

# **The Treaty Reform of the EU: Constitutional Agenda-Setting, Intergovernmental Bargains and the Presidency's Crisis Management of Ratification Failure\***

THOMAS KÖNIG  
University of Mannheim  
STEPHANIE DAIMER  
University of Mannheim  
DANIEL FINKE  
University of Mannheim

## **Abstract**

This study empirically investigates the two options which were considered by the German presidency for finding a solution to the crisis of the EU's reform process. Our findings reveal that making concessions to the remaining eight ratification countries and renegotiating the text with all Member States were feasible solutions for reform.

---

## **Introduction: The Process of Treaty Reform – a Multi-Stage Two Level Game**

The process on the treaty reform of the enlarged European Union has come to crossroads. This process has experienced several events, multiple summits, serious conflicts between Member States and their strategic management at both levels of analysis, the European and the domestic level. It started with a reform initiative before the Nice treaty came into force, was transformed into constitution-building project and resulted in an agreement on a treaty revision, which finally avoided any reference to a constitution. Apart from the

\* The results discussed in this article were first presented at the conference in preparation of 'The German Council Presidency 2007 and the Future of the European Constitution', Berlin, 4 December 2006.

normative aspects of constitution-building, this process provides several insights into the power of formal and informal provisions, the strategic bargaining tactics of the actors involved and the dynamics of multi-stage two-level decision-making. After the prevalent negative evaluation of the Nice treaty, the European Convention under the presidency of Valéry Giscard D'Estaing interpreted the original mandate of the convention to propose answers on the future institutional and political framework as a mandate for drafting a more coherent constitutional proposal. There is much evidence that the praesidium 'governed' the European Convention by establishing a committee system (Tsebelis and Proksch, 2007; Proksch, 2007), steering the agenda (Tsebelis, 2006), voting by consensus (König and Slapin, 2006), and, finally, drafting a constitutional text instead of presenting a wish list for reform alternatives to the following intergovernmental conference (König, 2006).

From an institutionalist perspective, it is not surprising that this constitutional draft survived the intergovernmental conference and was signed by the 25 heads of government and state in October 2004, although Poland and Spain originally announced their opposition. The intergovernmental debate centred on the question of whether to open the draft for intergovernmental bargains respectively whether to apply an open or closed rule at the conference. Under the closed rule, the power of the agenda setter – the European Convention respectively the praesidium – is strong because Member States can only decide on improvement *vis-à-vis* the status quo, i.e. the unpopular Nice treaty. However, in spite of the prevalent negative evaluation of the Nice treaty, the status quo was relatively attractive to a few larger countries, such as Poland and Spain, because they were provided with similar powers to the four large countries France, Germany, Italy and the United Kingdom, which dominated the history of European integration in the past (Moravcsik, 1998). At the end of the intergovernmental conference, the governmental change in Spain and a modest compromise on four reform issues facilitated the adoption of the constitutional proposal.

During the intergovernmental debate on the application of the closed rule, an unprecedented number of ten countries announced they would be holding a referendum on the ratification process.<sup>1</sup> In the history of European treaty reforms, referendums were a powerful instrument for receiving concessions at the intergovernmental bargaining table (Hug and König, 2002). A further reason for announcing a referendum might be the Europeanization of the ratification process, which has put some governments under domestic pressure from their opposition when a neighbouring country announced that it

<sup>1</sup> These were Belgium, Czech Republic, Denmark, Ireland, Luxemburg, the Netherlands, Poland, Portugal, Spain and the United Kingdom – only France announced its referendum after the signing of the treaty.

intends to ratify by popular vote, while they had originally preferred to complete the ratification process through parliament. Note that referendums are also a risky strategy, while almost all parliamentary ratification processes on European integration were successful in the past.

From this strategic perspective, the constitution-building process is an impressive example for a complex multi-stage two-level game, in which the actors of the domestic and European level interact and in which the institutional provisions and strategic moves during the former stage influence the outcome at the current stage. This does not mean that these outcomes always 'fit' the expectations of the actors of the former stage respectively, in that they have complete and perfect information about the whole process. By contrast, the two-level multi-stage character of this game generally increases the level of uncertainty and one can easily show that a wish list would have survived the ratification process with a higher probability than a more cohesive constitutional proposal. In the end, the impression remains that the more risky constitutional draft motivated the most reform-sceptical countries to announce strategically a more risky referendum and to stop immediately their ratification processes, while several other countries, such as Belgium, Estonia, Finland, Latvia and Luxembourg as well as Bulgaria and Romania, continued to ratify the treaty in the aftermath of the two negative popular votes in France and the Netherlands.

In January 2007, after a reflection period of about 18 months, the German presidency committed itself to a search for possible solutions to the crisis during the next six months in spite of the upcoming French election in May 2007 and the expected demission of the British Prime Minister Tony Blair.<sup>2</sup> In collaboration with the subsequent Portuguese and Slovenian presidencies, Germany accomplished its goal and presented an agreement and a road map for the completion of the reform process before the EP elections in 2009.<sup>3</sup> Most notably, the heads of states and governments agreed to avoid any reference to a constitution and watered down several reform issues. There is no doubt about German support for the constitutional project, but the strategic question for the German presidency centred on two options, either offering concessions to the remaining ratification countries which mostly announced they would be holding a referendum, or, renegotiating the proposed text with all countries in order to find a common solution, perhaps with a less risky parliamentary approval in the domestic arenas. The basic question was

<sup>2</sup> 'Europe – Succeeding Together' Presidency Programme 1 January to 30 June 2007; available at: <[http://www.eu2007.de/includes/Downloads/Praesidentschaftsprogramm/EU\\_Presidency\\_Programme\\_final.pdf](http://www.eu2007.de/includes/Downloads/Praesidentschaftsprogramm/EU_Presidency_Programme_final.pdf)>.

<sup>3</sup> 'Presidency Conclusions', Council of the European Union, Brussels, 20 July 2007; available at: <[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/94932.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/94932.pdf)>.

whether there was an option to overcome the crisis, or, whether the Nice treaty would prevail.

With the sole exception of Andrew Moravcsik (2005, 2006), who concluded that the constitutional project had collapsed and that no solution existed for the reform project, several options were discussed in the literature and by the public. Some authors proposed a modification of the text, mostly motivated by normative, partly by country-specific considerations (Duff, 2006; Diedrichs and Wessels, 2005; Göler and Jopp, 2006; Monar, 2005; Emmanouilidis, 2005). Very popular was the proposal of Nicolas Sarkozy – at that time presidential candidate – for a ‘mini-treaty’ with only ten of the original reform topics.<sup>4</sup> Unlike Sarkozy, the German government expressed the intention to save most of the substance of the draft text and hoped to exert pressure on the remaining countries with an increasing number of ratification countries. This strategy was supported by a shared initiative of Luxembourg and Spain that were campaigning for a constitutional treaty in order to establish a counter-position to those countries which had stopped their ratification processes. At the end of the German presidency, Chancellor Merkel presented a road map including several points of agreement, which should guarantee the reform of the EU’s framework but avoids reference to a constitution.

