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Global Political Economy

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Constructing a 'moment of crisis' and its adequate solution

The debate on the rejection of the European Constitution: An analysis of discourse production in European politics

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Abstract

The rejection of the European Constitution marks an important crystallization point for debate about the European Union (EU) and the integration process. The European Constitution was envisaged as the founding document of a renewed and enlarged European Union and thus it was rather assumed to find wide public support. Its rejection was not anticipated. The negative referenda in France and the Netherlands therefore led to a controversial debate about the more fundamental meaning and the consequences of the rejection both for the immediate state of affairs as well as for the further integration process. The rejection of the Constitution and the controversy about its correct interpretation therefore present an intriguing puzzle for political analysis.

Although the treaty rejection was taken up widely in the field of European Studies, the focus of existing analyses has predominantly been on explaining why the current situation occurred. Underlying these approaches is the premise that by establishing the reasons for the rejection it is possible to derive the 'true' meaning of the event for the EU integration process. In my paper I rely on an alternative, discourse theoretical approach which aims to overcome the positivist perspective dominating the existing analyses. I argue that the meaning of the event 'treaty rejection' is not fixed or inherent to it but discursively constructed. The critical assessment of this concrete meaning-production is of high relevance as the specific meaning attributed to the treaty rejection effectively constrains the scope for supposedly 'reasonable' options for action, both in the concrete situation and in the further European integration process more generally. I will argue that the overall framing suggests a fundamental technocratic approach to governance from part of the Commission. Political struggle and public deliberation is no longer foreseen as the concrete solutions to the citizens' general concerns are designed by supposedly apolitical experts. Through the communicative diffusion and the active implementation of this particular model of governance the Commission shapes the future integration process in a more substantial way than is obvious from its seemingly limited immediate problem-solving orientation of overcoming the 'constitutional crisis'.

As the European Commission is a central actor in the discourse production my analysis focuses on the specific interpretation of the situation put forward by the Commission. In order to work out the Commission's particular take on the event I conducted a frame analysis (according to Benford/Snow) on a body of key sources produced in the context of coping with the treaty rejection.

List of Abbreviations:

CdR   Committee of the Regions

COM   European Commission

CONCL   Council of the European Union

EESC   European Economic and Social Committee

EP   European Parliament

EU   European Union

IGC   Intergovernmental Conference

TEC   Treaty establishing the European Community

1.   Contextualizing the treaty rejection

The decision for a treaty revision, which then led to the elaboration of the European Constitution, was taken at the Intergovernmental Conference in Nice in 2000, just after the adoption of the latest treaty revision, the Treaty of Nice. Already at the time of its adoption the Treaty of Nice was generally considered as being inadequate to cope with the institutional and political challenges lying ahead of the European Union, primarily represented by the then forthcoming enlargement by ten new member states[1] (Kohler-Koch et al. 2004: 218). Accordingly, the main objectives put forward for treaty reform were to maintain and increase the EU's efficiency through a reform of its institutional and procedural setup. A further justification for treaty revision was related to the need to make the EU more democratic through certain institutional reforms (Newman 2006: 378; Seeger 2008: 235). The elaboration of a draft proposal was assigned to a 'European Convention on the future of Europe', breaking with the traditional method of intergovernmental bargaining for working out a treaty reform. On 10 July 2003, the Convention finished its work. The final version of the Constitutional Treaty was signed in Rome on 29 October 2004. The main institutional reforms established in the Constitutional Treaty included: the expansion of the principle of qualified majority in the Council of the European Union[2] to most policy fields, an extension of the rights of the European Parliament including the right to propose and elect the President of the Commission, the introduction of the position of a genuine European Union Minister of Foreign Affairs who would also be Vice President of the Commission, the replacement of the six-month rotating Presidency of the European Council with a permanent President elected by the Heads of State and Government for 2½ years, the introduction of a European referendum, and the inclusion of the Charter of Fundamental Rights into the Constitution.

Before the Constitution could enter into force, all member states (by then 25) had to ratify it. Depending on the respective national constitutional provisions, the ratification procedure took different forms in each country. Accordingly, most member states ratified the Constitution with parliamentary votes, others had to hold referendums, such as Denmark and Ireland. Some member states, however, voluntarily chose to hold referendums, even though this procedure was not necessarily requested by their respective national

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[1] "Nice is the reason why we are here today. A laborious shared agreement was concluded at Nice on the essential institutional reforms that had to accompany the enlargement and prepare the Union of the future." (Aznar 2002: 1)

[2] The 'Council of the European Union' will be referred to as the 'Council of Ministers' or simply the 'Council' in the following.

constitutions. This was the case in France and the Netherlands. In the summer of 2005 both in France and the Netherlands a majority rejected the ratification of the Constitutional Treaty in the referendums. With the rejection of the Constitution in these two countries the ratification process was put on hold. In response, further ratifications in other countries were initially suspended and, subsequently, in June 2005 the European Council announced a 'period of reflection'. In short, the period of reflection was conceptualized as a phase in which "Europe must pay more attention to what its citizens are saying" (European Council 2005: 2). Nevertheless, it should be noted that with regard to the ratification process itself, however, the European Council did indeed still make it very clear from the outset that "the ratification process must continue" (European Council 2005-17-6: 1) and a renegotiation of the Constitutional Treaty "cannot be envisaged" (ibid.: 1).

Despite this initial basic rejection of any amendments to the Constitutional Treaty, in the course of the reflection period the European Council developed a renewed treaty version that was adopted at the IGC in Lisbon in October 2007 and signed in Lisbon on 13 December 2007, putting an official end to the Period of Reflection. The Treaty of Lisbon[3] mainly preserved the content of the Constitutional Treaty and only introduced minor changes, mainly concerning the re-naming of official titles, so that the strong state-like connotation of the Constitutional Treaty would be avoided. With France and the Netherlands refraining from holding referendums this time and opting for ratification through parliamentary vote, the ratification process of the Lisbon Treaty was originally envisaged to be completed before the elections to the European Parliament in 2009. Through a negative referendum in Ireland this schedule could not be kept, though. After a second, this time positive referendum in Ireland on 2 October 2009 and the up to then still pending Czech ratification accomplished on 13 November 2009, the Lisbon Treaty has entered into force the 1st of December 2009.

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[3] The Treaty of Lisbon, formally the 'Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community', will be referred to as 'Lisbon Treaty' in the following.

2   The Commission and the treaty rejection in research to date

The Constitutional Treaty and its rejection have stimulated broad academic debate. Also controversial in the field of European Studies is the conceptualization of the Commission's role in European politics. This chapter gives an overview of the existing debate and illustrates the main strands of analysis.

2.1 *Role of the Commission*

The actual political role and the influence of the Commission on European politics and the integration process have been two key issues spawning much debate in academic literature. Depending on the different theoretical perspectives, the conceptualization of the Commission's role varies significantly. From a *neofunctionalist perspective* the Commission takes a central role in the European integration process having a catalyst function for bringing about further integration. Besides the expected quasi-automatically evolving functional and political spill-over effects driving integration forward, it is assumed that the process of integration can additionally be supported by directly 'cultivating' spill-over effects. This is where the Commission comes in as potential policy-entrepreneur stimulating European rather than national policy solutions and thereby intentionally bringing momentum to European integration (Wolf 2006: 73f; Kohler-Koch et al. 2004: 76). From an *intergovernmentalist perspective* where states are the central unites of analysis and governments the supposedly central actors in international politics the European Union is nothing more than an "international regime for policy-co-ordination" (Moravcsik 1993 in Kohler-Koch et al. 2004: 85). European institutions in general and the Commission in particular are conceptualized as being designed and created by rationally calculating states to fulfill a specific task, for example the surveillance of the common rules. Following this principal-agent logic institutions are expected to not develop their own agenda or lead to unintended policy outcomes. It is unforeseen that the Commission holds the capacity to substantially influence or bring about policy results not already immanent in the member states' interests (Kohler-Koch 2004: 85f; Bieling 2006: 91). Giving the role of ideas and the socially constructed character of 'reality' a central role in explaining politics, a *social constructivist perspective* on European integration assumes the Commission to be influential beyond its officially designated tasks and formally granted power. Through

diffusing particular ideas or producing specific 'knowledge' about European integration as such and specific phenomena in particular the Commission is expected of being able to influence actors' identities and preferences. The potential influence of the Commission rests accordingly in their ability to take part in the shaping of what is perceived as reality or more concretely as situation that necessitates political action in the very first place. It also influences the perception of what is considered as potentially viable political measures to be taken (Kohler-Koch et al. 2004: 79f).

