or foreign policy towards Russia at the nation state level means you achieve less than acting collectively. The problem, therefore, is how to reduce the deficits I have referred to. One modest way forward is by involving national parliaments more in the way that the EU works. It will not solve these deficits, but it would help a bit.

Professor Hix: We can get into a whole debate about whether you need an *ethnos* for there to be a *demos*, going back to Aristotle. Most political scientists and most scholars of democratic theory would say you do not, so I do not buy any of that nonsense.

The question to me is: can you have a democratically accountable political system beyond the nation state? That is the key question here. A lot of people in Britain think you cannot, and a lot of people on the continent think you can. They think you can because you have checks and balances and procedural accountability. You elect Governments and Governments make decisions in the Council. You elect the European Parliament and you have checks and balances between the EU institutions. You also have a court that protects fundamental rights—national courts also protect fundamental rights. The key challenge, as it is seen in a lot of other member states, is how to open up that Brussels process to more direct accountability through, for example, some competition for the Commission President.

Historically, democratic identities evolve. Our own democratic identity in the UK has evolved dramatically over the last 20 years—just look at how Scottish identity is very different now from English identity. We do not have a common British *demos* in the way we did 20 years ago. Democratic identities evolve, and there is more of a belief on a lot of the continent—among not just the elites but the publics—that it is through the process and practice of democracy that democratic identities develop. That is the experience of a lot of the continent and of a lot of the member states. That, I agree, may not be our experience. That may be a very good reason why we do not want to be part of the project, but do not pretend that everybody else has the same view.

Q70 Chair: One thing that needs to be mentioned is that the latest Eurobarometer poll suggested that the trust factor in the European Union is now registered at minus 60. Furthermore, the turnout in the European parliamentary elections—Charles Grant has made some pretty critical remarks in the past about the European Parliament—is now only 43%, or 45% if you like, whereas it used to be in the 60s. There is a crisis that is associated with the democratic deficit. It is not just in the UK; it is really endemic.

Professor Hix: What I am saying is that a lot of the continent have a different view about how to solve that. This Committee and, I know, you, Mr Chairman, have said that you believe qualified majority is not democratic. I do not think that is accepted by most of the other capitals, because they see qualified majority as democratic if there is a check on it—by the European Parliament, by the court and so on.



Kelvin Hopkins: I always liked Walter Bagehot's distinction between the effective and the decorative parts of the constitution. Increasingly, elected bodies are seen as decorative—I think they are. The European Union wants to make national parliaments decorative and not effective. The really effective part is the Commission. The arrangements are such that they look democratic. There are lots of elections. This is an extreme parallel, but if you go back to the Soviet Union, they had a very elaborate constitution with elections at every level, but we all know that real power was in the central committee and in the power of the first secretary, or whatever he was called. There is a great book on how the Soviet constitution worked, but the real power was at the centre. That is what people in elites want: they want total power at the centre and to have decoration that gives the impression of democracy but is not really about changing Governments or changing policy.

Q71 Alec Shelbrooke: Talking about the democratic deficit, let's be honest—when people go and vote in the European elections in this country, it does not make a jot of difference to what is going to happen. So, here is a radical idea that will probably upset a lot of people: there are seven groupings, roughly, in the European Parliament, I think, so would it not make more of a connection to the electorate if the different political parties in each member state stood under a platform with a grouping they will join and if that grouping had a manifesto?

Professor Hix: That is not a popular thing to say in Britain, but that is definitely the view of the Bundestag. The Bundestag committee on Europe has been arguing that for a while. At its congress two years ago, the German CDU passed a resolution calling for a directly elected EU President. It is the German MEPs and German members of the Bundestag who would like there to be a two-tier European electoral system like the one they have in Germany, where you vote for your national local MP and you vote for a European-wide list. There are plenty of people on the continent who would take that view.

