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Understanding the French No

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“Understanding the French No”

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What is remarkable, since the French No to the EU Constitution, is the absence of comments from the left-wing leaders, proponents of the No vote.

Indeed, what has materialized is what I regretfully apprehended: the scenario of 1954.

As you know, the French National Assembly failed, in 1954, at ratifying the Treaty establishing the European Defence Community. Quite an ironic result considering that such failure led to a NATO monopoly, reinforcing in turn the unwillingness of European states to break from what appeared to be the most solid military alliance. What France, alone, refused in 1954 was soon to become an obsession of French foreign policy in subsequent decades.

Clearly, History has repeated itself, and this time as a farce.

The French reverie of a “*Europe puissance*”, of a “social Europe”, is now certainly going to be put aside.

The irony, again, is that the rejection of the EU Constitution, in particular for its alleged “neo-liberal” bias, has precisely led to the triumph of the British vision as witnessed by an article in *The Economist* entitled, not without a certain sense of humour, “the triumph of perfidious Albion”.¹

How did we get to such debacle?

¹ “It is perhaps tactless to point it out, but France’s rejection of the European Union constitution is, in lots of ways, a triumph for Britain”, Charlemagne, “The triumph of perfidious Albion”, *The Economist*, June 4, 2005, p. 34.

With the benefit of hindsight, I would confidently argue that the label, meaning the use of the term “constitution”, was the most damaging factor because it dramatized the debate (POINT 1).

In turn, such dramatization led to an unusual scrutiny of the content of the text by each voter. The fluid and hybrid nature of the EU (the uncertain name of the text agreed on says it all), associated with a relatively complex set of rules, made it difficult, from the start, to explain, should I say, to “sell” the Constitution and demolish the fallacious yet straightforward arguments raised against it (POINT 2).

Final feature, the context could not have been worse: discontent with the executive was widespread in a nation who has grown sick of its politico-administrative elite, and who has yet to come to terms with the world in which we are living (POINT 3).

1 – The label

The portrayal of the text as a “constitution”, rather than a mere treaty, may have been the decisive fault of its drafters (it is not my intention to discuss today the actual legal nature of the text).

Indeed, the term constitution was presented by some unprincipled leaders as synonymous with intangibility (see the popular expression: “*graver le libéralisme dans le marbre*”). It simply did not matter that unanimity is required under the current Treaties and that the Constitution makes it somewhat easier to amend its provisions, this message did not get through.

The debate also involved a discussion on what is a constitution and how it should be drafted. For instance, and similarly to what one could read in the Irish press, the alleged “undemocratic” aspect of the Convention method was raised, again illustrating a complete ignorance of constitutional history and in particular, the history of the Fifth Republic.

To summarize, the term “constitution” dramatized the debate, legitimised phantasmagorical comparisons with national constitutions, and finally, helped the leaders of the No camp to convince their potential electors to undertake a reading of the text.

And with a document of 448 Articles, it was not complicated to confuse the citizenry with partial quotations, unfair comparisons and deceitful interpretations.

2 – The Content

Retrospectively, you may wish, as Valéry Giscard d'Estaing did recently in *Le Monde* that the text should not have been sent to each citizen.² I find, however, difficult to follow such an argument, if only on democratic grounds, not mentioning the “conspiracy” theories such move would have raised.

Yet, as numerous academics argued in 2002, there was no obstacle for reuniting and “selling” only the first 60 articles (the current Part I) under the label of constitution. For instance, the Charter could have been mentioned in the Preamble or in the Article dealing with fundamental rights, and be attached in annex. As for the infamous Third Part, the French distinction between constitution and “organic law” could have served as an example to justify the disconnection of the Third Part from the First Part.

With such a relatively complex set of rules and modest improvements overall, it was far from difficult for what I call “non-Weberian” experts to speak nonsense.

And although I usually share most of the enlightening comments of Andrew Moravcsik, I have to somewhat disagree with his recent assertion according to which it was not the substance of the Constitution that attracted opposition but its style and symbolism.³ Two examples may suffice to prove that the content of the Constitution *also* mattered to a great extent (at least as far as socialist voters are concerned).