This study will shed light onto this stage of the reform process by empirically examining the two options for a successful solution of the reform project, namely either making concessions to the remaining countries with popular votes or renegotiating the whole package with all Member States. Compared to Moravcsik’s claim that the Nice treaty constitutes an efficient institutional solution, the following analysis investigates whether an issue-specific change of the rejected constitutional proposal was able to increase the incentives for either the remaining countries including their populations or all of the Member States to accept a revision of the Nice treaty. This does not mean that both options were exclusive strategies for the German presidency. They rather present two ideal types which could both have provided a solution to the reform crisis. Whether these solutions still promote constitution-building is – in our view – a symbolic rather than a normative question. Normatively, however, we believe that both solutions imply that the failed referendums in France and the Netherlands – like the Irish failed referendum on the Nice treaty and the Danish ‘No’ to the Maastricht treaty – cannot stop the ratification of a treaty revision.

For the purpose of analysis, this study uses the DOSEI archive which gathered data on the issue-specific positions of Member State governments

<sup>4</sup> In addition, he promotes renegotiation in a second step, see Nicolas Sarkozy: ‘L’Europe de demain – Une nouvelle vision française’, speech for ‘Friends of Europe’ at Robert Schuman foundation, Brussels, 8 September 2006; available at: <[http://www.friendsofeurope.org/download/Sarkozy\\_080906.pdf](http://www.friendsofeurope.org/download/Sarkozy_080906.pdf)>.

and their populations (König, 2005; König and Hug, 2006). We use these data to run an equilibrium analysis and to evaluate the scholarly claims and the behaviour of the actors involved. These data also offer an issue-specific analysis for the solution of the crisis at stake. We concentrate on the empirical evaluation of these two options, but we believe that the findings may also have consequences for the evaluation of political science. The analysis rejects 'common wisdom' that political science is unable to predict political events (successes or failures) and to provide solutions for political crises on time. Moreover, if the results demonstrate that either option can provide a solution for the crisis while the reform will fail, we have good reason to believe that (some) governments do not sincerely support the reform project.

### **I. Increasing Efficiency and Transparency – But How?**

The history of the reform process is characterized by a series of events, which raised attention inside and outside political science. After revising the EU's institutional arrangement at intergovernmental conferences in 1986, 1991, 1996 and 2000, the Laeken declaration of 15 December 2001 established a convention with an open mandate to review the key reform issues before the coming into force of the Nice treaty in February 2003 and the accession of ten countries from Eastern and Southern Europe in May 2004. This convention began to work in February 2002 and submitted a draft proposal on a constitutional treaty in June 2003. In spite of a different composition, empirical studies on the preferences of the convention's delegates show that the conflicts prevalent among Member States – which had prohibited reform at previous intergovernmental conferences – also existed among the delegates to the convention (König *et al.*, 2006). However, the powerful agenda-setting role of the convention's praesidium under the leadership of Valéry Giscard d'Estaing and the application of an informal consensus rule facilitated the adoption reforms which were previously vetoed at intergovernmental conferences (Tsebelis, 2006; König and Slapin, 2006).

The 'two-fold' agenda-setting function of the convention's praesidium became apparent at the following intergovernmental conference. Even though Poland and Spain originally vetoed the constitutional proposal at the first summit under the Italian presidency, a slightly modified text was signed by all 25 heads of states and governments in October 2004 under the Irish presidency. Apart from the scholarly debate on the effectiveness of the proposed reforms, the European Convention seems to have offered the EU a new instrument for treaty reform by setting the agenda for a following intergovernmental conference, at which more countries with more diverse interests

have to sign a treaty revision. On the other side, a drawback of this instrument is that it only directs the attention to the next intergovernmental stage without consideration of the final ratification stage. This suggests that the dynamic nature of the constitution-building process, including the establishment of a convention and the announcement of an unprecedented number of 11 referendums, increased the likelihood for both intergovernmental success and ratification failure. The delegates of the convention – including the president Valéry Giscard d'Estaing – did not or were unable to anticipate the final ratification constraints. In the end, the constitutional draft was rejected by the French and Dutch voters in June 2005, initiating a reflection period in which some Member States proceeded with ratification, while nine countries stopped their ratification activities.

Equipped with a mandate from the European Council, the German presidency declared to search for a solution to the crisis in January 2007. At the end of the six months presidential term, Chancellor Merkel succeeded in committing her colleagues to a road map and to a mandate for the following intergovernmental conference at the end of 2007. On closer inspection, this mandate includes the following points. First, the adoption of a treaty that amended the existing treaties with all reforms agreed to in the draft text; however, all constitutional symbols were dropped. Moreover, the Charter of Fundamental Rights and the primacy of EU law have not been included in the treaty text, the external representative of the Union will not be called 'Foreign minister' and EU legislative acts will continue to be directives, regulations and decisions instead of distinguishing between laws and framework laws. Second, the United Kingdom and Poland may opt out from the Charter of Fundamental Rights and the UK also from justice and police co-operation. Third, the contested voting system in the Council shall enter into force not before 2014. Fourth, due to Dutch concerns, national parliaments shall be further strengthened in EU legislation and be able to stop a Commission proposal in agreement with the Council and the EP, while the French president Sarkozy succeeded in dropping the wording of a 'competitive' Union (although the overall economic goal of competitiveness will remain in the text).

At first sight, this agreement seems to be a mixture of meeting possible ratification difficulties and keeping the substance of the original reform, even though we do not yet know whether it will survive ratification processes, as some issues remain unsolved.<sup>5</sup> For example, the 'cosmetic' changes and the extension of the transition periods are currently criticized for decreasing the reform's transparency – a fact which runs against the original reform goals. Moreover, eliminating the constitutional idea from the draft text was also

<sup>5</sup> 'EU resumes treaty wrangling as political issues remain', EUobserver, 29 August 2007.

against the will of the voters in several countries.<sup>6</sup> This raises the question of whether these changes will increase the likelihood for adoption and ratification of the text, in which not only the Member States, the Commission and the European Parliament but also the political parties and perhaps their electorates are involved. Our evaluation starts with the assumption that this likelihood will increase when the relevant actors have an incentive to modify the Nice treaty. Put differently, a necessary condition for the solution of the crisis is that the relevant actors – defined as those actors who must sign and ratify a treaty in order for it to come into force – must expect to benefit from altering the status quo. Hence, the challenging task is to find and present a solution which raises positive expectations either among those nine countries including their populations, or, among all heads of states and governments. Consequently, *Option 1* builds on the 18 Member States (including Bulgaria and Romania), who have already ratified the treaty text and attempts to make concessions to those governments and voters who still have to ratify the treaty by changing the issue-specific proposed alternative(s). The restriction, however, is that these changes should beg a minimum risk for re-opening the whole ratification process in all Member States. This option of making modest concessions was already successfully used for overcoming the Irish ‘No’ against the Nice treaty in 2001 as well as the Danish ‘No’ against the Maastricht treaty in 1992. Compared to these events, however, the current situation seems to be much more difficult because two referendums have already failed and further relatively sceptical voters must be convinced by the reform project. We ask whether and which issues of the draft can be strategically used for making concessions in order to increase the probability for successful ratification within the outstanding nine Member States.