Peter Grant: I am grateful in particular to David for exploding a myth that is regularly pedalled in the media here: that Europe is completely centralised and anti-democratic. It has its problems—it is not as democratic as it should be—but there are elements of democracy there. Can I suggest to you that the Parliament in which we sit just now is nowhere near to being this icon of openness, transparency and democracy that you make it out to be? We have an electoral system that is good at picking a single-party government. When it picked a two-party government five years ago, there was a constitutional crisis because nobody knew how to do coalition or consensus government, to which most Europeans would have thought, "Why not?" There is a Government in at the moment whom 37% of those who voted supported and who lost the election in three of the four nations of the United Kingdom. We have an electoral system, to be fair, where the SNP got 56 times as many MPs as UKIP, despite the fact that UKIP got more than twice as many votes as we did. I despise a lot of what UKIP stand for, but 4 million people voted for them and that produced one Member of Parliament. There are major issues about the workings of this place that mean that, from European eyes, this is barely a democratic institution. I have heard that if we were trying to get into the EU now, we would have to change the House of Lords before we could get in because, at the moment, over 50% of the people in the United Kingdom Parliament who make laws are not elected. I suppose, if you want that as a question, as well as needing to address the public misperception about the nature of democracy in Europe, there is also a need to address the misperception of the politicians and others who think that this place is a good example to hold up to other countries as to how democracy works. Am I right, for example, in having heard that when they were reconstructing democracy in Germany in 1945, one option they looked at was just to copy the



British parliamentary way of doing things, and the British would not let them do that because it was not democratic enough and it was too centralised?

Calum Kerr: Well said, that man.

David Green: What I am saying is that—you said it yourself in the first couple of remarks that you made—the voting system is very good at getting people to vote a government in or out. That is the most important thing that an election can do. You have to be able to get rid of a government without bloodshed, let's call it. That is what our system does. It is good at that. The rest is all to do with the constitution and civic culture. I would say that, even though the SNP is very over-represented compared with the number of votes that it got and UKIP is very under-represented, it does not matter very much because the Government are very conscious of all those people having voted for that group. The Government are obviously very conscious of the SNP's influence and of the concerns of UKIP voters. The Labour party and the people I am friendly with in the Labour party were very conscious of losing votes to UKIP in the north of England and mostly wanted their party to change its policies to accommodate them.

That is one thing, but there is a great problem—that is why these committees are so important—in the imbalance between the Executive and the legislature. I am a great advocate of the legislature having far more power than the Executive in the Westminster system. But even with all its faults, our system promotes what you might call thoughtfulness before decisions are made. There is a long, steady process of sometimes green papers, white papers, bills, and first, second and third readings. There is then the House of Lords and back and forth a bit sometimes. It does not always work well in every case, but it is a system that promotes better quality reasoning than is otherwise possible in a more authoritarian system, where you have elite groups working in Brussels cooking the books. Even with all of those weaknesses—by the way, you must be SNP—

Peter Grant: Yes.

Charles Grant: Presumably, you want independence in Scotland because you think there is a Scottish demos and that it makes sense for Scotland to have that sense of reciprocity, solidarity, mutual sacrifice and making your own decisions—

Peter Grant: I want independence for Scotland because of, in your words earlier, David, the appropriateness of the national Parliament taking the decisions. I want the national parliament of Scotland to take decisions for Scotland.

David Green: Yes, okay; that is fine. I understand that perfectly well.

Q72 Geraint Davies: The tone of this discussion and generally—indeed, Alec Shelbrooke made this point—indicates that if there were an election tomorrow, we would all want to get out, and that unless there were major concessions, we would all want to exit. Would anyone on the panel agree with me that, once there is a proper debate about the pros and cons of Europe, people may—in my view, a majority—want to stay in, even if we get no concessions? My experience is, when I am faced with someone who says, “Oh, I don't like Europe,” and you say, “What laws have they passed that you don't like?” they have got no idea. It is just a background culture and a failure of the pro-Europeans to put forward the case for Europe. As Professor Simon Hix has mentioned, in essence, people need to be educated about Europe in Europe—about the European Union and the checks, balances and benefits, whether it is environmental or competitive. In our case, obviously, we have got access to a single market without the downside of being part of the currency or of having to bail out Greece. We have all sorts of benefits, such as being round the table. Once this discussion happens, does the panel not agree that there is a very high probability that people will just vote to stay in in significant numbers without any significant change? Finally, if they do not—if it is a very marginal decision on the flipside of this—will there be never-ending



insecurity about being in Europe? Will it not be a bit like Scotland, where we had a referendum and they said, “Oh, we’ll stay in,” but now it is unclear whether they will stay in?