Before doing so, however, let me exclude from my analysis the people who voted against the prospect of Turkish membership. Indeed, extreme-right voters did not appear to be truly interested about the actual content of the Constitution. “No surprise there”, as the topic could

² « Réflexions sur la crise de l'opinion à l'égard de l'Europe », *Le Monde*, 15 Juin 2005: « Or on a choisi d'adresser aux électeurs un fascicule de 191 pages, comprenant 448 articles, 36 protocoles, et 50 déclarations. La découverte de ce document a été ressentie par beaucoup d'électeurs comme une agression, et une menace. (...) Lorsque j'ai appris qu'un tel envoi était envisagé, j'ai appelé le président Chirac pour attirer son attention sur le risque qu'il représentait. "Ce texte est beaucoup trop long, lui ai-je dit, il va antagoniser les électeurs. Il suffit de leur envoyer le texte de la partie proprement constituante, c'est-à-dire les 15 premières pages, et la Charte des droits fondamentaux, qui représente 5 pages, relativement faciles à lire ! Pour la troisième partie, les protocoles et les annexes, on pourrait indiquer qu'ils seront tenus à la disposition des électeurs dans les mairies." (...) »

³ “Europe without Illusions: A Category Error”, *Prospect*, Issue 112, July 2005. His incisive and brilliant analysis is available at: <http://www.princeton.edu/~amoravcs/papers.html>.

hardly be linked to the constitutional text. In retrospect, one may therefore regret the “soft” treatment reserved by the media to Philippe de Villiers and the unsubstantiated garbage he kept professing.

Incidentally, I have also to express my amazement with regard to analysis emphasizing that French voters voted No because they wanted “less” Europe.

This is quite a travesty of the no vote.

Contrary to the debate around the Maastricht Treaty, the preservation of national sovereignty has not agitated the minds of French voters, this time around. A quick reminder of the reasons beneath the No vote may therefore be useful:⁴

- ❑ 46 per cent voted no because they thought the EU Constitution would increase unemployment in France;
- ❑ 40 per cent wanted to express their dissatisfaction vis-à-vis the national socio-economic situation;
- ❑ 35 per cent were hoping that a no would pave the way to renegotiation;
- ❑ 34 per cent thought the constitution to be too liberal;
- ❑ 34 per cent estimated the constitution to be too difficult to understand.

Furthermore, and this would certainly be an amazing surprise for our British euro-sceptics keen on misreading the results of the French referendum, French voters (75 per cent of them and **66 per cent of the no voters!**) still appear to be convinced that a constitution is necessary.⁵

So much therefore for the advice of *The Economist* according to which the first lesson to draw from the French no is to forget about “the dream of deeper political integration”.⁶

⁴ The poll authorized several answers: see *Le Monde*, May 31, 2005, p. 4. For more details, see the very instructive Flash EB171, La Constitution européenne. Sondage post-référendum en France, Juin 2005, p. 18, report available at: http://europa.eu.int/comm/public_opinion/flash/fl171_fr.pdf.

⁵ http://europa.eu.int/comm/public_opinion/flash/fl171_fr.pdf, p. 23.

⁶ *The Economist*, “The Europe that died”, June 4, 2005, p. 11.

To get back to the “content” debate and demonstrate that the substance of the text actually mattered, we could refer to the effective demolition of the EU Constitution in numerous workshops organised by the association of “alterglobalists”, ATTAC.⁷ Frequently led by some Ph.D. students in political science, sociology or law, these workshops offered the opportunity to dissect provisions of the Constitution in public and usually not in a “fair and balanced” way. (...)

Another emblematic example is the website ran by a “professor of law” (Mr Chouard) from Marseille.⁸ More than 200.000 people have apparently consulted his «analysis» of the Constitution, according to *Le Monde*.⁹ He offered a critical study of the constitutional text with precise and numerous references to articles contained in it. Unfortunately, his study was filled with basic legal confusions in general and betrayed a profound ignorance of European law in particular. It was later revealed that he usurped the title of professor of law. His only legal background was indeed a Bachelor in law. As for his teaching capacity, the “professor” actually teaches computer science in a secondary school, not that there is anything wrong with that. (...)