A second option is to renegotiate the reform proposal with all Member States according to the original reform goals – a solution which comes close to the original idea of a wish list. Some authors and actors argued that any modification of the draft would require the renegotiation and ratification by all Member States. In consideration of the lengthy and partly difficult reform process, the German presidency declared early on that the overall goal of *Option 2* has been to save the most elementary and substantial reforms suggested by the convention’s draft perhaps by eliminating non-reforming, non-vital issues with Member State consensus lacking. Since any solution must increase the likelihood for change in all Member States, the precondition for successful renegotiation is that all governments must expect higher benefits from the modified proposal.

<sup>6</sup> ‘EU constitution architect deplors “cosmetic” text changes’, EUobserver, 17 July 2007.



In general, such solutions must increase the bargaining efficiency of the relevant actors, which we propose to determine by the sum of outcomes of all relevant issues. The following analysis accordingly searches for an efficient rather than an effective solution which would address the *raison d'être* of the reform project. Compared to renegotiations with all Member States, *Option 1* focuses on feasible concessions for the governments and voters in the eight countries with announced referendums.<sup>7</sup> The overall question is whether it was possible to find outcomes which better fit the interests or promote greater benefits over the status quo of the respective relevant actors – whether these actors are all Member States or the eight governments plus their voters. Because it was very unlikely that a solution would be found that proposes substantial reforms and increases the benefits to all Member States, the German presidency had been sceptical and officially refused to open the difficult process of renegotiation.

## II. Data and Design: Identifying the Preferences of the Actors Involved

This study uses data from the project 'Domestic Structures and European Integration' (DOSEI),<sup>8</sup> which collected, archived and evaluated the positions of all actors involved – governments, parliaments and voters – on the 65 reform issues which were discussed and negotiated during the constitutional process. This process formally started with the European Convention, followed by national inter-ministerial co-ordination in the domestic arenas of the Member States, bargains at the Intergovernmental Conferences and ratification in several Member States. We use these data for the analysis and evaluation of both options from the viewpoint of each actor. Compared to analyses of treaty negotiations that concentrates on a few selected actors and topics, DOSEI offers to take into account all relevant actors and issues for either concession or renegotiation.

In addition to searching for a more efficient solution, this method may also allow a solution to be found that increases the transparency of the reform – a deficit of the convention's draft text that had been heavily criticized, particularly in France and the Netherlands. The draft has been conceived as a complex coherent text that consolidates the existing treaties on the European Communities and the EU. Formally, it consists of four parts, but the perhaps most important parts, 1 and 3, can hardly be separated: the institutional framework

<sup>7</sup> As Sweden indicated its intention to ratify by parliamentary approval, it is not included here.

<sup>8</sup> DOSEI Project: 'Domestic Structures and European Integration: A Multi-Stage Two-Level Analysis of European Constitution Building', funded by the European Commission under the 5th Framework Program (Project Nr. SERD-2002-00061).



is described in part 1 but its functioning is defined in part 3. Moreover, the following classification list includes no less than 24 titles, 21 chapters and 465 articles. This complexity and lack of transparency may have an important effect for option 1 because it should be less difficult to communicate a modified version relative to the draft text and the treaty of Nice. For option 2 we look for a reduced version which concentrates on important reforms.

The empirical investigation of efficiency necessitates making assumptions on the identification and measurement of the individual expected utility of the actors involved, which they attribute to these options against the status quo. In line with spatial political analysis, we assume that actors prefer a solution that is closer to their positions than the status quo. In other words, the relative individual distances to the status quo and the proposed solution indicate the expected losses of an actor, and if the individual distance to the status quo is larger than to the solution, the actor will support change of the status quo. Because each actor may differ in the weighting of the issue-specific distances, we construct an actor-specific measure for saliency by considering the indication that an issue is vital for an actor. More precisely, we assume that:

- actors compare their utility loss from an expected outcome with their utility from the status quo. This standard utility function is formally defined by the difference between the (Euclidean) distances of an actor to the status quo and the proposed solution:

$$U_i = \sqrt{\sum_{k=1}^m (sq_k - ip_{ik})^2} - \sqrt{\sum_{k=1}^m (o_k - ip_{ik})^2}, \text{ where } m = \text{number of issues,}$$

$sq_k$  = status quo (treaty of Nice) for issue  $k$ ,  $o_k$  = proposed outcome for issue  $k$  and  $ip_{ik}$  = position of actor  $i$  on issue  $k$ ;

- vital interests of Member States have double weight, i.e. saliency for non-vital =  $(1/(m + \text{number viduals}))$ , and for viduals =  $(2/(m + \text{number viduals}))$ ;
- independent from the number of alternatives the range of each issue = 1.

In order to identify the set of reform issues, thousands of documents from the European Convention were analysed, as these contained proposals and all amendments for drafting a text (Benoit *et al.*, 2005). When two different viewpoints were mentioned on the solution of an issue, this issue entered into the DOSEI sample of 65 controversial reform issues. In a second step, this sample was used for constructing a questionnaire for interviews with 90 experts on the positions of the actors involved: 75 per cent of the interviewees came from government and administration and the remaining 25 per cent were informed academics in all 25 Member States (König, 2005). The interviews from inside and outside governments were used to check the cross-validity of

Member States' positions, indicating high cross-validity of the data (Dorussen *et al.*, 2005). In addition to the national positions, the DOSEI archive contains the positions of more than 200 relevant actors involved in the reform process (parliaments, parties, ministries, interest groups, etc.) as well as the positions of the Commission and the political parties of the European Parliament.

Briefly summarized, 40 of these 65 issues address the institutional framework (number of Commissioners, reform of majority voting, application of procedures, etc.), 25 issues relate to material competences (definition of competencies, basic norms, economic and social goals, etc.). The convention's slightly modified text proposes reforms for 32 of the 65 issues relative to the Nice treaty, while 33 issues maintain the status quo. Furthermore, experts were asked to indicate whether an issue might be of vital interest for a country: overall, 34 of the 65 issues have indication of at least one vital interest. On closer inspection, the outcome of 56 of the 65 issues is supported by 15 and more countries.<sup>9</sup> Only nine issues settle outcomes which fail to provide for this consensus. We use these data to answer the question of whether the modification of some issue outcomes or the deletion of several issues would increase the reform chances of the draft text signed in October 2004.

### III. Concessions or How to Accommodate the Text?

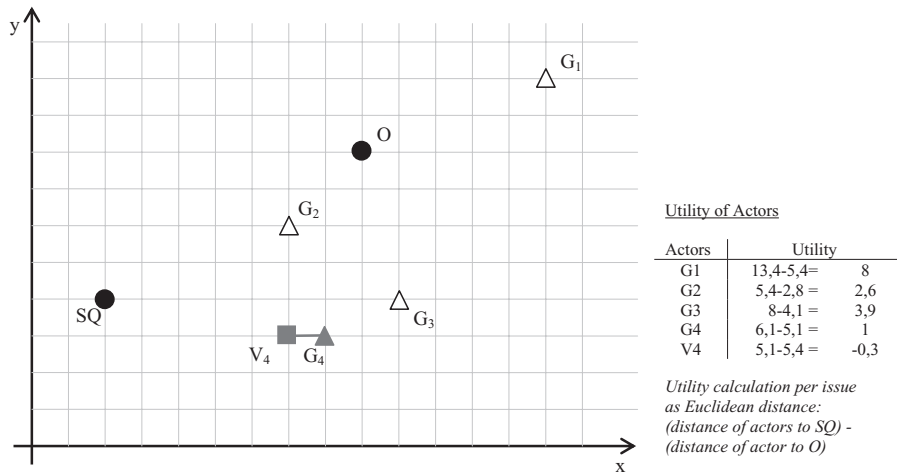
#### *Theoretical Foundation*

The recent literature on ratification processes suggests that Member States often argue that their hands are domestically tied by national ratification hurdles in order to receive concessions from their negotiating governmental partners (Schelling, 1960; Putnam, 1998). This explains why smaller Member States, such as Ireland and Denmark, have won greater concessions in treaty bargains than bigger and richer Member States (König and Slapin, 2004). This so-called paradox of weakness results from the ratification requirement of international treaties, and since the Maastricht treaty we observe that Member States began to establish higher hurdles for EU than for international ratification. Recent studies find that these hurdles, and in particular the announcement of referendums during the reform process are used for strategic and less for normative purposes (Schneider and Weitsman, 1996; Milner, 1997; Hug and Schulz, 2007).

