



Project no. CIT1-CT-2004-506392

**NEWGOV**  
**New Modes of Governance**

Integrated Project  
Priority 7 – Citizens and Governance in the Knowledge-based Society

**Arguing and Persuasion in EU Governance**  
Project No. 3 (within cluster 1)  
(Revised version, September 2005)

Project Leader(s):

- Thomas Risse, Free University of Berlin

Project co-funded by the European Commission within the Sixth Framework Programme

## **General project description**

New modes of governance focus on the inclusion of non-state actors in the provision of common goods, on the one hand, and on non-hierarchical modes of steering, such as learning, socialization, and persuasion, on the other. This sub-project concentrates on the latter processes and on one particular form of non-hierarchical decision-making, namely arguing and persuasion (“non-hierarchical 2” in the framework proposal). Through comparative case study research, it probes central assumptions of the literature on deliberative democracy, which claims that reason-giving and arguing in non-hierarchical settings can help to overcome collective action problems, to improve the democratic quality of EU governance, and to increase its problem-solving capacity. Arguing and persuasion can be defined as *non-manipulative reason-giving in order to alter actors’ choices and preferences irrespective of their considerations of other actors’ strategies*. But does arguing matter? Do arguing and persuasion result in better policy outcomes and/or a more inclusive and legitimate way of policy-making? Previous research suggests that the answer depends strongly on the institutional context in which arguing and bargaining take place. By systematically probing the impact of processes of arguing, persuasion, and learning, the sub-project contributes, therefore, to three of the four “Es” outlined in the framework proposal, namely the emergence, the execution, and the evaluation of new modes of governance.

The empirical domain of this sub-project concerns *constitutionalization* processes in the EU, namely EU treaty- and constitution-making. Comparing the negotiations in the context of the European Convention to the traditional method of treaty-making through Intergovernmental Conferences (IGC) allows us for systematically probing previously deduced hypotheses. Did the Convention improve the quality of EU treaty-making by giving greater room to reasoning and arguing? Indeed, since the rejection of the Constitutional Treaty in the two founding countries France and The Netherlands, the future of the Constitutional Treaty and the Convention method is more uncertain than ever. However, this has by no means changed the theoretical and political relevance of our endeavour, as this project will provide further insights in the pros and cons of treaty those revision processes. This will allow us to develop practical proposals for future treaty revision processes.

### Objectives

Very little empirical research has been done so far on the use of non-manipulative means of persuasion and of arguing in EU negotiations. The literature on “deliberative democracy” in the EU has not yet yielded strong empirical results as to the impact of deliberation and communicative persuasion. Our project will therefore

- increase our empirical knowledge about persuasion and arguing in the emergence and execution of new modes of governance;
- specify the scope conditions under which learning and persuasion improve the problem-solving capacity and the democratic legitimacy of EU governance (“evaluation 1 and 2”).
- develop practical proposals on how to create institutional contexts in which processes of learning and persuasion yield results and improve the quality of EU policy-making.

### Methodology

One difficulty has arisen with regard to the empirical data. The availability of speeches and statements that allow for conducting a systematic computer-aided qualitative frame analysis is lesser than expected. Thus, our analysis will largely be based on interviews, both guided and informal. Therefore, we were impelled to spend more money for travelling and subsistence than originally budgeted, and forwarded the item 1 (research assistance for the months 1-12 = €2.400,00) to the item 4 (travel and subsistence) (see financial information). This economical regrouping was absolutely necessary for the continuation of our research.

Now, this subproject mainly employs a qualitative approach in social sciences. We use comparative case studies to establish the institutional scope conditions under which processes of arguing and persuasion matter. Concerning EU constitution- and treaty-making, we compare the Intergovernmental Conferences leading to the Treaty of Amsterdam and the Treaty of Nice with the Constitutional Convention and the 2004-2005 IGC. In this case, the institutional context varies considerably: from negotiations behind closed door in a less formal setting (pre-negotiations to the Amsterdam IGC as well as negotiations in the Praesidium of the Convention) to classic inter-governmental bargaining (Nice IGC) to arguing in front of a transnational public audience (Constitutional Convention).