To end our overview of the “content” argument, we should emphasize that the centrality of the constitutional text should obviously not be overestimated. No matter the style, symbolism or the substance of the EU Constitution, a great deal of voters were likely to vote no. As always, the referendum is a great instrument for the electorate to express its general dissatisfaction.

⁷ <http://www.france.attac.org>.

⁸ <http://etienne.chouard.free.fr/Europe>.

⁹ “Etienne Chouard”, *Le Monde*, 12 mai 2005.

3 – The Context

I will be brief. It is, indeed, well known that no matter the nature of the question being asked to the sovereign people, the referendum is always understood, in France, as a motion of confidence on the President.

Although it certainly cannot be demonstrated as a matter of fact, I suspect that behind all the rational arguments raised by the militants of the Socialist Party against the EU Constitution merely lies their deep reluctance to vote twice for a man they had to help get elected against Jean-Marie Le Pen. To be sure, it did not help that Chirac seemed to ignore the results of all the elections which the ruling majority successively lost afterwards.

Laurent Fabius understood perfectly the mood of its troops. More troubling was his transformation into a man who would stoop to anything.

There is one amusing and revealing story to tell. In a book published in 2003 (*Cela commence par une balade*, Plon) to “soften” his image, Laurent Fabius confessed his passion, among other things, for “Star-Academy” and motorbikes, affirming that he drove one during some holidays (not mentioning the numerous photos where the former Prime minister sits with a certain sense of glamour next to a motorbike). Later on, it was revealed that the former Prime minister does not even hold a driving license for doing so. His defence of “another” Europe seems to us as authentic as his passion for motorbikes.

More fundamentally, the results of the referendum should not be considered as a revolution in the attitudes of French voters towards Europe.

The people who voted against the Maastricht Treaty in 1992 voted no to the EU Constitution in 2005. The marking event of 2005 was the shift within the Socialist Party and this is why, we consider that history will judge Fabius, and its famous Polish allegory, with severity.

As socialist militants may start to realise, they have misread the geopolitical equilibriums in Europe, they have intoxicated themselves by believing in “*lendemains qui chantent*”, in other words, by having faith in a “Plan B”.¹⁰

Personally, I understood the EU Constitution as the last realistic chance for France to decisively exert its (vanishing) influence – before it vanishes further in a Union of 25 and more – on the drawing of a set of rules consolidating and protecting the *acquis communautaire* as well as offering the tools for a potential evolution of the EU towards some kind of United States of Europe, some kind of “deeper” political union.

This is not to say, however, that I consider the goal of a federal state, a fruitful one, or that I considered imperative a constitutional exercise, as did Joschka Fischer in 2000 in his famous speech at the Humboldt University.

Time precluding further analysis of what the EU is and what it shall be, I would like to underline the most depressing aspect of the French referendum: the inability of the French “political class” to articulate what the EU stands for; to explain the long-term challenges of Europe and the geopolitical consequences of a French No.

As a result, the referendum campaign did not offer citizens the opportunity to meditate on the importance of their vote and to understand better the EU as an original political experiment.

While we are certainly going to debate in a few seconds the future, if any, of the EU Constitution, I would also like to mention that the French No should be a source of worries for the so-called small Member States.

Indeed, France and Germany may come to believe that the EU has now become an overwhelming impediment to the pursuit of their national interests and decide to pursue cooperation outside the framework of the current Treaties.

¹⁰ 80 per cent of the No voters thought that French influence would not suffer from a No vote and 82 per cent estimated that European construction would not as well be weakened. See *Le Monde*, May 31, 2005, p. 4.

Irish officials have, therefore, a special responsibility to ensure the pursuit of the European project, to defend it by raising something else than a materialistic defence of the benefits of Irish membership, and to demonstrate the nonsense of the arguments raised against the EU (such as the superstate allegation, the concern about the preservation of Irish independence, the preservation of Irish neutrality, etc.). More pragmatically, we may also hope that Ireland will hold down the British Presidency to make sure it will not antagonize further the French No voters.