Given this strategic background, the unprecedented announcement of 11 referendums is hardly surprising, in particular that many of them comprise

<sup>9</sup> These 56 issues cover five issues for which the Nice treaty does not contain a provision prescribe: Appointment of EU Foreign Minister; Role of Commission and Role of EP; Decision Modus (EP) and Voting Rule (Council) in the Area of Defence; Election of the Council Presidency.

Figure 1: Risk of Involuntary Defection by Ignoring Electoral Preferences



Source: Authors' own data.

Notes: x, y issues; SQ Nice treaty (Status quo); O Proposed text G<sub>1</sub>...4 -4 Actors (Governments); V<sub>4</sub> Electorate of Country.

relatively sceptical governments and voters on the reform project (König and Finke, 2007). Under the assumption of complete information we would expect that the ratification constraints will be reflected in the treaty outcome because a successful reform requires the support of the governmental delegates and ratifying actors. If, however, the process is complex with regard to the amount of incomplete information available to the negotiating actors, ratification can fail as a result of involuntary defection (Ilda, 1996). Figure 1 illustrates such a situation with four governments (triangles), one electorate (square) and their distances to the outcome (O) and to the status quo (SQ) on two issues x and y.

In this example, four governments (G<sub>1</sub> to G<sub>4</sub>) negotiate a reform which contains two issues x and y. They differ in their preferences for a two-dimensional solution with the government in country 1 preferring most policy change, while the governments in countries 2, 3 and 4 are located closer to the status quo (SQ). According to spatial analysis, all countries could benefit from the proposed text (O) relative to the status quo because their distances are closer to the outcome. However, the outcome would not consider the preferences of the electorate of country 4 (V<sub>4</sub>), which are located closer to the status quo. This negative utility of V<sub>4</sub> suggests that the electorate will reject the outcome in a popular vote and that there is the danger of defection when the electorate of country 4 must ratify the outcome.

### *Concept and Constraints of Accommodation*

While we can hardly find out whether the Member States failed to consider an electorate which is located closer to the status quo, or, whether a government has included this electorate for other strategic purposes, the German presidency was confronted with the fact of two failed referendums and several countries, which stopped their ratification processes (Czech Republic, Denmark, United Kingdom, Ireland, Poland, Portugal, Sweden plus the failed referendums in France and the Netherlands). This implies that finding a solution required modifying the text in a way that makes concessions to these remaining countries in order to increase their positive evaluation of the reform. This strategy attempts to increase support by those governments and, thereby, the likelihood for ratification success in the remaining popular votes.

In Figure 1, such a strategy could either modify the outcome (O) for issue x or y or, allow for side payments to country 4 in order to compensate the voters for the reform of both issues (Mayer, 1992).<sup>10</sup> Still, the success of these alternatives depends on further constraints, namely that the voters in all remaining countries must benefit from them (i.e. a concession on French voters in social affairs may reduce the support by British voters), they should not endanger the validity of existing ratifications (i.e. the inclusion of new topics may require a repetition of ratification in 18 countries),<sup>11</sup> and, finally, it must be assumed that the failed referendums in France and the Netherlands were caused by involuntary defection (otherwise the governments have other incentives to reject a reform).

### *Findings*

The empirical evaluation of this option poses a number of methodological challenges, in particular the identification of the voters' positions in the policy space of the proposed reform. In order to approximate the electorates' positions in the remaining countries, we used 40 questions of Eurobarometer 60.1 and Candidate Country Eurobarometer 2003.4, which can be linked with the 65 issues of the DOSEI data. To identify the electorates' positions, we calculated the median position in each of the eight remaining countries with popular vote (Downs, 1957). Furthermore, we coded the regulations of the treaty of Nice and located the proposed reform alternative for each issue. As was the case for the governments, this allows us to calculate the relative distances between the median voter position and the status quo (Nice treaty)

<sup>10</sup> Side payments may include 'opt-out' clauses, other exemptions or a direct transfer of resources.

<sup>11</sup> 'EU Constitution Talks Likely to Sideline Brussels', EUobserver, 6 December 2006; available at: <http://euobserver.com/9/23039/?rk=1>.

Table 1: Voters' Preferences (of the Eight Remaining Countries with Popular Votes)

<i>Voters prefer Reform, but Treaty = Status Quo</i>	<i>Voters prefer Status Quo, but Treaty = Reform</i>
<p><u>In all 8 countries:</u></p> <ul style="list-style-type: none"> <li>– no majority voting in economic affairs;</li> <li>– right of initiative for national parliaments;</li> <li>– no economic goal of competitiveness.</li> </ul> <p><u>In at least 4 countries:</u></p> <ul style="list-style-type: none"> <li>– more EU competence for 5 areas: regional, economy, taxes, employment, social;</li> <li>– right of initiative for <i>Commission and EP</i>;</li> <li>– no majority voting in the area of employment;</li> <li>– for co-decision in these 5 areas: social security, foreign, taxes, economy, employment;</li> <li>– against 'debt/GDP-criterion' in stability- and growth pact.</li> </ul>	<p><u>In all 8 countries:</u></p> <ul style="list-style-type: none"> <li>– no disempowering of EP in the area of structural and cohesion politics;</li> <li>– no reform of qualified majority voting;</li> <li>– no downsizing of Commission.</li> </ul> <p><u>In at least 4 countries:</u></p> <ul style="list-style-type: none"> <li>– against EU competencies in the 'area of freedom, security and justice';</li> <li>– no majority voting in the 'area of freedom, security and justice' and currency;</li> <li>– against co-decision in 2 areas: agriculture, 'area of freedom, security and justice'</li> <li>– against common control for external borders;</li> <li>– against harmonization of migration and asylum policies.</li> </ul>

*Source:* Authors' own data.

and to the present text indicating whether the voters would support or reject the proposal. For the 33 issues, which only maintain the status quo, we can also determine whether the median voter prefers this solution.