So far, the overwhelming majority of studies evaluating the influence of the Commission have taken a very short-term oriented, positivist approach specifically based on concrete and directly observable outcomes (e.g. treaty negotiations). The process-character of European Integration has for most part been neglected and the impact of the Commission and its activities in the long-run has remained rather out of focus in the sense that it is only occasionally thrown into the focal point of these analyses (Hermann 2005; Preece 2009 Düzgit 2009). Moreover, the cognitive, discursive influence of the Commission on the long-term preference- and identity-constitution of actors has only recently come into the focus of analyses.

2.2　*The Constitutional Treaty and its rejection in academic debate*

Though there is substantial controversy around the issue in academia, one can nevertheless detect certain tendencies in approaching the issue that seem to dominate in the debate. Two main themes can be distinguished.

One tendency in explaining the rejection and its underlying motivations is to refer to reasons not related to the EU. From this perspective the EU, and in this specific case the Constitutional Treaty, takes a scapegoat-function, for a general public discontent and failures in domestic politics in the member states in a situation where the economic and social situation is deteriorating. The rejection is accordingly understood as a substitute for expressing the discontent with national politics or the disenchantment with politics more generally (Schild 2005; Jopp/Kuhle 2005). A second – and perhaps most widely received – line of argumentation understands the negative referenda as the expression of a fundamental erosion of trust in the EU and its institutions. The major concept for making sense of the treaty rejection is here the *'erosion of the permissive consensus'* [4]

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[4] In European Studies, the concept of the 'permissive consensus' is a commonplace concept to explain how it was possible for the EU to move on and pursue further integration without significant contestation from part

comprehending the situation as a crisis of legitimacy of the European project in general[5]. The assessment, however, of what is underlying this crisis of legitimacy and what caused the erosion of the permissive consensus in detail, differs depending on different theoretical perspectives.

The basic explanatory approach is based on a supposed lack of knowledge from part of the public about the concrete content of the treaty in particular and European politics in general. Based on this assessment the treaty rejection and the crisis of legitimacy are basically explained with a lack of intermediation from part of the EU institutions 'explaining' the value of the Constitution and the EU to the uniformed public, implicitly assuming that if it would have only been for a better knowledge from part of the citizens about what the treaty 'really' was about, there would have been no rejection. From this perspective the EU and the Constitution are not the problem but to the contrary the solution, if only better communicated (Kyaw 2005; Diedrich/Wessels 2005).

While from a historical-materialist perspective it is, however, primarily the specific neoliberal economic order that is seen as causing the legitimacy crisis in the first place (Höpner/Schäfer 2008; Beckmann et al. 2006, Felber et al. 2006), the focus of most *social constructivist approaches* tends to revolve around the question of the deficits of the EU's democratic order underlying the decreasing loss of legitimacy. With 'legitimacy' conceptualized as a politically constructed phenomenon represented by a publicly negotiated consensus over the appropriateness of the institutional order, it is exactly this communicative construction of legitimacy that is at the core of most social constructivist analyses of the treaty rejection. The presented explanatory model for the failed ratification consequentially is the "lack of success of public communication" (Fossum/Trenz 2006: 5). One of the key explanatory models for analyzing the rejection from this perspective is the concept of 'European Public Sphere', or the lack thereof. Legitimacy for the common

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of the citizens. The concept of the 'permissive consensus' explains this with the supposed existence of a shared underlying consensus from part of the public that the EU was necessary and integration desirable without taking much interest in the concrete details of this process. As long as the relevant economic and political elites managed to agree on proceeding with the project of European integration there was no fundamental contestation from part of the population to expect (Reif 1993: 25f). In line with this, a popular explanation for the increasingly visible public contestation since the 1990s (commonly associated with the protests accompanying the ratification process of the Maastricht Treaty) is to analyze this as sign for the erosion of the permissive consensus. The rejection of the Constitutional Treaty in the referenda in France and the Netherlands is accordingly analyzed as the recent height of this phenomenon.

[5] Often mentioned in this context is the recent eastward enlargement of the EU together with the social and economic fears related to that (e.g. fear of company relocations, increasing competition on the labor market through labor migration). In this light the treaty rejection is often interpreted as a belated referendum on the Eastern enlargement. The potential future accession of Turkey is also likely to have played a role in this regard. Additional general discontent arises from the deepening economic integration and related projects such as the Lisbon-strategy, associated with the imminent danger of cuts in social services and wage-dumping (Beckmann et al. 2006: 2).

'European project' according to the public-sphere model can only evolve from and in the process of communicative action and shared identity building (see 2.2.1) (Meyer 2009; Fossum/Trenz 2006; Newman 2006; Seeger 2008).

2.3 Shortcomings of existing research

There is a whole body of studies dedicated to highlighting different aspects of the puzzling questions surrounding the Constitutional Treaty and its rejection. It should be recognized, however, that despite their worth these studies still contain some pertinent shortcomings yet to be overcome.

Based on a supposed outside perspective from part of the researcher on the EU-polity as a whole, most studies take a classical policy analysis approach, assessing the Constitutional Treaty with regard to its problem solving potential. Such research is based on a positivist premise that there is in fact an 'independent' social reality with objectively definable 'problems' and respective 'solutions'. Following this positivist 'problem solving'-orientation a large part of the studies focusing on the treaty rejection put in its centre the aspiration for 'explaining' the event. They set out on the search for explanatory factors and variables that are able to explain the rejection and its underlying mechanisms, and in consequence offer solutions from their supposed neutral outside perspective for how to effectively cope with the situation.

Though, social constructivist analyses of the recent events are also well represented in the academic debate about the Constitutional Treaty and its rejection, their focus is predominantly centered on questions of 'identity-formation' linked to the (normative) project of a 'European Public Sphere' and the communicative creation of a 'European demos'. The role of the European Commission in this context is conceptualized rather instrumental with the focus on its contribution to the coming about of a European public sphere. Though the Commission's important role in discourse production has increasingly gained attention in the field of European studies in general, its contribution to the meaning-making process around the 'treaty rejection' is clearly underexposed so far.

3.   Alternative research approach

Following from the lack of explanatory power of traditional integration theories in regard to the informal and ideational aspects of European integration, what is needed is a different concept of power in the first place, one that is not only based on formal power but takes informal power relations and the contextual character of power into account. Social constructivist approaches can indeed contribute quite a lot in this regard. In light of the shortcomings of the traditional theories, this paper therefore adopts a theoretical approach based on a social constructivist ontology and is closely oriented on a Foucaultian conceptualization of power for analyzing the Commission's role in European politics.

Taking a discourse analytical approach based on the Foucaultian concept of power makes it possible to analyze the implicit 'power'-dimension of the seemingly apolitical process of regarding what the 'real' meaning of the 'treaty rejection' is and how to pursue accordingly. With regard to the gap in social constructivist research on the role of the Commission in the context of the treaty rejection, I chose a discourse analytical approach to shed light on this exact role by analyzing the Commission's specific take on the 'treaty rejection' and the implications this particular interpretation of the event and the respectively derived political imperatives entail.

In the following I first introduce the basic social constructivist ontology and the discourse theoretical concepts underlying my work. Building on that, I lay out my methodology to apply discourse analysis to the case at hand and give a detailed description of my concrete research proceeding.

3.1 Social constructivist ontology

Above all constructivism is a philosophical position concerning basic ontological and epistemological assumptions that only unfold in a second step as consequences for the concrete analysis of particular (sociopolitical) situations. Constructivism might be best described as a 'meta-theory' establishing the ontological and epistemological foundation for more concrete theoretical conceptualizations (Schwellnus 2006: 322; Christiansen et al. 2001: 2). The basic ontological premise of constructivism is "that in contrast to material

reality social realities exist only by human agreement"[6] (Christiansen et al. 2001: 3). Social reality is assumed to be constructed by human practice and thus "potentially 'changeable' and 'contestable'" (ibid.: 3). From this perspective there is nothing like an objective and independent truth and meaning is always dependent on the specific context and not inherent to an object, an event or a particular structure 'as such'. With regard to my concrete research this means accordingly that the event 'treaty rejection' as such does not possess an 'inner' meaning or an underlying 'truth'. Instead my analysis starts from the premise that 'social meaning' is constructed in the process of interpreting the event and thereby establishing its particular meaning in the first place.