### Deliverables

The sub-project produces the following tangible results:

- two research reports, one discussing the methodology of measuring arguing processes, the other presenting the results of the project;
- research articles in academic journals and contributions to edited volumes on the negotiations settings which are equally directed at the scholarly community;
- one monograph presenting the findings of the project and targeted toward the scholarly community;
- policy memoranda on various means of improving the participatory quality and problem-solving capacity of EU governance through better managing the institutional context in which EU negotiations take place; these memos will be directed at more general audiences including policy-makers and practitioners.

In September 2004, Mareike Kleine joined the project as a junior researcher. In the last 12 months of the project we have gathered data and conducted qualitative interviews with practitioners and participants of both IGCs and the European Convention. In addition we have scanned the theoretical and empirical literature on arguing and persuasion in order to synthesize preliminary hypotheses on the scope conditions for the effectiveness of arguing and persuasion. This is set out in the contribution to the State of the Art Report of Cluster 1 (D 02) and the Consortium's Glossary. Subsequent to the kick-off meeting in December (D 01) and valuable discussion with our project partners, we were able to develop the first set of variables and indicators as a contribution to the Deliverable D05.

## **18 month detailed implementation plan, months 13-30**

### General Schedule for Month 13-30

During the next eighteen months, we will a) test our variables and indicators for the effectiveness of arguing and persuasion (Deliverable D14, D21, D31), b) generalize our hypotheses on the effectiveness of arguing in EU treaty-making, in order to c) establish conditions under which the participatory quality and problem-solving capacity of EU treaty-making can be improved (Deliverable D21, D22, D31)

The empirical work in this phase concentrates on comparing two specific cases of EU treaty-making, which were discussed in two IGCs and the European Convention: a) the negotiations on the Single Legal Personality of the EU, b) negotiations on the Common Foreign and Security Policy (CFSP), especially the external representation of the EU. During this phase of the project, the following work will be carried out:

- Gathering of data and documents of the Amsterdam and Nice Treaty Negotiations and of Discussions in the Constitutional Convention.
- Mapping the structure of argumentation at the IGCs and at the Constitutional Convention concerning the single legal personality and the external representation (What are the major contending positions? Who is arguing what? How do bargaining speech acts relate to arguing speech acts, and vice versa?).
- Testing of hypotheses on the institutional scope conditions for arguing and persuasion (Inclusion of new actors, impact of publicity, presence versus absence of trusted mediators, role of expert knowledge).
- Establishing and testing of hypotheses on the participatory quality and output-legitimacy of EU treaty-making (impact of publicity, role of leadership).

This stage is devoted to empirical research that will focus on gathering further data and probing our hypotheses for the first case study. Until month 18 we will try to improve our knowledge on the feasibility of our method and on the possibility to generalize beyond our first case study. Starting with month 19, our objective will be to evaluate the contribution of arguing, persuasion and learning to improve the problem solving capacity of EU treaty-making, i.e. moving EU treaties beyond the lowest common denominator. Our empirical research will focus on other case studies in order to vary on our independent variables, that is, to assess the impact of the scope conditions for effective arguing beyond a single case study.

### Workpackage 1

The empirical work in this contribution to WP 1 concentrates on comparing two cases of EU treaty-making: a) the pre-negotiations and the Intergovernmental Conference leading up to the treaties of Nice and Amsterdam; b) the negotiation process at the Constitutional Convention. During this phase of the project, the following work has been carried out:

- Gathering first data and documents of the Amsterdam and Nice Treaty Negotiations and of Discussions at Constitutional Convention.
- Process and Frame analysis to map structure of argumentation at Amsterdam and Nice IGC and at Constitutional Convention concerning selected negotiation processes and issues under considerations (What are the major contending positions? Who is arguing what? How do bargaining speech acts relate to arguing speech acts, and vice versa?).
- Both guided and qualitative Interviews with practitioners.

The following deliverable is to be expected in this workpackage:

- Report detailing and evaluating the empirical results of the process analysis mapping the structure of argumentation at the Amsterdam and the Nice IGC in comparison with the Constitutional Convention (D31).