Our findings suggest that the voters in all eight countries would generally prefer the proposed text over the Nice treaty. However, because we only use proxies for the electorates' positions and because the (popular) consideration of a complex topic is often biased by the relevance of a few specific issues, our more detailed analyses of specific issues reveals that three issues would be rejected by voters in all eight countries. Voters dislike the temporary disempowerment of the EP in the area of structural and cohesion policies, the reform of qualified majority voting in the Council and the envisaged downsizing of the Commission. In particular, the last two issues comprise core issues of institutional reform in light of enlargement. Furthermore, we find a number of issues which were not supported by the voters of more than half of these countries (see Table 1). According to the first column of Table 1, there are three issues for which the voters prefer reform but the text proposes maintenance of the status quo. Voters favour a right of initiative for national

parliaments, the abolition of the economic goal of competitiveness and reject majority voting in economic affairs. Moreover, the voters of at least four countries prefer a reform of 13 additional issues, for which the present text prescribes the status quo. In sum, the findings suggest that making concessions was a feasible strategy for solving the crisis when the remaining governments were interested in the successful ratification of a revised treaty. The voters in the remaining eight countries wanted to have more rights for their national parliaments, rejected the downsizing of the Commission and the reform of Council qualified majority voting. Moreover, they disapproved the goal of competitiveness, the use of qualified majority voting in economic affairs and the temporary disempowering of the EP in structural and cohesion policies.

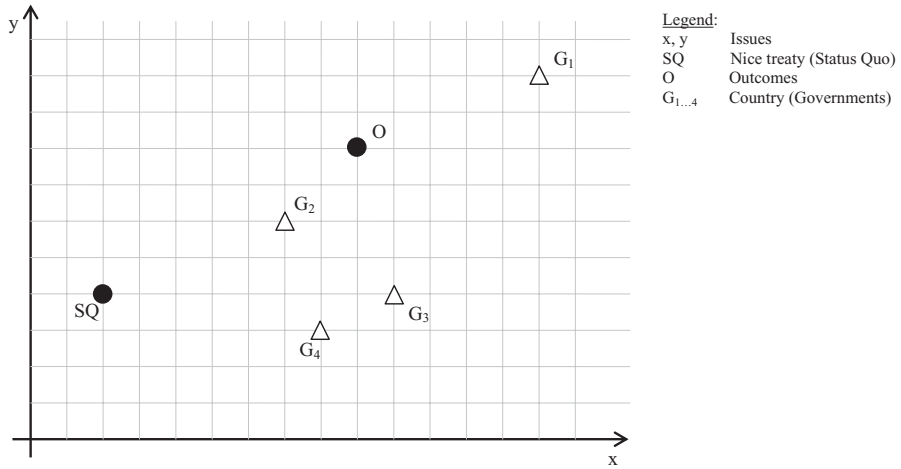
### III. Renegotiation of the ‘Substantial Treaty’

#### *Theoretical Foundation of Renegotiation*

While the first option for solving the crisis promotes the modification of (few) outcomes and retention of the treaty’s text volume, another option was the elimination of issues from the text which would also increase the transparency of the reform project (Sebenius, 1983, pp. 281–316). However, the convention’s decision to propose a package certainly reflects that only the combination of several issues can create a winset among all Member States which will provide for a change in the status quo. This does not imply that packages always allow for finding a solution, but the likelihood of consensus decreases to almost zero when negotiating each issue separately (Tollison and Willett, 1979, pp. 425–49). Whether there is a winset or not is finally determined by the configuration of actors’ positions, particularly *vis-à-vis* the location of the status quo. Figure 2 illustrates a situation, in which government  $G_4$  can only accept the solution O because the benefits from the outcome of the issue  $x$  exceed the losses from the outcome of issue  $y$ .

The possibility of combining issues to solve distributional problems is limited, however, in the case of the reform project. If some issues are highly controversial, their inclusion increases the risk of failure and their subtraction from the negotiation table is recommendable (Sebenius, 1983, p. 300). Note that the goal of subtraction is not a matter of fair distribution but to improve individual benefits against the status quo relative to the present text (Sebenius, 1983, p. 284). In Figure 2 the controversial reform of issue  $y$  could be excluded because the outcome only marginally increases the benefit of country 1, but threatens the support of all actors.

Figure 2: Benefits in a Two-Dimensional Bargaining Space



Source: Authors' own data.

*Concept and Constraints of Renegotiation*

This bargaining arithmetic allows specifying conditions for a more efficient and transparent treaty, which satisfies the following criteria:

- *Concentration on reform:* The repetition of the status quo contradicts the original intention of a more transparent treaty by increasing the textual volume and hiding the utility effect for the actors involved. For this reason, a smaller treaty should only include reform topics.
- *Concentration on issues with consensus support:* The example in Figure 2 shows that issues with negative distributional impact endanger the adoption of a treaty. This likelihood for failure increases with the number of actors who expect losses from the reform of an issue. Consequently, the reform should only include issues which are supported by a consensus of a high number of actors.
- *Concentration on vital interests:* The inclusion of unimportant issues is also problematic because it increases the bureaucratic nature of the treaty (Sebenius, 1983, p. 302). This suggests the inclusion of only those issues for which at least one actor indicated a vital interest as a measure for importance.

In order to avoid opening the Pandora's box of complete renegotiation, the following analysis concentrates on the proposed vital reform issues that were supported by a large majority of actors and which would have been reformed according to the draft treaty. Unlike option 1, the outcomes for the issues



remain unchanged *vis-à-vis* the proposed text. We believe that these reform issues cover the substance of the treaty and – if a solution exists – should have a high ratification likelihood in all Member States.

### Findings

The exclusion of 33 issues, which only repeat the status quo, not only increases the transparency of the treaty, but the results also demonstrate that all Member States would profit from their exclusion. Focusing only on those vital issues which are supported by a large number of Member States suggests the exclusion of 12 further issues. This focus further improves the bargaining efficiency as compared to the set of 32 reform issues. This would lead to a treaty with 20 vital reform issues each of which supported by at least a majority of Member States (see Table 2).

On closer inspection of this set, 11 issues deal with the institutional reform of the EU: introducing an early warning system to reinforce subsidiarity, double majority voting in the Council, permanent presidencies, a reduced size of the Commission, a strengthened role of Commission president regarding the composition of the Commission, empowering of the EP in budgetary affairs, the establishment of a foreign minister, extension of ECJ-competencies; introduction of majority voting in the ‘area of freedom, security and justice’, and economic and monetary policies, as well as unanimity voting in defence policy. The remaining nine reform issues address the material competencies of the EU, including a reference to God, a basic charter on human rights, more competencies in the areas of foreign and defence policies, justice and police co-operation, migration and asylum policies, extension of enhanced co-operation, the qualification of the economic goal definition on the character of the market economy, and the introduction of a common management system for external borders.

These findings suggest that concentrating on these 20 institutional and material reforms would fulfil both criteria: it would promote transparency and increase the bargaining efficiency because all Member States would benefit

Table 2: The 65 DOSEI Issues, Classified by Characteristics

<i>(n = 65)</i>	<i>Reform (32)</i>		<i>Status Quo (33)</i>	
	<i>Without Majority (4)</i>	<i>With Majority (28)</i>	<i>Without Majority (5)</i>	<i>With Majority (28)</i>
<b>Vital (34)</b>	2	<b>20</b>	1	11
<b>Non-vital (31)</b>	2	8	4	17

Source: Authors' own data.

relative to the Nice treaty as well as the present text. However, this reduction may raise criticism because 12 reforms will be excluded. These issues include the right to exit the EU, the extension of co-decision to agricultural policies and to the 'area of freedom, security and justice'; the extension of EU-competencies in the areas of research, technology and space, the creation of a right of initiative for the citizens and the specification of the economic objective with respect to the level of employment. Moreover, this solution excludes the election modus of the Council presidency, the role of the EP and Commission president regarding the appointment of the foreign minister, the decision modus in defence (no co-decision), Council unanimity as well as the restricted role of the EP in the first round of structural and cohesion funding.

