
Constitutional referendum in France

the political landscape one month before the outcome

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Following the opinion of the vast majority of parties, President Chirac announced on July 14th 2004 the organisation of a referendum on the European constitution. On this occasion he declared that no political leader could seriously oppose this text. Exactly nine months later, he concluded his first TV intervention to support the Constitution by expressing his incomprehension and sadness towards the current situation. In the meantime, the opposition to the Constitution has grown, to finally reach a majority in mid-March. Today, according to the most recent polls, 53% of registered voters would oppose the Constitution and 47% would vote in favour¹. This clear-cut result hides in fact a majority of electors who are either willing to abstain or uncertain about their choice, which explains the intensity of the on-going political debate². This paper aims to report on this campaign. Therefore, it will first describe the main actors in the debate and, secondly, it will attempt to contextualize the most debated issues by outlining some explanatory factors.

1 – KEY PLAYERS

Almost all the parties supported the choice to submit the European constitution to a referendum. This relative consensus was even strengthened in May 2004 when Tony Blair decided to organise a referendum in the UK. As a result, the decision of J. Chirac was expected. When it occurred in July 2004, it paved the way for the intervention of both institutional and individual actors.

THE IMPACT OF INSTITUTIONAL ACTORS

Four institutional actors have had, or will have, an influence on the debate: the constitutional court, the Ministry for Foreign Affairs (MFA), the parliament (*Assemblée nationale* and *Sénat*) and the audio-visual regulatory agency (the *Conseil Supérieur de l'Audiovisuel -CSA*).

THE CONSTITUTIONAL COURT

According to article 54 of the French constitution, the constitutional Court (*Conseil constitutionnel*) may be consulted to determine if an international treaty includes unconstitutional provisions. This was done at J. Chirac's initiative the same day that the constitutional Treaty was signed in Rome (October 29th). After a three-week deliberation, the Court called for a revision of the constitution to address two issues: first the new transfers of sovereignty in core areas of governmental activity (such as the CFSP and the JHA) and second the new role granted to the national parliament as a watchdog for the subsidiarity principle. Nevertheless, it judged that the official recognition of EU Law's primacy as well as the Charter

¹ IPSOS, poll realised on April 8th and 9th, cf : <http://www.ipsos.fr/CanalIpsos/poll/8057.asp>

² To get a long-time perspective on various polls as well as on the uncertainty of the people, please refer to the following web site : <http://www.csa-tmo.fr/dataset/data2005/opi20050106a.htm>

of Fundamental Rights (most notably article II-70 that allows for public manifestations of religious practices) did not contradict the French constitution (i.e. the sacro-saint principle of *laïcité*). Many observers of the Court considered its diligence to deliver an opinion as a way to undermine the side of the “no”.

THE MFA

The action of the government as a whole is still uncertain. Even though the Prime Minister expressed several times his desire to commit himself to the campaign, his current lack of popular support makes him a very dubious leader for the “yes” side. Some proponents of the Constitution, such as Ségolène Royal, even suggested that he should remain rather discreet. In this context, the MFA was in the forefront during the pre-campaign. Under the leadership of former EU Commissioner Michel Barnier and of Claudie Haigneré, the MFA organised an information campaign on the Constitution, named “*Mission Europe*”, with a budget of 10 million Euros. It developed a web site (<http://www.constitution-europeenne.fr>), it ran an ad campaign on TV and it sponsored financially local initiatives. The opponents of the European constitution, such as Ph. de Villiers, have already complained that this mission was using public funds to unofficially support a «yes» vote. The MFA answered by underlining the need to provide neutral information to the citizens. Nevertheless, on November 22nd 2004, the President of the *Conseil constitutionnel*, Pierre Mazeaud, sent a letter to the MFA calling for more neutrality. He even threatened to take this question under consideration when the *Conseil* will be asked to control the operations organising the referendum (article 60 of the French Constitution). This threat was however not implemented and *the Conseil constitutionnel* judged on March 24th and on April 7th that the official campaign had respected the obligation of neutrality. Nevertheless, this highlights once again the difficulty that all the governments cope with to lead an information campaign before a referendum³.