Professor Hix: You are right in saying that a lot of people have already made their mind up one way or the other.

Geraint Davies: I am saying the opposite.

Professor Hix: No, no. I thought you were saying that, regardless of what comes back, people will vote according to their views of whether they like it or not.

Geraint Davies: With respect, I was trying to say that people will change their mind in favour of Europe once they know the facts.

Professor Hix: There are two things: one is whether they will change their mind depending on what comes back in negotiations. When tested with survey experiments giving people different options, you can sway between 5% and 10% of the voters. The rest of them are not swayed. Even though they say they have not made up their minds now, ultimately it is only 5% or 10%. But that 5% or 10% could be critical.

Then you asked a separate question, which is: will they ultimately vote to stay in? My colleague Sara Hobolt, who is the world’s expert on EU referendums, will tell you that as you get close to the referendum, the don’t-knowers tend to break 2:1 for the status quo. The don’t-knows are currently running at about 20%. If they break 2:1 for the status quo of staying in because they do not like risk—we saw that in Scotland with the Scottish independence referendum and the don’t-knows breaking significantly for the status quo—that suggests that we will vote to stay in.

However, it could well be very close, and it is conditional on lots of factors. It is conditional on turn-out. It is conditional very much on turn-out for the “stay in” campaign and on turn-out of, for example, Labour supporters in the “stay in” campaign, who may not bother turning up to vote. We had a lower turn-out among Labour voters in the general election and we could see a significantly lower turn-out among Labour voters in this sort of referendum. My expectation right now is it is going to be very close. We could easily vote to leave; we could easily vote to stay. As a result of the fact it is close, I agree with you: it will not be resolved. The next time there is a treaty reform there will be another in-out referendum, or perhaps even sooner.

Q73 Alec Shelbrooke: Bearing in mind what Professor Hix has just said, probably the golden bullet in this is the in-work benefits. What evidence is there about the likely impact of the Government’s proposal to limit the access to in-work benefits of economically active EEA migrants?

Professor Hix: I do not know the answer to that question.

Charles Grant: As we said earlier, this is the one thing that the Government are asking for that I do not think they can get. At least, I have not worked out how they can get it because the EU treaties and the existing jurisprudence in the Court of Justice say that you cannot discriminate, even indirectly, against citizens from another EU country on conditions of work, and in-work benefits, such as tax credits, count as conditions of work. They can probably have a six months’ residence qualification period, but not the four years they are asking for.

Q74 Alec Shelbrooke: Your view would be—just moving on—that the elements of that will require treaty change, and that you cannot do the in-work benefits without treaty change?

Charles Grant: Yes, but that treaty change is impossible because most member states, including Poland, would never agree to change the treaties on that. Therefore, it is impossible



that the Government can achieve their objective on that particular issue—more than for anything else they are asking for.

Can I just quickly respond to something that Mr Hopkins said earlier about the European Commission—the centralisation, the power that the Commission has and the Commission controlling things behind the scenes? With respect, Kelvin, you are a bit out of date. When I was a journalist in Brussels 25 years ago, I met the eminent Chairman of your Committee, and the Commission was very powerful then. Jacques Delors was the President. He set the agenda; he brokered the deals that mattered; the Commission drove integration. That is not how it works today. If you compare Mr Juncker and Mrs Merkel, Mrs Merkel has infinitely more power than Mr Juncker. The Commission still comes up with ideas like the Five Presidents' report, but if the Germans and the French do not like it, it gathers dust and nothing happens.

I really think that the Commission does not drive integration today. It does its best to hold things together and some of its ideas on the refugee crisis are helpful and very much in the right direction, but we are living today in an EU driven by the member states—particularly the Germans, but other member states, too.

Professor Hix: But even under the legislative procedures, under the co-decision procedure, formally, legally, the Commission is nowhere near as powerful as it was under the old legislative procedures. Once the Commission makes a proposal, it is out of the room. It is then up to the European Parliament and the Council to amend it. The Commission is then irrelevant from that point on.