### **Evaluation: From Treaty Reform to Constitution-Building and Back**

On 1 January 2007 the German government started the six-month period of its EU presidency with a demanding programme. Equipped with a mandate from the European Council and in collaboration with the subsequent two presidencies, the German government searched for a solution for the crisis, which was initiated by the failed referendums in France and the Netherlands in June 2005. In the meantime, Belgium, Estonia, Finland, Latvia, Luxembourg as well as Bulgaria and Romania ratified the proposed text, but the governments of Denmark, Ireland, Poland, Portugal, Sweden, the Czech Republic and the United Kingdom stopped their ratification processes. In their consultations, the German government attempted to promote the retention of most of the original text, at least the substance of the reform. This generates questions on the set of issues which define the substance of the reform and whether this substance is likely to survive the bargaining and ratification process.

In the short six-month period, the search of the German presidency was constrained by the French presidential election and the dismissal of the British Prime Minister. Under these conditions, the presidency favoured the presentation of a road map that describes the resolution of the crisis before the upcoming elections to the EP in 2009. What this solution might look like has been sketched out by the German presidency at the summit in June 2007. At first sight, it seems to be a mixture of the two options. On closer inspection, Table 3 lists the predictions of the two options for the summit's specific agreements (labelled as 'IGC 2007'). Table 4 compares our empirical results for both strategic options with the compromise negotiated under the Germany council presidency in 2007. For both options we can apply different criteria, i.e. a strong interpretation of either making concessions or excluding unpleasant issues.

Table 3: Two Options for Treaty Reform: Concessions or Renegotiation

Short description	Option 1: Substantial concession (for 2 scenarios)		Option 2: Remove issue if at least one of the 3 categories = 1		
	Because voters in all 8 outstanding referenda oppose IGC outcome (1 = Yes, 0 = No)	Because voters in at least 4 outstanding referenda oppose IGC outcome (1 = Yes, 0 = No)	Because IGC2003/4 keeps SQ (1 = Yes; 0 = No)	Because majority for keeping SQ (1 = Yes; 0 = No) (Number of Member States on SQ)	Because non-vital issue (1 = Yes; 0 = No) (Number of Member States with vital interest)
HR Charter	0	0	0	0 (0)	0 (2)
Election Com Pres	0	0	1	1 (21)	0 (1)
Apt Commissioners	0	0	0	0 (12)	0 (2)
External representation	0	0	0	0 (0)	0 (2)
Apt Foreign Minister (Com)	0	0	0	0 (0)	1 (0)
Apt Foreign Minister (EP)	0	0	0	0 (0)	1 (0)
ECJ Jurisdiction	0	0	0	0 (4)	0 (2)
LI Com	0	0	1	1 (25)	1 (0)
LI EP	0	1	1	1 (22)	1 (0)
LI Council	0	0	1	1 (23)	1 (0)
LI National parliaments	1	1	1	1 (25)	1 (0)
LI Citizens	0	0	0	1 (17)	1 (0)
Enhanced cooperation	0	0	0	0 (10)	0 (4)
CL Agriculture	0	0	1	1 (20)	1 (0)
CL Environment	0	0	1	1 (18)	0 (1)
CL Education	0	0	1	1 (20)	1 (0)
CL Research, Techn. developm. & Space	0	0	0	0 (10)	1 (0)
CL Regions (Cohesion)	0	1	1	1 (21)	1 (0)
CL AFSJ	0	1	0	0 (6)	0 (1)

CL Foreign	0	0	0	0 (11)	0 (10)
CL Economy	0	1	1	1 (14)	1 (0)
CL Tax harmonisation	0	1	1	1 (16)	0 (1)
CL Employment	0	1	1	1 (16)	1 (0)
CL Social	0	1	1	1 (16)	1 (0)
CL Health	0	0	1	1 (14)	1 (0)
VR Agriculture	0	0	1	1 (25)	0 (1)
VR Social security	0	0	1	0 (11)	0 (5)
VR Foreign	0	0	1	1 (14)	0 (2)
VR Defence	0	0	0	0 (0)	0 (8)
VR Regions (Cohesion)	0	0	0	1 (23)	0 (1)
VR AFSJ	0	1	0	0 (8)	0 (5)
VR Internal market	0	0	1	1 (25)	0 (1)
VR Tax harmonisation	0	0	1	1 (14)	0 (8)
VR Monetary	0	1	0	0 (6)	0 (1)
VR Economy	1	1	1	1 (17)	0 (1)
VR Employment	0	1	1	1 (23)	0 (1)
VR Social	0	0	1	1 (18)	0 (1)
DR Agriculture	0	1	0	0 (7)	1 (0)
DR Social security	0	1	1	1 (14)	1 (0)
DR Foreign	0	1	1	1 (22)	1 (0)
DR Defence	0	0	0	0 (0)	1 (0)
DR Regions (Cohesion)	1	1	0	1 (22)	1 (0)
DR AFSJ	0	1	0	0 (9)	1 (0)
DR Internal market	0	0	1	1 (22)	1 (0)
DR Tax harmonisation	0	1	1	1 (15)	1 (0)
DR Monetary	0	0	1	0 (11)	1 (0)
DR Economy	0	1	1	0 (11)	1 (0)
DR Employment	0	1	1	0 (7)	1 (0)

Table 3: (Continued)

Short description	Option 1: Substantial concession (for 2 scenarios)		Option 2: Remove issue if at least one of the 3 categories = 1		
	Because voters in all 8 outstanding referenda oppose IGC outcome (1 = Yes, 0 = No)	Because voters in at least 4 outstanding referenda oppose IGC outcome (1 = Yes, 0 = No)	Because IGC2003/4 keeps SQ (1 = Yes; 0 = No)	Because majority for keeping SQ (1 = Yes; 0 = No) (Number of Member States on SQ)	Because non-vital issue (1 = Yes; 0 = No) (Number of Member States with vital interest)
DR Social	0	0	1	1 (18)	1 (0)
EP Budgetary Rights	0	0	0	0 (9)	0 (4)
Subsidiarity	0	0	0	0 (2)	0 (2)
SGP I (more flexible)	0	0	1	1 (15)	1 (0)
SGP II (debt/GDP criterion)	0	1	1	0 (7)	1 (0)
Defence	0	0	0	0 (8)	0 (7)
External borders	0	1	0	0 (4)	0 (1)
Migration and Asylum	0	1	0	0 (5)	0 (1)
Religious reference	0	0	0	0 (4)	0 (6)
Right to withdraw from EU	0	0	0	0 (5)	1 (0)
Obj Market economy	0	0	0	0 (0)	0 (2)
Obj Employment	0	0	0	1 (13)	0 (2)
Obj Competitiveness	1	1	1	1 (23)	0 (2)
Pres European Council	0	0	0	0 (4)	0 (7)
Election of Council Pres	0	0	0	0 (0)	1 (0)
QMV	1	1	0	0 (6)	0 (12)
Number of commissioners	1	1	0	0 (0)	0 (18)
Number of predicted changes	6	26		45	

