

## Measuring and Analysing Positions on European Constitution-building

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# **Measuring and Analysing Positions on European Constitution-building**



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After the disillusioning Amsterdam (1997) and Nice (2000) Treaty revisions there was little hope that the member states would agree on the necessary reforms of the EU's obsolete framework following the accession of 10 East and South European countries. The positions of the 25 new and old member states and their interests in European integration differed widely (König and Bräuninger, 2004). Even the French–German collaboration, for a long time the motor of integration, stagnated. Despite these unfavourable conditions, the enlarged EU adopted a draft text on a constitutional Treaty in June 2004, which had been prepared by the Laeken Convention on the Future of Europe under the presidency of Valéry Giscard d'Estaing. The Laeken Convention worked out the key reform issues for a constitutional Treaty, including the basic principles of the EU, the regulation of material policy competencies and a reform of the institutional framework. This reform proposes a change in the power balance among the member states of the Council as well as between the Council, the Commission and the European Parliament (EP). Like previous reforms, the adoption of the constitutional draft text required summit consensus. Intensive pre-coordination processes began in the 25 member states and accession countries as well as in the Commission and the EP (for details, see König and Hug, 2005).

In preparation for the summit in mid-December 2003, these 27 collective actors had to formulate their positions on the issues central to a European constitution. They circulated the draft text among core (domestic) actors, held hearings and discussions on particular topics, and evaluated strategies for the upcoming summit. In many countries, the institutional reform was especially contested, in particular the modification of the Council voting rules, the modus of the Presidency and the Commission appointment procedure. The draft text proposed the abolition of countries' voting weights and their replacement by a population quorum. It also intended to reduce the number of Commissioners and the rotation of the Council

Presidency – which raised particular concerns among smaller countries. They feared losses in their agenda-setting, discretionary and veto powers (Tsebelis, 2005). Unsurprisingly, the summit discussions revealed divergent positions on the constitutional draft. Large countries offered concessions to smaller countries in terms of the number of Commissioners, but Spain and Poland blocked the adoption of the text in December 2003. In Poland, the Sejm had tied the hands of the unpopular minority Miller government, which was forced to vote for the status quo regulations of the Nice Treaty. However, after the surprising rejection at the polls of the Spanish conservative government in the wake of the Madrid terrorist attacks, Poland was no longer able to withstand the collective pressure, and the Irish Presidency presented a compromise that was accepted in June 2004. The adoption of the ‘Treaty Establishing a Constitution for Europe’ opened the way for ratification with an unprecedented number of ten countries proposing to submit the text to their population. At the end of May 2005, ten countries have ratified the constitutional treaty but the referenda in France on the 20th May and in the Netherlands on the 1st June failed, raising questions about the future of the ratification process.

These events indicate how challenging it is to identify and analyse actors’ positions and strategies on EU constitution-building. In opposition to inter-governmentalist claims (Moravcsik, 1998), smaller countries seem to have a decisive say in summit negotiations, and the preferences of domestic actors on the constitutional text also diverge at times. Some actors – such as the Spanish and Polish governments – have changed positions over time; others revealed different standpoints at the domestic and the European level. This points to the collective and strategic nature of the interactions that resulted in an agreement on a constitution after intense summit negotiations. The entry into force of a constitution still depends on the support of ratifying parliamentarians and populations, and there is a high risk of failure. Today, we know that some ratifying principals diverge from their delegated agents who signed the text in June 2004. Independent from the outcome, we already have estimates on the positions of the actors involved in constitution-building, and this special issue sheds light on the pros and cons of the various methods that can be used to measure actors’ positions on EU constitution-building. All authors study the nature of the constitution-building process since January 2002 within the project ‘Domestic Structures and European Integration’ (DOSEI).<sup>1</sup> DOSEI relies on a multi-stage two-level approach as the unifying framework. The stages comprise the drafting of a text by the Laeken Convention, the coordination stage in preparation for the summit, the summit negotiations and the ongoing ratification stage. The qualification ‘two-level’ relates to the interaction between domestic and international considerations.