### Workpackage 2

The primary goal of the contribution to the Workpackage “Emergence of Governing Modes” is to establish the scope conditions under which arguing, learning, and persuasion has a discernible impact on the process and outcome of EU treaty negotiations. This work will build on the results from the process and frame analysis of WP 1 and conduct an institutional analysis of the context in which the various negotiations of the Amsterdam and Nice IGC and the Constitutional Convention took place.

This work which extends into the second 18 months period of the project will use the method of process-tracing for a structured and focussed comparison of the two sets of treaty negotiations. In doing so, we will test various hypotheses with regard to the scope conditions of successful arguing in treaty negotiations, pertaining inter alia to

- Variation in institutional context (pre-negotiations; loosely structured talks versus formal inter-governmental negotiations).
- Negotiations behind closed doors and in semi-private settings vs. negotiations in front of public audiences.
- Presence versus absence of trusted mediators and/or negotiating partners serving as interlocutors between parties.
- Role and impact of expert knowledge to overcome bargaining problems

A Working Paper will detail the methodological approach to studying arguing and persuasion processes in EU treaty making and present preliminary results of one case study. This contributes to deliverables D14 and D 21.

### Workpackage 3

This stage of the research process which will be continued beyond the first 18 months period is devoted to evaluate the effects of arguing and persuasion as non-hierarchical modes of governance on the policy results and structures of EU treaty-making. The primary objective is to evaluate the contribution of arguing, persuasion, and learning to

- “input legitimacy” of EU governance, i.e. improving the democratic and participatory quality of EU decision-making.
- “output legitimacy” of EU governance, i.e. improving the problem solving capacity of EU treaty-making, that is, moving EU treaties beyond lowest common denominator solutions.

Based on the frame analysis of the argumentative process (WP 1) and the institutional as well as process analysis of the scope conditions under which arguing and persuasion has discernible effects on EU treaty-making, the research will conduct an evaluative analysis of the participatory quality as well as the problem-solving capacity of EU treaty negotiations. This analysis will proceed in two steps:

- We will develop indicators that allow to measure “input” and “output” legitimacy of EU treaty-making as defined above.
- We will evaluate the extent to which arguing, persuasion, and learning had measurable effects on the quality of EU treaty-making as regards both process and outcome.

### Workpackage 4

The objective of this work package is to contribute to the research process for the entire cluster.

It involves participation at meetings of the cluster to develop the policy tools for classifying, measuring and mapping governance modes in the Union. In addition, it involves the application by the Dublin team of the shared indicators developed by the cluster as a whole. In order to produce high quality cumulative social science research on governance modes and to arrive at a comprehensive data set for the use of the wider social science and policy community, coordination and interdisciplinary engagement within the research cluster is imperative.

Workpackage 4 includes as key activities the active participation in all relevant coordination efforts, as well as the constant and regular exchange of views with the partners in cluster 1.

- Participation in the review of the cluster (D33)
- (Contribution to) Updated State of the Art Report (D34)
- Participation in Project Open Interim Meeting (D39)
- Participation in Review of cluster 30 month results with stakeholders / practitioner (D66)

#### Workpackage 6

This last workpackage is devoted to the following tasks of developing scientifically robust criteria for assessing the academic and political value of the research results on new modes of governance and communication; elaborating criteria under which certain modes of communication (persuasion, arguing, learning) may be more successful than others, and identifying the conditions under which they may occur in EU negotiations; finally, it will intend to contribute to the improvement of the quality of Treaty negotiations by identifying appropriate factors and variables which facilitate processes of arguing, persuasion, and learning

The following deliverable is to be expected by month 29:

- A Policy Memorandum on how to further improve the legitimacy of EU treaty-making by establishing institutional conditions under which arguing, persuasion and learning are likely to operate successfully (D63).

The final step in the research project will extend toward the end of the 36 month period. It will result in establishing the scope conditions under which participatory quality and problem-solving capacity of EU treaty-making can be improved by paying more attention to the negotiation processes themselves.