Table 4: The Explanatory Power of Making Concessions and Rrenegotiation (Compared to IGC Agreement 2007)

<i>Short description</i>	<i>Outcome IGC 2007: SQ (dropped) = Legal Status Quo (issue not included into Reform Treaty); SQ (incl.) = Legal Status Quo included in Reform Treaty in a refreshed wording; Reform = Substantially equal to IGC 2003/4 (included into Reform Treaty); Modification = (Formal) Modifications compared to IGC 2003/4.</i>	<i>IGC 2007 follows Option 1 (I = Yes, 0 = No); scenarios (1/2)</i>	<i>IGC 2007 follows Option 2 (I = Yes, 0 = No)</i>
HR Charter	Modification: Fully binding, but no incorporation into Reform Treaty. Opt-outs for UK and PL.	0	0
Election Com Pres	SQ (incl.)	1	0
Apt Commissioners	Reform	1	1
External representation	Modification: Renaming to "High Representative of the Union".	0	0
Apt Foreign Minister (Com)	Reform	1	0
Apt Foreign Minister (EP)	Reform	1	0
ECJ Jurisdiction	Reform	1	1
LI Com	SQ (dropped)	0	1
LI EP	SQ (dropped)	0	1
LI Council	SQ (dropped)	0	1
LI National parliaments	SQ (dropped)	0	1
LI Citizens	Reform	1	0
Enhanced cooperation	Reform	1	1
CL Agriculture	SQ (dropped)	0	1
CL Environment	SQ (incl.)	1	0
CL Education	SQ (dropped)	0	1
CL Research, Techn. developm. & Space	Reform	1	0
CL Regions (Cohesion)	SQ (dropped)	0	1
CL AFSJ	Modification: Opting out for UK possible.	0 / 1	0
CL Foreign	Reform	1	1
CL Economy	SQ (dropped)	0	1
CL Tax harmonisation	SQ (dropped)	0	1
CL Employment	SQ (dropped)	0	1
CL Social	SQ (dropped)	0	1

Table 4: (Continued)

<i>Short description</i>	<i>Outcome IGC 2007: SQ (dropped) = Legal Status Quo (issue not included into Reform Treaty); SQ (incl.) = Legal Status Quo included in Reform Treaty in a refreshed wording; Reform = Substantially equal to IGC 2003/4 (included into Reform Treaty); Modification = (Formal) Modifications compared to IGC 2003/4.</i>	<i>IGC 2007 follows Option 1 (1 = Yes, 0 = No); scenarios (1/2)</i>	<i>IGC 2007 follows Option 2 (1 = Yes, 0 = No)</i>
CL Health	SQ (incl.)	1	0
VR Agriculture	SQ (dropped)	0	1
VR Social security	SQ (dropped)	0	1
VR Foreign	SQ (dropped)	0	1
VR Defence	Reform	1	1
VR Regions (Cohesion)	Modification: Structural funds will be decided by QMV from the beginning.	0	0
VR AFSJ	Reform	1 / 0	1
VR Internal market	SQ (dropped)	0	1
VR Tax harmonisation	SQ (dropped)	0	1
VR Monetary	Reform	1 / 0	1
VR Economy	SQ (dropped)	0	0
VR Employment	SQ (dropped)	0	1
VR Social	SQ (dropped)	0	1
DR Agriculture	Reform	1 / 0	0
DR Social security	SQ (dropped)	0	1
DR Foreign	SQ (dropped)	0	1
DR Defence	Reform	1	0
DR Regions (Cohesion)	Modification: Structural funds will be decided by co-decision from the beginning.	1	0
DR AFSJ	Reform	1 / 0	0
DR Internal market	SQ (dropped)	0	1
DR Tax harmonisation	SQ (dropped)	0	1
DR Monetary	SQ (dropped)	0	1
DR Economy	SQ (dropped)	0	1
DR Employment	SQ (dropped)	0	1
DR Social	SQ (dropped)	0	1
EP Budgetary Rights	Reform	1	1



Table 4: (Continued)

<i>Short description</i>	<i>Outcome IGC 2007: SQ (dropped) = Legal Status Quo (issue not included into Reform Treaty); SQ (incl.) = Legal Status Quo included in Reform Treaty in a refreshed wording; Reform = Substantially equal to IGC 2003/4 (included into Reform Treaty); Modification = (Formal) Modifications compared to IGC 2003/4.</i>	<i>IGC 2007 follows Option 1 (1 = Yes, 0 = No); scenarios (1/2)</i>	<i>IGC 2007 follows Option 2 (1 = Yes, 0 = No)</i>
Subsidiarity	Modification: Extended early warning system: National Parliaments get longer periods for checking legislative proposals and may stop proposals, if Council and EP agree.	0	0
SGP I (more flexible)	SQ (dropped)	0	1
SGP II (debt/GDP criterion)	SQ (dropped)	0	1
Defence	Reform	1	1
External borders	Reform	1 / 0	1
Migration and Asylum	Reform	1 / 0	1
Religious reference	Reform	1	1
Right to withdraw from EU	Reform	1	0
Obj Market economy	Reform	1	1
Obj Employment	Reform	1	0
Obj Competitiveness	Modification: Wording of objective of 'competitive social market economy' remains, however characterization of internal market as 'competitive' deleted.	1	0
Pres European Council	Reform	1	1
Election of Council Pres	Reform	1	0
QMV	Modification: Entry into force in 2014, Transition period until 2017, where a MS can ask to proceed according to the Nice system. Moreover, reference to Ioannina compromise.	1	0
Number of commissioners	Reform	0	1
<i>Number of correctly predicted issues</i>		<i>30 / 25</i>	<i>43</i>

Regarding the making of concessions to the eight (or at least four) remaining referendum countries, we predict the modification of only six issues (respectively 26 modifications when only four countries are taken into account). With regard to our second option, the IGC agreement would have to remove 45 issues when we apply at least one of the three selection criteria – the non-reforming, non-vital issues without consensus support. Table 4 shows the explanatory power of both options.

The IGC 2007 finally modified eight issues, and three of them are correctly predicted by our strong interpretation for the remaining eight countries. The legislative initiative for national parliaments<sup>12</sup> and the voting rule for economic policies were dropped from the text, while the number of commissioners was not changed by the IGC. Although the more far-reaching prediction of 26 modified issues also hits the modification of the opting out for the United Kingdom, it only correctly predicts the outcome of 25 issues because many predicted modifications were excluded from the text. This already suggests that option 2 can better explain the IGC 2007 outcome. Indeed, using the strong interpretation for exclusion this option already explains the outcome of 43 out of 65 issues. On closer inspection, we find that the IGC applied a more modest criterion for finding an agreement because the exclusion option can correctly predict the outcome of 57 issues when we only rely on the criterion of non-reforming issues (the consensus criterion produces nine, the vitality two and the two together two additional errors). Hence, the (more modest) exclusion option cannot predict a modification of issues, from which it only predicts one issue to be eliminated.