Q75 Peter Grant: I have a follow-on question. It seems to me that the question about free movement of people generally could well be the nub of the decision for a lot of people. That concerns me, because if they keep getting their information from the newspapers they are currently getting it from, we are in big trouble. Looking particularly at the free movement of people for work, first, is it fair to say that there is absolutely no prospect whatsoever of any change in the right of EU citizens to travel across the EU in order to work? Secondly, would there be any significant change in the inward movement of workers to the UK if we were to leave the EU? It seems to me that, if we did what some people have asked for and just put up the barricades and stopped immigrants coming in entirely, the health service, for one, would close down within a few weeks. At the moment, the health service and a lot of other public services would have to bring in workers from outside the UK, even if we were not still in the European Union. Is it fair to say that whether we vote to stay in or to leave the European Union, it is not going to have a significant impact on the movement of EU citizens into the UK to find work or on the movement of UK citizens going abroad to work?

David Green: First of all, there is not the slightest chance of the free movement rule being changed. Several countries—if not the majority—have already said it is non-negotiable, as they usually say, which, by the way, points to the anti-democratic attitude of the European Union. If you are members of a club—the analogy is always used—you do not say anything is non-negotiable. You keep talking. That is why parliament has the principle that it cannot bind its successors—in case it makes a mistake. Everything can be changed; everything is negotiable.

You say that we need the immigrants, particularly in the NHS. It is true that the NHS has started to recruit nurses in particular from Portugal and Spain, so much so that the Portuguese and Spanish are complaining that their good quality nurses are being poached. However, the argument is not that we should not have any immigration whatsoever, just that we should control it. We should control it ourselves and allow the people in who are needed for particular tasks. At the moment, because we have not trained enough nurses, or doctors for that matter, we would need to bring in people from the outside. All that is saying is not



that it makes no sense to have any controls on immigration; it just means we cannot avoid having some immigration, but we should still have control. We should decide who can come in and who cannot.

Professor Hix: I agree that the principle of free movement is not going to change, but one thing that a lot of people in Britain are not aware of is that all the bells and whistles surrounding the free movement of people are not based purely on treaty articles; they are based on secondary legislation. They are based on a series of directives: the posted workers directive, the free movement directive, the welfare directive and so on. It is possible to amend legislation that would change quite a lot of the access to welfare benefits and other types of citizenship rights, if you like, that people have from free movement. All the treaty article says is “the free movement of labour”—the right to go and seek work. The meaning of that has been filled in by secondary legislation. It is possible to amend those things. I know that the Juncker Commission has as one of its agenda items that it will reform a lot of that directive. In fact, there is some stuff going through the European Parliament and Council right now related to that. There is more to play for in that area than perhaps people often assume.

Charles Grant: Can I answer the second part of Mr Grant’s question, which was: “What if we leave?” If we do leave, it will probably be because a lot of British people want control over their borders. Therefore, it is almost certain that a post Brexit Government in its negotiations with the EU on the deal we have with the EU will impose limitations on the right of EU citizens to come and live and work in Britain, because that would be the reason why we left the EU. There would have to be limitations, which, of course, would be reciprocal, so it would apply to British citizens wanting to go and live, work and study in the EU as well. There would be some sort of quantitative limit or some sort of emergency brake. Those who are already here probably would be allowed to stay here because the ECHR would ensure that they could not be kicked out, but those wanting to come and those who were not employed would have very great difficulties.

Chair: If I may say, they had a seminar at All Souls College Oxford last week in which all this came up. For what it is worth, my view was that there would be an element of toleration and understanding in transitional arrangements. It would not just be, “You’ve got to get out,” and, therefore, there would be a tension that arose from that. This would be smoothed out in some shape, form or another. I want to ask a question, though, on the issue of the European Court judgment that took place about 10 days ago regarding the issue of children and child benefit and tax credits. This is number 10. You ask the question and then I will ask the next one if you like, Geraint.

Q76 Geraint Davies: The Conservatives have basically said that no child benefit or tax credit should be available if an EU migrant’s child is living abroad. I was simply going to ask: how realistic is this? Do you think it can be achieved?

Charles Grant: As Simon said, the Commission is currently reviewing the rules on the co-ordination of social security policies, including the rules on child benefit. Britain has quite a lot of allies in its desire to constrain or limit the child benefit paid to children living overseas if their parents are in the UK. We will get something on this, but the trouble is it has to go through the European Parliament because it requires secondary legislation. I am not sure that the European Parliament will be prepared to go along with whatever the heads of state and Government might agree on to help the British on this one.