DOSEI documents this multi-stage two-level constitution-building process by systematically gathering data on the positions of core political actors on key reform issues at the European and domestic levels. At each stage, these actors produced outcomes in terms of presenting a proposal. They were delegates representing the collective positions of their principals. Parliamentary and governmental delegates, convoked at the Laeken Convention, presented their draft proposal to the summit negotiators. They adopted a slightly modified text that has to be ratified in the domestic arena of the member states. This raises questions about the nature and dynamics of this multi-layered process in which actors form their positions and strategies in preparation for the following stage and/or in reaction to the preceding outcome. The DOSEI group attempts to collect these positions before the actors have agreed on the outcome and wishes to answer two main questions: how is the process of constitution-building progressing; and how can we explain the outcome of this process?

In our research design we distinguish between the nature of actors and the level of interaction. The core actors are individual (corporate) actors from the member states (and accession countries), the Commission and the EP. They participated in the deliberations and coordination processes in which a collective position was formed at various stages. Although governmental and supranational delegates dominated the European level, delegates included national ministries, political parties and a few other relevant actors at the domestic level. In order to identify their positions before they finished their negotiations, we conducted interviews with more than 80 experts (on average three per collective actor) from October 2003 to February 2004 (more than 80% of the interviews were completed before mid-December 2003). These experts were asked to identify the collective (national, EP and Commission) preferences on 65 key reform issues: 40 issues comprised institutional modifications, and 20 of them were indicated as vital issues for at least one actor. In current political analysis, data are often based on expert information, but finding and interviewing these experts generates a number of methodological questions on the quality of the expertise and the ability or willingness of the interviewee to provide such information. Do experts report similar insights and, if so, what kind of information on actors' positions do we gather? And are there other instruments that allow us to check the kind and quality of such expertise?

The pre-tests and the high response rate of experts confirmed the construct validity of our questionnaire. The experts pointed out that about one-third of the 65 issues were dichotomous, meaning that only one alternative was proposed for changing the status quo. This result points to the modest ambition of the constitution. In the end, more than half of the

institutional issues did not result in changes, and 40% of the other 25 issues prolonged the status quo. The experts were also asked to mention other relevant actors in the coordination process, and whether these actors had positions that diverged from the collective national position. This sample contains 85 additional core actors, of which 48 are governmental (two for Spain), 29 parliamentary and nine 'other'. Our total sample contains 138 cases with 110 actors, of which 70 are governmental (two for Spain), 28 parliamentary and 12 'other' and provides 8,840 positions of actors. Only 137 positions are missing, most of which are represented by Cyprus and Hungary (11.4% and 21.4%, respectively). In spite of the surprisingly high response rate and low missing value rate, the partners met in the second DOSEI conference on 'Measurement' in February 2004 at the German University of Administrative Sciences Speyer to examine the strengths and weaknesses of the data.

In addition to expertise, DOSEI uses a number of other instruments, such as surveys, document analyses and public opinion polls. We hope that our diversified data-gathering strategy will allow us to be more confident about the reliability of data on actors' positions, and enable us to assess the interwoven decision-making in a systematic manner. All teams contributed to the collection of the expert data. In addition, two teams analysed documents and two other teams examined mass survey information. In principle, DOSEI's goal is twofold: in addition to analysing EU constitution-building, we intend to establish a historical archive on the process of EU constitution-building, whether or not a constitution comes into force. Compared with previous studies, we include the Commission, the EP and all 25 member states as well as their domestic core actors. Although the Commission and the EP can play a significant role in the process of constitution-building by providing information and preparing the agenda, the coming into force of a constitution depends on ratification in each country. For this reason, we included all member states and we expanded our research design when it became apparent that the accession countries would become members before the ratification of the constitution.