Our evaluation indicates that a more radical modification of the text would have been possible. The German presidency obviously abstained from sacrificing the most popular ‘German’ topic, the reform of majority voting in the Council. Although this sacrifice is less serious from a bargaining perspective, it is likely that the German Grand coalition did not support this solution because both political parties feared the reaction of domestic voters. At the same time, the exclusion of non-reforming issues and a few modifications helped to find agreement without opening the Pandora’s box of complete renegotiation. Our results therefore suggest that the substance of the treaty could have been preserved by concentrating on reform issues that were supported by the member states. In our view, this reform project has good chances to come into force. But if the reform will finally be rejected, we have good reason to believe that (some) governments did not sincerely support the

<sup>12</sup> National parliaments have not been granted legislative initiative as option 1 suggests, but have received a larger say on legislation via the early warning-system.

project which they had already signed before the referendums in France and the Netherlands failed.

*Correspondence:*

Thomas König  
University of Mannheim  
A5, D-68131  
Germany  
email Koenig@uni-mannheim.de

## Abbreviations

AFSJ	Area of Freedom, Security and Justice
Apt	Appointment of Actor
CL	Level of Competence (National/EU) for Policy
Com	Commission
DR	Decision rule/Role of EP in legislation for Policy
ECJ	European Court of Justice
EP	European Parliament
EU	European Union
HR	Human Rights
LI	Legislative Initiative for Actor
Obj	Economic objectives of the Union
Pres	President/Presidency
QMV	Qualified majority voting
SGP	Stability and Growth Pact
VR	Voting rule in the Council for Policy

## References

- Benoit, K., Laver, M., Arnold, C., Pennings, P. and Hosli, M. (2005) 'Measuring National Delegate Positions at the Convention on the Future of Europe Using Computerized Word Scoring'. *European Union Politics*, Vol. 6, pp. 291–313.
- Diedrichs, U. and Wessels, W. (2005) 'Die Europäische Union in der Verfassungsfalle? Analysen, Entwicklungen und Optionen'. *Integration*, Vol. 4, pp. 287–306.
- Dorussen, H., Lenz, H. and Blavoukos, S. (2005) 'Assessing the Reliability and Validity of Expert Interviews'. *European Union Politics*, 6, pp. 315–37.
- Downs, A. (1957) *An Economic Theory of Democracy* (New York: Harper and Row).
- Duff, A. (2006) *The Struggle for Europe's Constitution* (London: Routledge).
- Emmanouilidis, J.A. (2005) 'Overcoming the Constitutional Crisis'. Paper delivered to the 'Symposium of the European Parliament on the Future of the constitutional process of the European Union'. Available at <[http://www.cap.lmu.de/download/2005/2005\\_overcoming-crisis.pdf](http://www.cap.lmu.de/download/2005/2005_overcoming-crisis.pdf)>.

- Göler, D. and Jopp, M. (2006) 'Die europäische Verfassungskrise und die Strategie des "langen Atems"'. *Integration*, Vol. 2, pp. 91–105.
- Hug, S. and König, T. (2002) 'In View of Ratification: Governmental Preferences and Domestic Constraints at the Amsterdam Intergovernmental Conference'. *International Organization*, Vol. 56, No. 2, pp. 447–76.
- Hug, S. and Schulz, T. (2007) 'Referendums in the EU's Constitution Building Process'. *Review of International Organizations*, Vol. 2, No. 2, pp. 177–218.
- Keisuke, I. (1996) 'Involuntary Defection in Two-Level Games'. *Public Choice*, No. 2, pp. 283–303.
- König, T. (ed.) (2005) 'Methods and Measuring Positions on European Constitution-building'. Special Issue of *European Union Politics*, No. 3.
- König, T. (2006) 'The Dynamics of the Two-Level Process of Constitution Building: Setting the Agenda by Agenda-Setting'. In Puntcher Riekman, S. and Wessels, W. (eds) *The Making of a European Constitution. Dynamics and Limits of the Convention Experience* (Wiesbaden: Nomos), pp. 156–71.
- König, T. and Finke, D. (2007) 'Reforming the Equilibrium? Veto Players and Policy Change in the European Constitution-building Process'. *Review of International Organizations*, Vol. 2, No. 2, pp. 153–76.
- König, T. and Hug, S. (eds) (2006) *Policy-making Processes and the European Constitution: A Comparative Study in Member States and Accession Countries* (London: Routledge).
- König, T. and Slapin, J. (2004) 'Bringing Parliaments Back In. The Sources of Power in the European Treaty Negotiations'. *Journal of Theoretical Politics*, Vol. 16, pp. 357–94.
- König, T. and Slapin, J. (2006) 'From Unanimity to Consensus: An Analysis of the Negotiations at the EU's Constitutional Convention'. *World Politics*, Vol. 3, pp. 413–46.
- König, T., Warntjen, A. and Burkhart, S. (2006) 'The European Convention: Consensus without Unity?' In König, T. and Hug, S. (eds) (2006) *Policy-making Processes and the European Constitution: A Comparative Study in Member States and Accession Countries* (London: Routledge), pp. 23–34.
- Mayer, F.W. (1992) 'Managing Domestic Differences in International Negotiations: The Strategic Use of Internal Side Payments'. *International Organization*, Vol. 4, pp. 793–818.
- Milner, H. (1997) *Interests, Institutions, and Information: Domestic Politics and International Relations* (Princeton, NJ: Princeton University Press).
- Moravcsik, A. (1998) *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Ithaca, NY: Cornell University Press).
- Moravcsik, A. (2005) 'The European Constitutional Compromise and the Neofunctionalist Legacy'. *Journal of European Public Policy*, Vol. 2, pp. 349–86.
- Moravcsik, A. (2006) 'What Can We Learn from the Collapse of the European Constitutional Project?' *Politische Vierteljahresschrift*, Vol. 2, pp. 219–41.
- Monar, J. (2005) 'Optionen für den Ernstfall: Auswege aus einer möglichen Ratifizierungskrise des Verfassungsvertrags'. *Integration*, Vol. 1, pp. 16–32.

- Proksch, S.-O. (2007) 'Ideology and the Politics of Constitution Making: The Institutional Organization of the European Convention'. Paper Prepared for the 10th Biennial Conference of the European Union Studies Association Montreal, 17–19 May, 2007.
- Putnam, R.D. (1998) 'Diplomacy and Domestic Politics: The Logic of Two-Level Games'. *International Organization*, No. 3, pp. 427–60.
- Schelling, T.C. (1960) *The Strategy of Conflict* (Cambridge: Cambridge University Press).
- Schneider, G. and Weitsman, P. (1996) 'The Punishment Trap. Integration Referendums as Popularity Contests'. *Comparative Political Studies*, Vol. 28, No. 4, pp. 582–607.
- Sebenius, J. (1983) 'Negotiation Arithmetics: Adding and Subtracting Issues and Parties'. *International Organization*, Vol. 2, pp. 281–316.
- Tollison, R. and Willett, T. (1979) 'An Economic Theory of Mutually Advantageous Issue Linkages in International Negotiations'. *International Organization*, Vol. 4, pp. 425–49.
- Tsebelis, G. (2006) 'The European Convention and the Rome and Brussels IGCs: A Veto Players Analysis'. In König, T. and Hug, S. (eds) *Policy-making Processes and the European Constitution: A Comparative Study in Member States and Accession Countries* (London: Routledge), pp. 9–22.
- Tsebelis, G. and Proksch, S.-O. (2007) 'The Art of Political Manipulation in the European Convention'. *JCMS*, Vol. 45, No. 1, pp. 157–86.