As "[s]ocial constructivism as such does not make any substantive claims about the European integration" (Risse 2005: 160), it is hard to define the one constructivist reading of European integration. Nevertheless, it is indeed still possible to describe the common ground and the general repercussion for analyzing the integration process from a constructivist perspective. According to social constructivist theory, the EU is neither simply reducible to a forum for intergovernmental bargaining (intergovernmentalism) nor is it sufficiently described as a community with purpose based on interest-led shifting of competences and activities to the supranational level (neofunctionalism). More appropriate is a conceptualization of the EU as a complex institutional and social order faced with competing normative guiding principles and ideas about its legitimacy, its system of governance and the desirable scale and scope of its order (Trenz 2006: 377). From this perspective there is therefore no objective legitimacy for the EU to strife for as well as no predetermined policy direction but only socially constructed concepts of what is considered 'legitimate', 'appropriate' or 'desirable' with regard to the European integration process. For the future development of European governance it is therefore crucial what such concepts are available and which become dominant as – from a discourse theoretical perspective – it is exactly through the interaction of language and competing concepts of reality that the possible ways we are able to conceptualize European governance and its goals are constituted in the first place (Diez 2001a: 6).

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[6] The premise "that any talk about reality will always be a specific construction of the latter is not to deny the existence of [material] reality itself" (Diez 2001b: 90).

3.2 *Discourse and power*

In more *moderate social constructivist approaches*, language is primarily conceptualized instrumentally as a medium of communication connecting political actors. From a more *radical constructivist perspective*, based on the work of Michel Foucault, language and discourses are understood as being key factors in constituting social reality in the first place. Language from this perspective is of interest in its own right, as "[i]t is through discursive practices that agents make sense of the world and attribute meaning to their activities" (Risse 2005: 164). Discourse theory establishes the "relevance of language beyond the concept of rhetoric as a means to political ends, and towards a power that rests in discourse itself" (Diez 2001b: 90), letting us perceive certain phenomena in certain ways and accordingly limiting the range of possible options to deal with them. Following from this approach discourse constitutes and at the same time constraints the room of the 'thinkable' and of legitimate action. Discourses produce and establish the interpretative context that constitutes a specific picture of 'reality', a dominant order of what is 'real' and 'true'[7]. Core to discourse analysis is accordingly the question what kind of knowledge, what causal connections, what relations are established as 'true' and as the 'reality'. 'Discourse' from this perspective is understood "as a process of construction of meaning allowing for certain interpretations while excluding others" (Risse 2005: 165). It is this perspective on 'discourse' that is underlying this work.

Conceptualizing 'power'

Fundamental in this context is the conceptualization of 'power' which – in contrast to the Habermasian assumption of the possibility of a discourse free of domination[8] – is assumed

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[7] This also implies that discourse production is not a fully autonomous act of subjects deliberately developing different concepts of the world but that the particular concepts and alternatives that come up in the process of discourse production are in themselves dependent on the discursive context that enables particular actors to think of and articulate specific ideas in the first place (Diez 2001b: 90). As Laclau and Mouffe put it, actors are not fundamentally autonomous but act "from 'subject positions' made available by the discursive context in which [they] (…) are situated" (ibid.: 90)

[8] „Nur unter den Kommunikationsvoraussetzungen eines universell erweiterten Diskurses, an dem alle möglicherweise Betroffenen teilnehmen und in dem sie in hypothetischer Einstellung zu den jeweils problematisch gewordenen Geltungsansprüchen von Normen und Handlungsweisen mit Argumenten Stellung nehmen könnten, konstituiert sich die höherstufige Intersubjektivität einer Verschränkung der Perspektiven eines jeden mit den Perspektiven aller. Dieser Standpunkt der Unparteilichkeit sprengt die Subjektivität der je eigenen Teilnehmerperspektive, ohne den Anschluß an die performative Einstellung der Teilnehmer zu verlieren. (…) Vor diesem Forum können nur diejenigen Normvorschläge begründete Zustimmung finden, die ein gemeinsames Interesse aller Betroffenen ausdrücken." (Habermas 1991: 113)

to be always present and immanent to all social relations[9]. As "effects of truth are produced within discourses which in themselves are neither true or false" (Foucault in Rabinow 1991: 60) discourses constitute a core 'mechanic' of power. It is – to an important part – through discourse that power relations are constituted, (re)produced or changed. In form of a particular interpretation of reality that is inherent to every discursive practice, discourses – in any situation – "establish power relationships in the sense that they make us 'understand certain problems in certain ways, and pose questions accordingly'" (Diez in Risse 2005: 164).

Discursive struggle

Taking this perspective on power and discourse, what is at the heart of politics and of social life in general is an ongoing struggle between different perspectives on and interpretation of 'reality' striving for 'hegemony'[10]. Discourse analysis is of special relevance in this regard as it marks the entry point to the analysis of the production of hegemony – and the 'mechanics of power' – in the first place.

What is of particular importance to my work concentrating on the process of discourse production is the *selectivity* inherent to any discourse production from the very start. As discourse production does not take place from scratch but in the context of existing discourses and social structures, selectivity is inherent to any process of discourse production from the very beginning, rendering certain discursive inputs more likely to be influential in the overall discursive struggle for hegemony than others (Keller 2007: 48). Dominant sites of meaning production are on the one hand established and maintained through the structural, material context of the existing social and institutional order and the endowment with material resources, on the other hand it is the discursive context establishing the legitimacy and/or expertise of certain actors[11]. In the wide network of actors taking part in discourse production one that is endowed with such characteristics –

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[9] "[P]ower relations are rooted deep in the social nexus, not reconstituted 'above' society as a supplementary structure whose radical effacement one could perhaps dream of. (…) A society without power relations can only be an abstraction " (Foucault in Dreyfus/Rabinow 1982: 222)

[10] Hegemony as a way of conceptualizing power is central to the work of Antonio Gramsci and it highlights the importance of establishing discursive consent in society as the basis for sustaining stable power structures. Ernesto Laclau and Chantal Mouffe elaborated on the concept of hegemony, integrating it into a full fletched discourse theory of hegemony (Laclau/Mouffe 1985). In an ongoing discursive struggle a particular vision and representation of the world strives for having a universal status, which means becoming hegemonic. The complete universalization of one particular vision of the world is never fully possible though, as there is always room for contingency and possible alternative visions.

[11] While the structural, institutional context determines for example who is allowed to speak in a particular discursive arena, the discursive context determines who is considered legitimate to speak in a particular arena and what counts as a reasonable proposition.

material and discursively constructed resources – takes a key role in (re)producing a dominant discourse (ibid.: 29).

The European Commission takes exactly such a privileged position in EU discourse production. Of course the Commission is only one actor of many (other European institutions, national governments, civil society organizations, media) taking part in the meaning-making process around the event 'treaty rejection' and 'European integration' (the direction of it, its legitimacy) more generally. Nevertheless, due to the Commission's privileged position in discourse production, the findings of this work are of high relevance as the particular meaning making of the Commission has the capacity to be extremely influential on the wider discourse and the shaping of a particular social reality.

Self-reflexivity of the researcher

The underlying ontological premises not only have consequences for the analytical perspective on the issue at stake but also on the research process as such and the methodology applied. Based on the fundamental assumption that there is no 'neutral language' to convey the meaning of 'reality' the researcher also takes part in the discursive struggle over attributing and fixing meaning. As Diez puts it, "The power of discourse is that it structures our conceptualizations of European governance to some extent, rather than us simply employing a certain language to further our cause" (Diez 2001b: 92). The important point is that we as researchers are also influenced through the discursive context we operate in and the conceptualizations we deploy to describe and explain our object of analysis are as much part of this context as the object of analysis itself "and do not 'stand aside'" (ibid.: 91). By employing a particular language or drawing on specific concepts about European integration, that are part of a wider discursive context one takes part in the discursive (re)production of a certain perspective on reality.

Following from this perspective on the researcher's position in the research process is denying the very possibility of 'objectivity' as all research is embedded in a discursive context and therefore 'subjective' and 'interpretative' in nature. A qualitative methodology and an interpretative analysis therefore seem to be the adequate way of approaching the issue at hand as opposed to a positivist approach, assuming a possible objectivity of the researcher and his capacity to neutrally observe 'true' facts about the object of research. Though highlighting the necessarily 'non-objective'-character of all research, interpretative analysis does not imply being 'non-scientific'. This work keeps up to scientific standards

by ensuring transparency about the research procedure and the underlying premises, and by being self-reflexive about the above mentioned implications.