The DOSEI team believes that all of these different methods and measurement efforts for identifying actors' positions are necessary for examining sophisticated constitution-building explanations. The most recent developments in political science, such as in decision-making, voting and two-level game analyses, have a strong theoretical background; actors' bargaining or policy positions are the common analytical basis (Bueno de Mesquita, 2004). Since these theories have rarely been empirically evaluated, we have little knowledge about their methodological problems and ways of dealing with them. More specifically, we believe that two recent developments – the growing importance of formal models and the accompanying rise in

sophisticated statistical proceedings to analyse data – demand a more fundamental discussion about data-gathering and measurement (Morton, 1999). Thus far, the growing body of this literature is leading to new challenges with regard to data-handling and the measurement of actors' positions.

In this special issue, we present our methods and tools for identifying and measuring the positions of the actors involved in the process of EU constitution-building. This discussion covers the use of different instruments available to gather information on actors' positions, the validity of these data, the handling of missing positions and the reduction of the data matrix into lower-dimensional policy spaces. The outcome of this discussion is also highly relevant for formal models and statistical tests because findings can depend on the instruments used in the analysis. The number of actors involved, the dimensionality of the policy space, and the distance between the positions of the actors are basic variables for studying decision-making and constitution-building in general, and evaluating the explanatory power of constitution-building theories in particular. Such evaluations raise a number of methodological questions about how one should use documents and mass surveys, assess the validity of expert responses, reduce the number of contested dimensions and handle missing values. In our view, dealing with these questions is a precondition for studying politics in a systematic manner, and we are grateful that EUP has offered us this forum for discussion at this early stage of the DOSEI project.

From a broader perspective, we believe that the measuring of actors' positions is relevant for all kinds of political analyses that start with diverging interests of mutually dependent actors and investigate success or failure in achieving collective goals, such as the coming into force of a regime, the adoption of a legislative bill or the establishment of a constitution for Europe. Even the constructivist school of thought, which became prominent by questioning the 'logic of consequences' of rational choice studies, uses actors' positions and their diverging initial interests in order to study the 'logic of appropriateness' and 'argumentative rationality'. If one does not assume strategic action away, the question arises of how sincere the positions are and how distances between them can be measured. How can we – as a precondition for the evaluation of competing approaches – determine the interdependence of their interests, or, in spatial terms, the policy and strategy space of constitution-building and the location of the actors involved? And how many dimensions must we take into account? Should we rely on inductive or deductive proceedings when reducing the policy space for constitutional analysis? And what about the sincerity of their positions; can we detect their strategic nature perhaps by employing different instruments?

All of these topics and questions on actors' positions are linked with the more general themes in empirical social research, namely the validity and reliability of data. However, compared with the more general wisdom in this research area, we experienced that data on actors' positions sometimes impose higher hurdles than usual data analyses do. Although the distance between actors' positions is often used in political analysis, few authors have paid attention to the methodological problems involved (with the notable exception of Morton, 1999; Thomson et al., 2005). For example, deleting the position of a single relevant actor may induce a bias similar to deleting (subtracting) issues because the distances between the actors' positions might change. This means that the output of our research – whether applied to legislative, constitutional or other kinds of political analysis – is inseparably dependent on the quality of our measures for the input data. In this special issue, we will present our strategies for coping with this dependency, which we base on interviews with a number of experts in all 25 member states plus the Commission and EP as well as on documents from the Laeken Convention, the 2004 EP elections and Eurobarometer data. These complement our data on the positions of almost all actors involved in the EU constitution-building process. They will be updated during the ratification process in the coming years of the DOSEI project.

The reader of this special issue will be introduced to the problems of incomplete data and how to cope with them. Research on EU politics has continuously been confronted with missing values because access to the required information is often restricted. A major reason for non-documented information or refusal is that actors do not want to reveal their positions, regardless of whether the researcher uses opinion polls, expertise or document analysis. The paper by König et al. in this issue (pp. 269–90) considers non-ignorable missing values – positions that are hidden for strategic purposes. Because such missingness can significantly bias the findings, König et al. compare the most prominent imputation methods, which produce quite different solutions for replacing missing positions. But how reliable are these measures of actors' positions? In political science, expertise is perhaps the most frequent source of information, but we rarely know what kind of information has been gathered. Two contributions to this issue provide strong evidence that the DOSEI expert measures are internally and externally reliable. Benoit et al. (pp. 291–313) were able to extract positions of national political actors from the complete set of documents submitted to the Laeken Convention. For each national party whose delegates' texts were recorded at the Convention, Benoit et al. estimate their positions on four political dimensions and test the validity of these estimates by comparing them with the DOSEI expert measures (the EU 25 plus Turkey and Romania). Their results