Q77 Geraint Davies: Regarding the previous question the Chair asked, about whether we would have to take all the people back from Spain who are retired and the people in France and swap them for all the working people we got from Poland, obviously that would not happen, but, in the future, what do you think the economic impact would be if old people



from Britain could not go off and retire in Spain and young people from Poland and Greece could not come and work here? What do you think the economic impact of that would be?

Charles Grant: I think that would be negative.

David Green: It would be positive, I would say, because you would bring back all the people with enough money to buy overseas properties.

Geraint Davies: Yes—UKIP people living in Spain.

Q78 Peter Grant: I wanted pick up on the precise wording that Charles used when he referred to the position of EU citizens who are already here, remembering that they are not going to be allowed to vote in the referendum, which seems a bit unfair. Charles said they would “probably” be allowed to stay. If I were an EU national right now, I would be hoping for a bit more than probable. Are you able to use a “highly probable” or “almost certain”? Secondly, is your assessment of the likelihood of these people being allowed to stay permanently dependent on the United Kingdom continuing to subscribe to the European Convention on Human Rights, or is there something more that is likely to mean that people who are not allowed to vote in the referendum and who get voted out of the EU by someone else can be absolutely certain that they are going to be allowed to live in the UK for the rest of their lives?

Professor Hix: There is lots of uncertainty and we would be foolish to speculate on this. However, the uncertainty is leading to some very worrying situations for a lot of EU migrants who live in the UK, even quite long-term resident ones. What we will see over the next six to 12 months is applications for British citizenship increasing significantly among these groups. I know, for example, a whole bunch of my own colleagues at the LSE are applying for British citizenship because of the uncertainty. That will happen and that is normally the situation. I do not think we should speculate about it.

Q79 Chair: There is one thing that I want to put on the record regarding this question of the European Court judgment. It was in the Conservative manifesto that “if an EU migrant’s child is living abroad, then they should receive no child benefit or child tax credit”. That was clearly in the manifesto and the Prime Minister reaffirmed that in unequivocal terms. However, now the European Court has said that they should be allowed to receive child benefit, it seems to me that, in terms of a renegotiation, it is very difficult for the Government to be able to succeed in complying with its manifesto commitment. Do you have a view on that?

Professor Hix: It depends on what basis the Court has said that. If the Court has said that—I must apologise because I do not know the ins and outs of the judgment well enough—on the basis of the treaty article, it is very difficult to go against it. If the Court has said that on the basis of secondary legislation—a directive—it is possible to say that part of the renegotiation would be a reform of that directive. If there is reform of that directive and if a subsequent case comes before the Court, the Court’s ruling would be different.

Chair: We may ask the lawyers in another session about that.

Q80 Geraint Davies: To what extent do you think that the decisions that are taken within the eurozone directly or indirectly affect the decisions of the EU as a whole, particularly in light of the new voting arrangements in the Council?

David Green: To a very great extent. This is why the Government have this fairness heading for their renegotiations. There is a real risk that the 19 will be the dominant influence and the rest will be nowhere.

Charles Grant: So far there has not been any caucusing of the eurozone to impose its wishes on the wider EU, with one recent possible exception, which is the episode in the July



emergency summit to deal with the Greek debt crisis. In the middle of the night, the Commission decided to tap the EFSM fund, to which Britain contributed, to give a bridging loan to Greece to enable the third Greek bailout to work. The way it was handled was very unfortunate. The British were not consulted, nor were the other “out” countries. It was all sorted out in the end and the British have guarantees they will not lose any money, but this shows there is a risk that, in a crisis, the eurozone will just club together and do what it thinks it needs to do, without necessarily regarding the interests of the “out” countries. That is why I am fully behind George Osborne in his efforts to secure safeguards to prevent this kind of situation arising in the future.