3.3 Frame analysis

To analyze discourse production in the case at hand, I chose 'frame analysis' from the variety of methodological approaches in discourse analysis, given the capacity it has, to be a potentially rewarding method[12]. 'Frame analysis' puts the focus on detecting the patterns in the process of interpreting, categorizing and presenting a contested political issue in the form of 'frames' and analyzing the linguistic means 'used' in communicating these frames to a wider audience. Frame analysis enables me to analyze the discursive input of the European Commission to the wider discourse on the Treaty rejection and the future European integration. With help of the frame analysis approach I was able to investigate the questions of: How is the event 'treaty rejection' problematized by the Commission in the first place? What possible reasons are given to explain its coming about? What solutions are offered? And what potential alternative interpretations might have been excluded in consequence?

Operationalization for research

For the concrete application of frame analysis I loosely followed the approach developed by Benford and Snow. Though Benford and Snow explicitly developed their approach with regard to studying social movement activities, the basic proceeding can be adopted nevertheless. The approach builds on a qualitative document analysis with the primary purpose of indentifying and reconstructing lines of argumentation and specific frames. Benford and Snow distinguish three different forms of frames with regard to their function in the communicative process. This categorization is of great value for the analysis as it helps to structure the findings and get a clearer picture of the Commission's overall construction of reality.

The category of '*diagnostic frames*' refers to those frames that establish a particular event or issue as problematic and one of political relevance in the very first place and identify the likely causes and culprits (ibid.: 616). This process of problematization is core to the construction of what is perceived as reality. An issue, in this case the treaty rejection, is

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[12] For an introduction to methodological approaches in the field of discourse analysis see for example: Keller 2007; Howarth 2008; Nonhoff 2007; Kerchner/Schneider 2006.

socially constructed by framing it in a particular way and thereby highlighting some elements of the phenomenon and ignoring or actively negating others.

A second category is built around '*prognostic frames*'. These frames provide solutions for the identified problem at hand. This includes the articulation of plans for action and the design of strategies of how to overcome the problematic situation. Prognostic frames are highly dependent on the particular problematization of an issue in the process of diagnostic framing as "the identification of specific problems and causes tends to constrain the range of possible 'reasonable' solutions and strategies advocated" (ibid.: 616).

So-called '*motivational frames*' as the third basic category of frames. This kind of frames takes the exact opposite function from counter frames by providing a rationale for engaging in the proposed activities and give meaning to them, "including the construction of appropriate vocabularies of motive" (ibid.: 617). From the original social movement perspective this part of the framing activity was conceptualized as being primarily directed to the internal of the movement to ensure the members' continuing support. Within the different context of my analysis it is more the creation of general approval from potential allies and supporters together with the legitimacy-creating aspect of motivational framing that is in the focus of attention.

As framing processes – as well as discourse production in general – are inherently contested processes it is necessary to analyze not only the framing approach of the Commission but to contrast them with alternative positions and competing interpretations of reality in order to show the contingency of its statements and analyze the discursive practice and not only the discursive structure (Diez 2001a: 13f). Such competing interpretations are important for the overall framing process as they might provoke counter-framing activities on part of the Commission that can again be analyzed as part of the overall framing process. '*Counter frames*' fulfill the function of reacting to or already preventively countering potential criticism on – in this case – the Commission's particular approach of framing the situation (Benford/Snow 2000: 625ff).

Scope of analysis and concrete research procedure

The scope of my analysis and the respective selection of the concrete body of sources out of the overall body of virtually available sources were based on thematic and spatiotemporal considerations from my part, well grounded in intensive preliminary studies of the historic and thematic context. The focal point of my research has been strictly oriented towards a consideration of all relevant and essential material dating from the treaty rejection in the

summer of 2005 up to the adoption of the Lisbon Treaty at an Intergovernmental Conference of the European Council in December 2007. I chose this *timeframe* as the adoption of the Lisbon Treaty was explicitly communicated as representing the official solution and endpoint of the 'constitutional crisis' and the debate it had given rise to[13]. This discursively constructed limitation of the 'officially' envisaged public debate therefore seems appropriate for setting the timeframe of my analysis.

The *research corpus* comprises official documents, press releases, speeches and interviews to the press directly on the topic of 'treaty rejection' or on directly or indirectly related issues – such as contributions on the general future of the EU or on globalization – that allow insights on the Commission's overall interpretation of the EU's role and the respective meaning of the event 'treaty rejection' in this wider context. As it is the particular framing of the Commission that is at the centre of this work, the material for analysis largely is concerned with sources directly attributable to the Commission, whether to the institution as such or to top-officials in their function as Commission representatives. To get a more complete picture of the overall process of discourse production around the event 'treaty rejection' I also included contributions from other actors taking part in the discourse production apart from the Commission, such as other European institutions (EP, Council, European Economic and Social Committee (EESC), Committee of the Regions (CdR)), civil society organizations (with an explicit EU focus). The inclusion of these additional sources is of value on the one hand for the evaluation of the resonance of the Commission's discursive input as well as for the detection of possible critique potential inconsistencies and contested approaches in Commission's particular interpretation. The additional non-Commission sources thereby also take the function of a corrective and a benchmark to judge the Commission's framing against. This is of significant value for my overall assessment of the particular picture of 'reality' resulting from the Commission's framing and the particular political options it thereby helps to constitute – or precisely suppress.

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[13] "[I]n steering negotiations to a conclusion [adoption of the Lisbon Treaty], we now have the chance to turn the page on six years of discussions, hesitations and set-backs on institutional issues." (Barroso 2008-2-14: 1)

4.   Analysis of the Commission's framing approach

Based on the established theoretical framework and the illustrated methodological considerations, I conducted my analysis of the Commission's framing approach with regard to the rejection of the Constitutional Treaty. The focus of the analysis is thereby less on reconstructing the dynamic of the Commission's framing but rather on laying out a general picture of the Commission's overall framing-approach that condenses as a pattern over the time period under evaluation (2005-2007)[14].

The following detailed presentation of the analysis is structured according to the categorization introduced above, distinguishing between diagnostic, prognostic and motivational frames.

4.1 Diagnostic frames – Constructing the 'crisis'

In its diagnostic framing the Commission establishes the treaty rejection as an issue of political concern in a twofold way. Apart from problematizing the rejection as an institutional problem and one of blocking necessary reform, the Commission presents the treaty rejection as the expression of an increasing lack of trust in the EU[15] and of "declining confidence in political systems" (COM 2005a: 3) – not only that of the EU – in general. The rejection thereby is interpreted as only being the symptom of some bigger, more general problem the EU has. In problematizing the rejection in this way the Commission takes up an already established framing, namely that of the eroding 'permissive consensus', and adapts it to the situation at hand[16]. The erosion of a consensus about the European

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[14] The analysis I conducted is thereby closely related to what Foucault conceptualizes as an 'archaeology' of discourse, capturing the specific form of a discourse during a particular period in history, while a 'genealogy' of discourse is oriented on the development and change of discourse(s) over time (Dreyfus/Rabinow 1982: 104f).

[15] "[P]ublic approval of the European Union has steadily decreased over recent months. Whether in terms of trust, image or assessment of EU membership, all the indicators have fallen. (…) Trust in the European Union has dropped from 50% of citizens trusting in the EU in Autumn 2004 to 44% in Spring 2005." (COM 2005a: 3)

[16] In European Studies, the concept of the 'permissive consensus' is a commonplace concept to explain how it was possible for the EU to move on and pursue further integration without significant contestation from part of the citizens. The concept of the 'permissive consensus' explains this with the supposed existence of a shared underlying consensus from part of the public that the EU was necessary and integration desirable without taking much interest in the concrete details of this process. As long as the relevant economic and political elites managed to agree on proceeding with the project of European integration there was no fundamental contestation from part of the population to expect (Reif 1993: 25f). In line with this, a popular explanation for the increasingly visible public contestation since the 1990s (commonly associated with the protests accompanying the ratification process of the Maastricht Treaty) is to analyze this as sign for the

project as such and the respective 'crisis of legitimacy' build the overarching master-frame for interpreting the treaty rejection. This master-frame is what is underlying the whole framing approach of the Commission.