show strong evidence that the word-scoring method is broadly successful in reconstructing the map of national party preferences for and against a more centralized and more powerful Europe as expressed through the Convention texts. The method also uncovers national party left-right positions, although with a considerably higher prediction error than for the EU-specific policy dimensions. The second important contribution to the internal reliability of expert responses is provided by Dorussen et al. (pp. 315–37). Their theoretical framework, the Condorcet Jury Theorem, is applied to DOSEI data and special attention is paid to the role of ‘leading’ experts and salient issues. Evaluating the DOSEI data, the main findings are that: with some exceptions, there are acceptable levels of inter-expert agreement; whether the leading expert is included or not does not make a large difference to expert agreement; and experts agree more on salient issues.

These results make us confident that the DOSEI data are a valuable and reliable source of information on actors’ positions, which can be used for making (*ex ante*) predictions on ratification and explorative analyses of the process. At the time of writing, an increasing number of countries appear to be heading for referendums on the ratification of the constitution. Such popular votes will add an additional ratification constraint, and empirical models will necessarily require information on voters’ positions on issues related to the new Treaty. Hug and Schulz (pp. 339–52) discuss ways in which Eurobarometer surveys may be used to infer voters’ policy positions on the most salient issues of the constitutional Treaty, and propose a way for these positions to be connected to the DOSEI data. Combining this information demonstrates that certain referendums are likely to lead to ‘involuntary defections’. Moreover, their analysis shows that the prospect of referendums has led to changes in the draft constitution.

In comparative research, explorative analyses are an important tool for classification, and Hix and Crombez (pp. 353–76) use the DOSEI data set to extract the underlying preferences of the governments, the Commission and the EP on the main issues of conflict in the EU’s constitutional negotiations. Their analysis starts with an exploratory factor analysis of the data, which demonstrates the high dimensionality of the policy space and the problems of using purely ‘inductive’ methods for deriving positions. They proceed with a mixed deductive/inductive method, in which responses to the survey questions relating to two exogenous dimensions of constitutional design in a multi-level polity are used to generate ideal point estimates.

Concentrating on methods and the measuring of actor positions, these are our first findings on the process of EU constitution-building. In our view, the results indicate that the DOSEI data can provide the necessary information for further sophisticated analyses of EU constitution-building, which will



include topics such as the cohesiveness of veto players, the delegation of actors, the dynamics and the two-level effect of the process. Today we know that the adoption of the text by the Laeken Convention and the negotiation problems of the summit correspond to the configuration of actors' positions that we document in DOSEI. We also detect difficulties for ratification, but – as with previous stages – the outcome may depend on the ordering and sequencing of this process. The adoption of a constitutional text by all 25 member states was certainly a surprise and a great success for those who are in favour of further European integration. Whether a Constitution for Europe will come into force will be revealed in the coming months or years. Previous events of failed referenda suggest that the negative popular votes will at least delay ratification. Our research documents this historical process and we are glad to demonstrate that political scientists can provide insight into historical events *before* they are completed.

## Notes

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- 1 DOSEI is coordinated by Thomas König at the University of Administrative Sciences Speyer, and involves the following research directors: Michael Laver (New York University), Kenneth Benoit (Trinity College Dublin), Simon Hix (London School of Economics), George Pagoulatos (Athens University of Economics and Business), George Tsebelis (University of California, Los Angeles), Han Dorussen (University of Essex), Madeleine Hosli (Universiteit Leiden), Paul Pennings (Vrije Universiteit Amsterdam), Christophe Crombez (Katholieke Universiteit Leuven/Stanford University), Simon Hug (Universität Zürich). DOSEI is supported financially by the European Commission under Grant No. HPSE-CT-2002–00117.

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