PARLIAMENT

The intervention of the Parliament is a three-step process. First, given the need to revise the French constitution, both Chambers had to vote on the articles of revision. This was realised in the *Assemblée nationale* on February 1st 2005 (450 in favour, 34 against and 27 MPs did not vote) and in the *Sénat* two weeks later (on the 17th, 262 for, 27 against and 30 abstentions). Although the government enjoys a majority in both Chambers, this first step was unexpectedly debated. Some members of the current majority party (UMP), including the former Prime minister E. Balladur (1993-1995), used this discussion to propose a constitutional amendment that would have forced the government to submit all the documents issued by the European institutions to the Parliament. Thanks to a last minute alliance between the UMP and the PS, a lighter version of this amendment was adopted. It foresees that only the European proposals

³ Such difficulty was also present in the Spanish case; cf. the report written for NE on the Spanish referendum.

falling in the legislative field will be submitted⁴. The second step of the process occurred in Versailles on February 28th. On this occasion, the Congress (meaning both the Senate and the lower House voting together) approved the constitutional amendments by 760 in favour, 66 against and 96 abstentions (according to the article 89 of the French constitution, only a 3/5 majority was necessary). Only the Communist voted as a whole group against the revision. Among the other parliamentary groups, 11 UMP voted against and 3 PS. All the PS leaders who had previously advocated a refusal of the constitution preferred abstaining. Finally, the third step, the most formal, took place on April 5th in the *Assemblée nationale* and the day after in the Senate. As required by the French constitution (article 11), it consisted of a declaration of the government that was followed by a public debate of low quality.

THE CSA

In a normal time, which means out of any political campaign, the majority party and the government gets twice as much media coverage (TV plus radio) as the opposing parties. This does not however apply to the current referendum campaign, where both the government and the CSA had to set the rules. Regarding the official campaign (from the 15th to the 29th of Mai), the government shared the 140 minutes according to a complicated scheme: 8 parties will receive 10 minutes each and, for the 60 minutes remaining, the time will be allocated in function of two criteria (the results of the last European elections as well as the number of elected national representatives). Regarding the rest of the campaign, the CSA decided on March 22nd that all TV and radio channels shall respect basic principles of equity and pluralism. It also asked the parties to allow their dissidents to have access to the media. This decision came into effect on the 4th of April and will be controlled by the CSA in a bi-monthly publication. However, the CSA refused to include J. Chirac's official interventions (most of all the two-hour debate that he had with young voters on TV the 14th of April) in the speaking time of the "yes" side.

THE DIVERGENT INFLUENCE OF INDIVIDUAL ACTORS

The intensity of the on going debate explains why non-institutional actors rapidly got involved into the campaign. Parties, trade unions and numerous actors of the civil society took official positions towards the constitution. The Media are not mentioned since the leading dailies (Libération, Le Monde, Le Figaro) have not clearly taken sides on the subject. However, they generally give the impression that they are supporting the constitution.

⁴ This simply restates the article 88-4 of the French constitution. However, the government agreed to facilitate the transmission of non-legislative documents.

THE PARTIES

As it was frequently the case in the past, the parties' positions on this issue follow quite perfectly the centre/periphery representation. Nevertheless, whereas the extremist parties are almost unanimously against this treaty, new divisions occurred at the centre of the political spectrum. Before going into the details, one needs to underline the fact that the government agreed to allocate public financing to the parties. Since nothing had been foreseen for this purpose, the government decided on 17th of March to reimburse campaign expenditures up to 800 000 euros. Parties eligible for this reimbursement either have at least 5 congresspersons or obtained more than 5% in the last European elections (which allows the FN, the MPF and also the Greens to benefit from this).

Although they have been relatively discreet so far, the extreme-right parties such as the FN and the MNR have adopted a clear position against the Treaty. Likewise, the far-right parties (MPF and RPF), surfing on the idea of national sovereignty, have sharply criticised the European constitution. In this regard, whereas C. Pasqua remains quite absent from the debate for personal reasons, P. de Villiers has been particularly vocal.