Through defining the concrete underlying reasons for the erosion of legitimacy the Commission gives this in principle very general concept a specific spin. An important explanatory concept in this is that the lack of support and trust in the EU – at least partially – arises from a lack of knowledge from part of the citizens about the 'real' achievements and the 'good' work the EU does (COM 2007a: 4). This then leads to the conclusion that the legitimacy problem is not predominantly a problem of substance but to a significant extent one of insufficient communication and of a poorly informed or misinformed public. The diagnosis following from this framing is that there is no substantial problem with the EU and its current political course but rather a communication failure from part of the European elites (institutional and non-institutional actors) as they were not able to communicate the Constitution's and the EU's value to the citizens (COM 2006a: 1). The Commission, however, does not solely rely on this explanatory model but links it to the main theme of the 'permissive consensus'-concept of a once widely shared consensus over the fundamental 'good' of the EU and the integration process in general. The Commission concludes that it is exactly an erosion of this consensus over the EU's fundamental raison d'être – namely ensuring peace and stability in Europe after the experience of the two world wars and economic crises in the first half of the 20th century – that lies at the heart of the crisis of legitimacy. The fundamental purpose of the EU's existence and the everyday benefits it brings to its citizens are no longer obvious to them (Spidla 2005: 3f). According to the Commission it is this 'gap' between citizens and the EU[17] – or rather the respective elites embodying it – that lies at the heart of the crisis and of which the 'treaty rejection' is simply a manifestation. Building on the supposed erosion of output legitimacy, the already long existing lack of input legitimacy – the frequently quoted 'democratic deficit' of the EU – became an influential factor in recent times. According to this framing the rejection of the Constitution is interpreted as the long missing open contestation form part of the citizens against the elite-character of the EU project, though not against the EU or the integration process as such (COM 2005a: 3).

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erosion of the permissive consensus. The rejection of the Constitutional Treaty in the referenda in France and the Netherlands is accordingly analyzed as the recent height of this phenomenon.

[17] "Il y a une fossé qui s'est développé entre le eux [the political leaders and decision-makers] et les citoyens" (Spidla 2005: 3)

4.2 *Prognostic frames – Establishing an adequate response strategy*

Through the particular problematization of the treaty rejection as a crisis of legitimacy and the specific diagnosis of the underlying causes the Commission already very much constrained the range for possible 'reasonable' solutions and strategies. Accordingly what the Commission does in its prognostic framing is to put forward proposals responding to the diagnostic sub-frames outlined above. With the diagnostic framing of the Commission arguing along the line of input and output legitimacy the diagnostic framing follows this in establishing what is needed as on the one hand establishing and communicating the persisting (but changed) raison d'être for the EU (both short term & long term goals) in order to restore the output legitimacy and on the other hand the democratization of the EU and the better inclusion of citizens in order to improve the input legitimacy.

Underlying all efforts put forward in the Commission's prognostic framing of restoring the trust in the EU and its legitimacy – both input and output – is the communicated short term goal of making people support institutional reform as originally envisaged in the Constitutional Treaty in order to 'move on' from the current situation considered as one of stalemate. The overall goal for the long run as put forward in the Commission's framing is the creation of a new broad consensus for European integration as a political project as such: "The current crisis can be overcome only by creating a new consensus on the European project, anchored in citizens' expectations" (COM 2005a: 3).

'A project-based Europe' – Regaining output legitimacy

To reestablish the EU's output legitimacy and regain the trust of the citizens in the EU's work, the Commission elaborates extensively on the theme of the EU's necessity for the existence in the very first place. It does so primarily by pointing out its output legitimacy through policy delivery in the here and now and laying out a new vision and policy projects for the future of the EU[18]. The Commission thereby directly responds to its diagnostic framing where it concludes a 'missing raison d'être' as fundamental reason underlying the actual 'crisis'. By better communicating its achievements and planned policy projects it also reacts to the diagnosed lack of knowledge from part of the citizens.

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[18] "(…) we must move forward on two fronts (…). The first is the Europe that delivers results, the Europe of practical projects. However – and here we come to the second front – a Europe that delivers results cannot be incompatible with or an alternative to a political project. It is in fact a prerequisite for popular support for Europe as a major political project. So it is not a question of choosing between a Europe that delivers results and Europe as an institution; it is a question of choosing both." (Barroso 2006a: 2)

Based on the assessment of a whole range of new challenges facing the EU, the Commission has outlined a grand new vision for Europe – '*EU as a project*' – on which a new consensus about its right for existence and its role in the future can be successfully based. Following from the diagnosis that the old raison d'être underlying the permissive consensus – namely providing peace and stability after the turbulent and disastrous first half of the 20th century – no longer inspires people sufficiently[19], the new grand theme the Commission has introduced for the EU of the 21st century is that of and shaping globalization making its citizens fit for the new challenges it entails: "This is Europe's great project for the 21st century. (…) a great, enlarged Europe that is capable of shaping globalisation rather than suffering its consequences" (Barroso 2006a). According to the Commission's framing, this is not only a historical necessity but also a direct response to citizens' expectations[20] (Spidla 2005: 4; COM 2007b: 4f; Barroso 2006b: 5).

In its prognostic framing the Commission goes beyond sketching out the new grand vision for the EU – the 'EU as a project' – and draws on a second major theme – the '*EU of results*', delivering concrete policy solutions for its citizens[21]. The Commission uses the slogan 'EU of results' or 'Europe of practical projects' to establish its output legitimacy in the here and now, communicating that it is already working on the pressing issues for its citizens. Central to this framing is the continuous reference to already accomplished achievements of the recent past on the one hand – "We have in fact already achieved results" (Barroso 2006a: 2) – and to concrete policy projects for the future on the other hand – "we need to establish a 'positive European agenda' based on concrete and inspiring policies whose effects will be felt by all EU citizens" (Barroso 2006b: 6). To make that point the Commission points for example to the relaunched Lisbon Strategy for Growth and Jobs: "Lisbon is now focused squarely on giving Europe a dynamic economy which generates sustainable growth and high quality jobs, and which can stand up to the rigours of increased global competition" (Barroso 2007b: 3).

A listening exercise – Regaining input legitimacy

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[19] "Our 50th anniversary is a time to celebrate past achievements, and to build on those achievements to the benefit of a new generation of Europeans. A generation for whom Europe's original rationale is in the past, but for whom Europe can and does offer so much for the future." (Barroso 2007a: 2)
"(…) aujourd'hui, une majorité de nos concitoyens trouve que la paix est garantie. C'est une génération qui n'a pas vécue la deuxième guerre mondiale. Les sujets qui les préoccupent sont le chômage, l'exclusion sociale et la mondialisation." (Spidla 2005-11-7: 3f)
[20] "It [globalization] has generated new expectations about how public authorities should help citizens to acclimatize to change." (COM 2007a: 2)
[21] "We need a project-based Europe that delivers results if we are to have a grand project for Europe." (Barroso 2006a: 2)

Though attributing a great importance to the theme of the persisting raison d'être of the EU by pointing out its added value to the citizens, the Commission's prognostic framing is not only output oriented. Based on the conclusion that citizens do no longer accept the EU as an elite project and at the same time feel ignored by these exact elites and the EU more generally[22] the Commission derives the necessity for "the emergence of a Europe which listens more in order to meet its citizens' expectations" (COM 2005a: 3). More directly reflecting these concrete expectations and concerns in the EU's policy agenda is the Commission's main approach to regain input legitimacy[23] and "giving citizens ownership of the EU" (Wallström 2005: 3).

This *'listening'-theme* is respectively closely linked to the output oriented 'EU of results'-theme. Linked to the approach of delivering policy-solutions responding more directly to the citizens' expectations, the 'listening'-approach sets in at this exact point and states as its mission to find out about the citizens' expectations in the very first place. The so gathered knowledge would then enable the EU and the Commission in particular to orientate its policy agenda along these expectations and to deliver policy results accordingly. The period of reflection is presented as the predestined time to embark on this mission. In this context the Commission lays out a framework of activities in their key document with regard to the reflection period: "Plan D for democracy, dialogue and debate" (COM 2005a). Plan D plays strongly on the 'listening'-theme and its importance for the EU in order to being able to adjust the EU's agenda setting more directly to the citizens' concerns. The citizens are supposed to voice their expectations in various ways (public debates, polls, internet forums) and the Commission takes them up (COM 2005a: 10). What the Commission lays out in this regard is a 'scanning' of the citizens' concerns in very detail to let them guide the EU's and especially the Commission's work of defining areas for new policy initiatives[24].