Professor Hix: I agree. This, to me, is the really critical part of the negotiations. It is far more important than the ever-closer union, national parliament issues and, in some ways, the welfare benefits. It is about having some kind of safeguard against the potential of the eurozone being able to govern de facto for the EU as a whole. I do not think there is much evidence of that, but there is growing pressure, not necessarily from Germany but from France and the Benelux. It was a French-Benelux initiative to have a meeting of eurozone social affairs ministers. We had never seen that before. They would like to have meetings with eurozone environment ministers. What are they doing if they are having these meetings? There is no jurisdiction for them, so, inevitably, this means they will be talking about single-market matters. I would like the British Government to ask for observation rights for all non-euro member states in these eurozone meetings. If there is a meeting of eurozone social affairs ministers, why could there not be observer status for officials from the perm reps’ offices of the other member states just so they can see what negotiations are going on? That should be a principle that should exist across any meeting of the eurozone.

Q81 Chair: Is that not really right at the centre of the current political situation, which is that you have a eurozone and you have an EU? As I said earlier, the eurozone does not exist as a legal entity, but the political power it exercises, with Germany dominating it, is having an impact on the EU as a whole. Although George Osborne was talking of the City of London yesterday in his speech in this context, it goes right across the board. Where you have qualified majority voting, that applies to the EU as a whole in all areas. However, if the main thrust politically and economically is coming from the eurozone, it does put us in the second tier of a two-tier Europe, with very severe disadvantages if the qualified majority voting system works against us. This is a question that really needs to be thoroughly examined as we move forward towards the referendum.

Charles Grant: That is a potential problem for the future, but it has not happened until now, with the one exception I mentioned. If you look at the different eurozone countries and their views on the financial transaction tax or many other economic issues, they are at sixes and sevens. They almost never agree on anything. They cannot even agree on how to reform and save the future of the euro. It is a potential risk that we need to safeguard against, but it is wrong to think that, at the moment, the eurozone is clubbing together and doing things that damage the single market, the City or the British.

Chair: We will take that as your comment on that because I am sure we will come back to this one.

Geraint Davies: Are we surrendering to the Germans there?

Chair: Geraint, did you want to ask a question on that or not? Do you have any further points on that?

Geraint Davies: No.

Q82 Kelvin Hopkins: As I hinted before, the eurozone is simply a mechanism for suppressing the tendency for the Deutschmark to rise because of the strength of the German



economy. The other economies have their currencies, effectively, held up, stuck inside the euro, so it is bad news for southern Europe and good news for Germany. Also, does it not mean that Germany—and, effectively, it is a Deutschmark zone, in my view—has an unfair competitive advantage against the UK because their currency is falsely low in competitive terms with ours? We ought to be able to adjust to a more appropriate parity, which would mean we had less of a massive trade deficit with Germany.

Professor Hix: It depends what stage of the economic cycle you look at. Considering the history of the eurozone, right now, I think you are right. Over the last four or five years, if you were to set interest rates and currency levels separately, the other currencies would devalue against the German currency. However, that was not the case in the early 2000s, when clearly the European Central Bank was setting interest rates way above what was needed in Germany. Then you had a boom in the periphery and the German economy was not growing. It was growing much less slowly than the periphery. It depends on what point in the cycle you are talking about. The key question for me is: is there going to be a convergence of economic cycles within the eurozone? I do not know if that is going to be the case. At what point is that cycle then in relation to the UK? I do not think you can generalise, in answer to that question.

Chair: I do not want to truncate the discussion, but it is 11.29 and the bell is going to ring at 11.30, so I wondered whether you had some brief comments on that before we bring the proceedings to an end.

David Green: I agree with Kelvin. That is a big problem. If Germany had the Deutschmark, it would be much stronger than it is now. It would not be able to export so much and they would not have such a big surplus. It has been very harmful to the stability of the eurozone and to the stability of the EU for the Germans to be able to have such a massive trading surplus. It is an act of, if you like, gross national selfishness on their part to persist with it for so long.

Charles Grant: I share some of that analysis—and Kelvin's analysis—for the eurozone itself. It is a problem for southern Europe that the German currency does not go up when Germany is so competitive, but I do not think it is a problem for Britain, because if Britain has a big trade deficit, the currency will fall, which is what is going to happen. It is a problem for the south, but not for Britain.

Kelvin Hopkins: One very interesting thing was the Swiss franc was linked to the euro and when they broke that link, it immediately appreciated by 30% overnight. I think the same would happen to the Deutschmark if it was re-established.

Chair: We have kicked off our inquiry with you and we are grateful to you for coming. We do not all agree about everything, but, on the other hand, it is very interesting to hear the different perspectives. Thank you very much for coming.