While the 'listening'-approach is rather oriented towards an 'extraction' of the citizen's concrete expectations by the Commission to deliver policies accordingly a more active and direct participation in the actual policy-making process is envisaged under the Commission's *'partnership'-approach* directed at civil society organizations. To increase its input legitimacy and the democratic character of EU's policy making the Commission offers civil society (organizations) a cooperation "dans une vraie logique de partenariat" (Spidla 2005: 2). And Commissioner Wallström highlights: "I believe that it will be

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[22] "53% of European citizens do not believe that their voice counts in the European Union" (COM 2005a: 3)
[23] "People need to feel that Europe provides an added value and they have the ability to affect the way decisions are taken." (COM 2005a: 3)
[24] "The results of these debates should help the European Institutions, and in particular the Commission to better define its priorities" (COM 2005a: 5)

necessary to upgrade the relationship with civil society organisations into a partnership" (Wallström 2005: 4). In this regard the Commission frames the key role for civil society organizations as bridging the gap between citizens and the EU. This connection is thought to work in both ways, both bottom-up & and top-down. On the one hand civil society organizations are asked to actively participate in the preparatory stage of the policy-making process by contributing their ideas in consultations with the Commission[25]. This in turn is strongly related to the 'listening'-theme conveying the message that the Commission is ready to listen to the 'base' or respectively to the civil society organizations representing that base – "je suis à l'écoute du terrain, à votre écoute" (Spidla 2005: 8). On the other hand the Commission also expects civil society organizations to help implementing European policies and promote the 'EU' and decided reforms on the ground.

4.3 *Motivational frames/ Counter frames*

In seeking to mobilize support for its particular response strategy and at the same time to establish the validity of its approach against possible criticism, the Commission constructs a set of motivational- and counter-frames. These framing activities fulfill the important function of establishing a specific line of argumentation for making it reasonable to follow the Commission's approach as well as at the same time ruling out potential criticism from the very beginning.

'All for one - one for all' – rallying support for the Commission-approach
The motivational framing rests primarily on what I call the 'all for one - one for all'-frame. It is in particular directed towards the other European institutional and non-institutional actors at the EU-level, suggesting that in the face of the identified crisis they all have to stand together in the fight for the common cause – the 'EU'. This framing is based on the underlying logic that a common interest exists between all the European institutions and the European elite, namely that of the simple existence and well functioning of the EU and the ongoing of the integration process without closer defining its concrete character.
Institutional 'partnership' is the key argumentative device the Commission relies on when calling for a united position to overcome the crisis: "In order to achieve results, we need to

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[25] "The Commission will more effectively promote its existing consultation procedures in order to achieve increased involvement of national and regional stakeholders, as foreseen in the Action Plan on improving communication" (COM 2005a: 9)

preserve and develop institutional partnership" (Barroso 2007c: 3). The message the Commission sends out with this is that when it comes to the common cause 'EU' the political actors have to stand together to fight for this common cause or the 'shared goals' respectively: "Partnership means that the EU institutions must work effectively together – the dividing lines between their tasks must never be seen as more important than the fact that all are pursuing shared goals" (COM 2006a: 8). The Commission leaves little doubt on what it understands as the common position all institutions (and other European elite actors) should work for in partnership and rally around – namely its own laid out interpretation of the events and the respective response strategy: "In carrying through this agenda [the proposed Citizens' agenda from the Commission], the EU must work together in partnership" (COM 2006a: 10).

By framing 'partnership' this way the Commission not only motivates and mobilizes but at the same time already introduces a counter frame to any potential lack of enthusiasm to join the Commission's strategy or opposition from part of the partners called upon. By first identifying the 'EU' and the supposed principles it embodies as shared political commitment in order to secondly deriving from this the necessity to fight for this commitment in partnership[26]. With 'fighting in partnership' meaning supporting the Commission's agenda the message to potential critics is clear: those who do not support us and work with us are obviously not committed to the 'common cause' and therefore no friends of the 'EU'. Barroso make that point very clear by stating: "We also see many that profess their love to Europe in general, but then resist common solutions (…). We do not need declarations of intentions but what we need is commitment" (Barroso 2007c: 4).

On the 'road to justice and knowledge' – immunizing the Commission-approach

The counter framing is focused on immunizing the proposed Commission-approach and the European project more generally against potential critique by implying a normative as well as a historic superiority of the Commission's cause and EU integration as such. Thereby potential opposition is rendered whether ill-judged in being directed against the 'common good' or bound to fail against the natural course of history. European integration in the framing of the Commission is not only consistently described as a desirable political project worth supporting but even appears as a historic necessity. In several speeches Barroso draws on metaphors clearly suggesting that European integration in general and its current

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[26] "(…) we need to stress the commonality of our European principles. Despite some natural political and ideological differences, those who are committed to these principles should build a truly European partnership." (Barroso 2007c: 3)

course correspondingly follows the natural and inevitable 'path of history' (Barroso 2006b). To make this point European integration is presented as a quasi-natural historic process. The current situation and the criticism is framed as a kind of unavoidable resistance in the run of history but at the same time being nothing more than only a short term setback for the general course of the EU that will be maintained, *against* such setbacks as the current treaty rejection:

> "European integration is a dynamic process which necessarily gives rise to some resistance. But meeting resistance does not mean the process is not moving forward. Problems are only to be expected in such a highly complex process. The reality is that we are overcoming them. The reality is that despite the setbacks, the European Union is maintaining its course and is moving forward." (ibid.: 4)

The concluding message from Barroso is that once the little (in historic dimensions) and all too 'human' setback is overcome and the European integration can and will proceed as envisaged, it will turn out – from a historic perspective – to be to the benefit of 'mankind' (Barroso 2006b: 7). The European integration in its current and in the Commission-projected form in this framing are presented as 'the road to justice and knowledge' and as a just cause from a historical perspective bringing Europeans closer to the ultimate end goal of an ever more perfect Union[27].

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[27] "But what is certain is that, if the political determination and control exist, we will be able to say like the genial novelist of the 19th century [Eca de Queiros] that, when 'we have a clearer view under a brighter sky, it will be acknowledged that, all in all, humanity has taken another decisive step forwards along the road to justice and knowledge'." (Barroso 2006b: 7)

5.   Putting the Commission's framing in perspective

Following from the detailed analysis of the concrete framing approach put forward by the Commission it is important to go one step further and put the results of the analysis in perspective. In the following I will therefore first present my findings with regard to the resonance the Commission's framing finds amongst the addressed audience before I enter into a detailed critique of the Commission's framing with regard both to the very direct consequences for the immediate situation as well as to its more general implications for European politics and the further European integration process.

5.1   The reach of the Commission's framing

With regard to analyzing the resonance of the Commission's framing it is important to establish first the addressed audience with which the framing is intended to resonate.

Though in the outlined response strategy the Commission is explicitly presenting an outreach-campaign directed to the wider public[28], the immediate framing of the situation is directed at a limited elite group directly involved in or with a special focus on European politics, the 'Brussels Bubble'. The potential communicative range and the respective reception of the official Commission documents and the particular framing approach they entail cannot be expected to go far beyond this limited audience. In the Commission's motivational framing the elite-focus of its framing is obvious as well. It is directly addressed at the European elites inside and outside the European institutions (see 4.3), as they are the ones ultimately involved in shaping what to make of the 'treaty rejection' in the first place and how to proceed respectively. It is this audience therefore that has to be 'motivated' and given a reason to support the Commission particular approach of interpreting and responding to the event 'treaty rejection'.

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[28] The communication aimed at a wider public, although already constructed and laid out in the Commission's documents (as for example the debate proposals in Plan D), only in a second step translates into concrete activities and messages directed at the citizens. Only in media-interviews or direct speeches by Commissioners held in the context of public events the Commission directly reaches out to a more general public. The communication with and to the wider public does not primarily build on the premise of establishing a particular interpretation of the event 'treaty rejection', but rather it fulfills a strategic function in order to cope with the consequences of the treaty rejection and as such is only a sub-part of the Commission's overall framing approach.

In light of this reasoning, I constrained myself to an analysis of the elite-community for assessing the actual resonance of the Commission's framing. For my assessment of the resonance, two questions were important; first: 'Does the Commission's framing find resonance at all?', and second: 'What resonance does it find exactly?'.

With regard to the overall resonance one can conclude that the Commission's framing activities in general are widely received and gain a high level of respect both from part of the institutional actors as well as the civil society actors. From part of the European institutions a certain resonance, at least of the Commission's official communications, is automatically given due to the official inter-institutional communication procedures and formal feedback-loops. The communication structures with civil society organizations, though less formalized, are also very well developed. Communication and the diffusion of the Commission's framing to civil society organizations is on the one hand guaranteed through intermediary institutions as for example the European Economic and Social Committee (EESC) but a broad reception of the Commission's framing is also ensured due to the fact that the Commission per se is of high interest to civil society organizations based on its key position in the institutional framework of the EU. The wide resonance the Commission's framing finds in general, is a sign for the importance other actors attribute to it and reaffirms the theoretically established assumption of the Commission's privileged position in discourse production.

European institutions

The European institutional actors basically follow the interpretation of the treaty rejection expressed in the Commission's framing. In their official statements they refer to the same basic frames and lines of argumentation put forward in the Commission's framing approach. They also actively support the Commission's proposed response strategy, thereby helping this particular framing to 'materialize' (CONCL 2006a, 2006b; EP 2005; EP 2006; CdR 2007, 2008; EESC 2005, 2006). This, however, does not necessarily allow the conclusion that the Commission's framing directly influenced the other institutions' perception of the situation, as they are all embedded in the same discursive context. Referring to similar frames and interpretations of the situation might also be due to the fact that they are all affected by a wider 'EU-discourse' that makes it likely for them to assess issues from a similar perspective and think as well as frame them in a similar way. The interactivity and circular nature of this process makes it impossible at this point and without extensive field research to make a statement about the actual impact of the Commission's

framing on the other institutional actors' approaches to the issue. What can be established, however, is that there is at least no direct opposition and active counter-framing to the Commission's framing from part of other European institutional actors.

Civil society

The resonance of the Commission's framing with civil society organizations is much less homogenous than it is with the European institutional actors. The *positive resonance* of the Commission's framing with civil society organizations is well observable, as one can clearly see how they directly take up the Commission's framing (or parts of it), embrace the 'partnership'-theme and actively engage in initiatives outlined in the Commission's Plan D, as for example organizing own debate- and information-events (European Movement 2006; EUbusiness 2007).

The Commission's framing is, however, not universally embraced and adopted by civil society. One also finds substantial *critique and opposition* explicitly challenging the Commission's framing (counter-framing) and offering alternative interpretations of the situation and its meaning for the further integration process. The critique puts the very fundamentals of the Commission's framing into questions, by directly opposing its explanatory model of the underlying reasons leading to the rejection (diagnostic framing). While the Commission does not see a direct connection between the rejection and the EU's concrete policy orientation, this is exactly what the critics identify as being at the core of the problem (Attac 2007). From this alternative perspective the rejection is interpreted as being directed against and provoked precisely by the neoliberal economic and social order underlying the EU's current policy orientation and not by some indefinable fears about the future or a vague 'lack of trust' as the Commission's framing proposes[29]. The response strategy by the Commission is consequentially seen as being insufficient and not addressing the 'real' problem – the EU's neoliberal policy orientation[30]. Based on the assessment that

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[29] "Meiner Auffassung nach stellt die gegenwärtige europäische Debatte aber nicht die EU-Verfassung infrage, sondern – indirekt – die Zukunft des Kapitalismus. Dies nicht nur in Europa, sondern auf der ganzen Welt. Immer mehr Europäer fragen sich, ob das liberale oder das soziale Marktmodell die bessere wirtschaftliche Zukunft verspricht. Kurzum, die Verfassungsabstimmungen in Frankreich und den Niederlanden wurden zu Ersatzforen, auf denen die Menschen ihre ökonomischen Vorlieben, Hoffnungen und Ängste zum Ausdruck brachten." (Rifkin 2005);
"To a great extent, the 'No' to the constitution reflected people's concerns about unemployment, the dismantling of the welfare state, deregulation and privatisation, and the lack of a social Europe." (Euro Memorandum Group 2005: 13)

[30] "The Commission 'responds' to these concerns [about a neoliberal economic and social order] by embarking on a populist discourse of 'explaining' and 'bringing Europe closer to the people' by 'cutting red tape' for business, removing 'bureaucratic obstacles' to competition and implementing the reformed Lisbon Strategy. There could not be a stronger misinterpretation of the 'wake-up call' the European institutions received by the French and Dutch 'No'." (Euro Memorandum Group 2005: 13);

the basic policy orientation lies at the heart of the EU's current crisis, the critics demand for a wide and open debate about precisely this fundamental political direction of the EU and the question "what Europe do we want?" (Zizek 2005). From the perspective of the critics it was exactly this question that was at the core of the rejection of the Constitutional Treaty and accordingly the rejection of the Constitution is set equal with a rejection of the currently underlying neoliberal policy orientation of EU politics.

5.2   Critical assessment of the Commission's framing

For a critical analysis it is important to go beyond the simple reproduction of the Commission's framing approach and evaluate its problematic repercussions and potential societal implications. Based on the Foucaultian conceptualization of power and therefore assuming that every particular framing implies a respective diffusion of power through constraining the 'possible', it is crucial to analyze in what ways the identified specific framing of the Commission potentially unfolds its power, what effects the particular framing potentially has with regard to a wider societal context and whom or what ideas it privileges or discriminates against.

To identify problematic aspects of the Commission's framing I followed an interpretative approach, putting the Commission's framing under evaluation based on my contextual knowledge backed up by an analysis of the wider discourse to identify both possible critique on the Commission's framing as well as potential alternative interpretations that are marginalized (see 3.3.3).

Excluding the policy-dimension from debate

Highlighting the general, not directly content related character of the 'problem', the Commission substantially constrains the scope of any potential debate and steers it in a particular direction, effectively excluding the 'policy-dimension' from the reflection. By diagnosing the treaty rejection as the symptom of a more general crisis of the EU, the Commission draws attention away from the treaty itself and all possible criticism directly related to the Constitution's substance. The possibility that the rejection might be the expression of informed criticism on the current political direction of the EU or the policy-content inscribed into the Constitutional Treaty never really occurs in any of the

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"(…) we cannot see any intention on the side of the Commission for a reflection to change its policy orientation" (Euro Memorandum Group 2005: 12)

Commission's statements. Instead the rejection is presented as the expression of a very general and vague 'lack of trust'. Accordingly, the overarching strategic task is related primarily to restoring trust in the idea of the European project as such, and less one of reflecting on the concrete political direction this project is taking.

In line with this framing of a diffuse crisis of the European project as such, sustaining this 'European project' is framed as a political goal worth fighting for in and out of itself (see 4.3). The EU and its ongoing construction is referred to as a "shared life project" (Barroso 2006a: 3). Framing it that way, the concrete form this project takes – its specific political direction – is only of second order importance. The 'EU' is framed as being valuable simply as such. This way of framing is very conservative in nature. By presenting the simple existence and maintenance of the EU as already establishing a sufficient cause in itself to fight for collectively, the Commission's framing contributes to the reproduction of the existing structures. Open political struggle over the tangible development of this European project is thereby effectively prevented. The Commission explicitly asks other political actors to set aside all dividing lines for the 'common cause' and the pursuit of the supposedly shared goals[31]: "A Europe of peace, freedom, democracy, prosperity and justice" (Barroso 2007c: 2). The likely controversial policy dimension of how exactly these supposedly 'shared goals' are to be achieved best is excluded from the Commission's framing.

Once the framing goes beyond the presentation of general challenges and turns to more concrete policy strategies presented as responses to them the reflection comes to an end. The envisaged 'dialogue' with the citizens for example promotes debate one-sidedly directed towards the question of how to move on with European integration without fundamentally questioning the current political direction. According to Plan D, the key document with regard to the Commission's response strategy, debates should focus on how to improve and 'maximize' the effects of the already existing policy approaches[32]. Thereby the originally bottom-up approach, which the framing of the debate-events implies, is lost or at least degenerates itself into a mere legitimizing-exercise without actually allowing for

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[31] "Partnership means that the EU institutions must work effectively together – the dividing lines between their tasks must never be seen as more important than the fact that all are pursuing shared goals." (COM 2006c: 8)
"(…) we need to stress the commonality of our European principles. Despite some natural political and ideological differences, those who are committed to these principles should build a truly European partnership." (Barroso 2007c: 3)
[32] This limited scope for debate is exemplarily represented by the suggestions made in Plan D for potential debate topics, one being: "the capacity of Europe to generate growth and create more jobs, maximising the effects of the strategy agreed in Lisbon" (COM 2005a: 5). The concrete policy strategy – the Lisbon strategy – is thereby already taken for granted and excepted from debate.

substantial input or change with regard to the fundamental political orientation of the EU. What is presented as policy responses to the citizens' concerns and the 'new' challenges of globalization are the 'old' solutions already established as part of the EU's policy repertoire[33] (see 4.2.1). It is, however, exactly these old policy solutions that were, in the context of the debates about the Constitutional Treaty, and still are the basic stumbling block, continuously referenced by critics with regard to the Commission' approach in particular and the course of the EU more generally. The Euro Memorandum Group, a network of critical European economists, denounces the Commission's approach accordingly as: "Neo-liberal continuity instead of correction" (Euro Memorandum Group 2005: 16).

The Commission's technocratic governance approach

The relevance and the potential repercussions of the Commission's particular framing not only concern the immediate situation of coping with the rejection of the Constitutional Treaty and the political steps following in its direct aftermath. The significance of the analysis of the Commission's framing goes beyond this immediate context as it exemplarily allows insights into the Commission's general approach to governance.

Though highlighting the importance of participation and debate, the way the Commission frames the particular character of these principles points to a fundamentally technocratic approach to governance[34]. As proposed in its listening-approach the Commission is undeniably reliant upon the inclusion of citizens and a stimulation of political debate about the EU's political priorities. Political debate, however, is only envisaged on a very general level of defining general fields of concern that demand engagement from part of the European Union and the Commission with its right for initiative in particular[35]. In the listening part of the governance approach that leaves room for political deliberation the citizens' concerns are 'collected' and following from this an agenda with general policy fields for action is defined, including issues such as 'growth', 'unemployment', 'migration', 'terrorism', 'climate change' etc. (see 4.2.1). As soon as it comes to the concrete policy-dimension and the question of what concrete policy-measures to implement in the defined policy fields the Commission – with its respective expert consultation regime – takes over.

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[33] "We intend to push ahead with the economic and social measures launched under the Lisbon Strategy in order to respond to the main – and legitimate – concerns of individuals" (Barroso 2006b: 6)

[34] For an introduction to the general concept of technocratic governance and a critical assessment of it see Fischer 1990.

[35] Even at this very general level, though, the room for open political struggle and debate is increasingly constrained through the promotion of a basic approach relying on scientific techniques to 'discover' the citizens' will (see 4.2.2).

The concrete policy-elaboration is understood as a technical exercise at which stage political debate has done its duty. The problematique of this is the underlying assumption that once the policy areas of concern are defined (as a result of political debate and through scientific polling) everything further is a mere technical question of designing the 'right' policy instruments and their correct implementation. The implicit conclusion from this is that the task of concrete policy-design is fundamentally 'apolitical' in nature and can, in principle, lead to the one objectively necessary policy for the good of all. Political struggle over the right policies is accordingly dismissed in favor of a supposedly objective, expertise-driven procedure to find the 'right' policy.

This governance-approach is particularly supported by the Commission's prognostic framing, when it in response to the detected policy fields of concern, already puts forward specific policy strategies for how to tackle the issue without any sign of putting these policy strategies to debate or reflecting on them in the same way as being the case for the detection of the respective policy fields of concern. The particular approaches for responding to the citizens' concerns are presented as the obvious and objectively necessary solutions. The most obvious example of this is the Commission's communication in the case of fighting 'unemployment', with the presentation of the Lisbon Strategy as the solution being self-evident and beyond any question[36]. In contrast to this supposedly self-imposing and objective character of particular policy strategies, however, is the design of concrete policy strategies that are deeply political in nature. Every concrete policy design is necessarily rooted in a particular underlying understanding of the particular issue at stake and the specific favorable outcomes intended to realize. These specific understandings will differ fundamentally though, in accordance to basic political orientations, and following from this, the policies considered as being best suited to lead to favorable outcomes are controversial as well.

In the Commission's governance approach, the only participation envisaged at this crucial stage in the policy-making process is constrained to a mere 'technical' one, with participation primarily serving to bring in outside-expertise to increase the quality of a particular policy instrument within an already defined regulation-project[37]. Accordingly, the main argument for inclusion of civil society organizations is the technical improvement of European policies through benefiting from the expertise civil society organizations have to

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[36] "Key to the realisation and implementation of all these measures is the ***Lisbon Strategy for growth and jobs***." (COM 2007a: 6, highlighting as in the original)

[37] This particular participatory approach to governance that the Commission adopts in its prognostic framing is not new. It is already laid out in the Commission's White Paper on 'European Governance' from 2001 (COM 2001).

offer. On the other hand the broadening of participation and the cooperation of civil society actors serves a legitimacy-concern, intended to increase acceptance for European policies and European governance in general amongst the participating civil society actors in the respective policy field as well as from a wider public in general[38] (Kohler-Koch et al. 2004: 222f).

This particular framing of 'participation' in the policy-making process is problematic for two reasons. First it is likely to encourage selectivity with regard to who is allowed to participate or not on the basis of who is of 'value' for the Commission to be included into the policy-making process to achieve the above mentioned goals. Participation and contribution of civil society actors apart from concrete legislative projects is not envisaged (Kohler-Koch et al. 2004: 222f). A second potential problematique of this kind of 'partnership' offered to civil society organizations is the danger of cooptation. Civil society organizations participating under these circumstances of a rather instrumental understanding of participation might end up legitimizing a particular vision of the EU and of a set of policies without getting the real chance of participating in the shaping of the overall political direction of the EU.

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[38] "La société civile doit participer activement. Non seulement pour faire avancer telle ou telle idée, mais aussi pour agir sur le terrain. Sans capacité de bâtir des consensus partagés sur les réformes nécessaires, il est difficile de connâitre un succès durable." (Spidla 2005: 8)

6.   Conclusion and outlook

The rejection of the European Constitution marked a crystallization point for controversial debate about the meaning and consequences of this event both for the EU's immediate state of affairs as well as more fundamentally the further integration process. As such it presents an intriguing puzzle for political analysis. Existing research on the topic focuses one-sidedly on explaining the event and establishing its meaning from an outside perspective. This work provides an alternative approach to the analysis of the treaty rejection by highlighting the discursively constructed nature of this exact event.

By applying a discourse theoretical perspective I was able to analyze this meaning-construction in the course of the political process itself. The European Commission as a key actor in this process of discourse production built the basis for my analysis. In its particular framing of the event the Commission establishes the treaty rejection as a symptom of a more fundamental 'crisis of legitimacy' and lays out a particular approach of how to respond to this crisis.

The critical assessment has shown that the Commission's framing is generally met with great resonance among its primarily targeted audience, the European institutional and non-institutional elites. The resonance is, however, not homogenously positive. Though central actors in European politics, such as the other institutions and prominent civil society organizations, embrace the Commission's framing of the treaty rejection, it also meets opposition. Critique is especially directed against the denial of the policy dimension in the Commission's interpretation of the treaty rejection. A detailed critical evaluation of the Commission's framing approach confirmed and solidified an exclusionary effect of the diffused meaning of the treaty rejection. In particular with regard to a substantial reflection on the potential policy dimension of the 'treaty rejection' and a respective accounting for alternative political ideas and policy solutions for European integration, the Commission's framing approach unfolds suppressive effects.

Overall, the framing suggests a fundamental technocratic approach to governance from part of the Commission. Political struggle and public deliberation is only envisaged with regard to the very general definition of policy areas for concrete policy-making activity. At this stage, however, political struggle is no longer foreseen as the concrete solutions to the citizens' general concerns are designed by supposedly apolitical experts. Through the communicative diffusion and the active implementation of this particular model of governance, based on a very restricted notion of political participation and political

struggle, the Commission shapes the future integration process in a more substantial way than is obvious from its seemingly limited immediate problem-solving orientation of overcoming the 'constitutional crisis'[39].

The underlying logic of the Commission's framing took on concrete shape in the further process of dealing with the pending treaty revision. In drawing up the Constitution's successor – the Lisbon Treaty – under exclusion of wider public debate, basically incorporating most of the Constitution's content and putting it into a new form with only a few minor, rather symbolic changes, the interpretation of the treaty rejection as primarily a problem unrelated to concrete political substance was exemplarily confirmed.

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[39] This happens for example by establishing the particular model of participation in the consultation regime and the reliance on supposedly neutral scientific ways for learning about the citizens' expectations (polling, target group interviews, etc.) instead of open political struggle to define the EU's political agenda.

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