The "no" front is also very united on the extreme-left side. In the LCR rows, the opposition to the treaty was instantaneous whereas more debates took place within LO. Traditionally, this trotskyst party has been reluctant to take a position on national referenda. For instance, Arlette Laguiller issued a call to abstain from voting in 1992 for the Maastricht Treaty. This time LO's leaders decided to oppose the Treaty but they will not campaign with the other extreme-left groups. Finally, the PCF executive has officially advocated a "no", even though some past members such as former MEP Philippe Herzog are in favour of the text.

The situation remains much more complex at the centre of the political spectrum. In the green party, most of the leaders such as N. Mamère, A. Lipietz, D. Voynet, Y. Cochet and G. Hascoët, as well as Y. Wehrling, a former temporary EP civil servant who was elected party leader on January 17th 2005, expressed their support for the text. However, many members and the former Head of the party, G. Lemaire, seem reluctant to vote for what they consider a neo-liberal text. An internal referendum took place by mail and gave a 53% majority for the proponents to the constitution. Given the strong adhesion of the Greens to the European integration, this result highlighted the importance of the opposition. This was illustrated recently when one of the top-elected officials in the Greens, Francine Bavay (Vice-President of the Paris region council), called for an "ecologist no", which was endorsed by 450 party members (including many local officials).

Divergences are also important on the Left. Whereas it seemed intuitive that Chevènement's newly created party, the MRC, would oppose the constitutional treaty in the name of French Republicanism, the intense debate within the PS was somehow less expected. The "yes" side includes the most prominent historic leaders such as J. Delors, P. Mauroy, R. Badinter and L.Jospin (with the exception of P. Joxe), most of the elected politicians (at the European, national and local levels), most of the possible candidates for the 2007 presidential nomination (D.Strauss-Kahn, J.Lang, B. Delanoë, M. Aubry) as well as the party leader F. Hollande. On the

contrary, before December 1st 2004, the “no” side had a majority within the executive body of the party (le bureau national), whose composition reflects the numerous internal divisions (named courants). L. Fabius and most of his supporters, such as former member of the EU Convention and current MEP Pervenche Berès, some strong regional organisations (M. Dolez in the North), as well as the dynamic courant “the New socialist party” (A. Montebourg, V. Peillon) and the leftist courant “New world” (H. Emmanuelli, J-L. Mélenchon) all oppose the European constitution. Given his personal background, the position of former Prime Minister L. Fabius was surprising and reflects the emergence of a new cleavage based on an “alter-Europe” platform. An internal referendum took place on December 1st and the “yes” side won with an unexpected margin (59% in favour with a participation of 82%). Commentators explained this margin by outlining the fact that the different types of “no” had not been able to aggregate, provoking a phenomenon of “internal cannibalisation”. This led to a reshaping of the bureau national to exclude some of the opponents. However, the socialist opponents of the European constitution still publicly oppose the text, which reflects the power struggle that takes place at the top of the party. Some of them (H. Emmanuelli, J-L. Mélenchon) even participate in political meetings that are organised by other parties, whereas L. Fabius adopted a more cautious strategy consisting in avoiding political meetings but expressing his opposition each time that he is given the opportunity. So far, F. Hollande has been unable, or unwilling, to impose sanctions against these activities. Nevertheless, he refused to grant them time during the official campaign nor public financing for their campaign.

Even on the Right side, some divergences have re-emerged. In the government party (UMP), the so-called souverainistes, represented by the MP Dupont-Aignan (who is leading a platform that includes the former Prime Minister P. Messmer), as well as the Catholic side of the party (led by C. Boutin), have announced their opposition to the text. Even in the most pro-integration party UDF, whose leader is F. Bayrou, voices were raised to link the position on the constitution with the issue of Turkey’s membership in the EU. For instance, one MP, J-C. Lagarde, already announced that he will oppose the text. Nevertheless, these two parties should remain the strongest supporters of the treaty.

THE TRADE UNIONS

On October 13th 2004, the European Trade Union Confederation (ETUC) officially endorsed the new version of the European constitution. On this occasion, the five French members, namely CFDT, CFTC, UNSA, CGT and FO expressed divergent opinions. While the CFDT and the UNSA voted in favour of the resolution, the CGT and the CFTC abstained, and FO was the only European trade union to vote against it (the overall result being 68 in favour, 7 abstentions and one against). Since then, the CGT has been split on this issue. Whereas its General Secretary B. Thibault was willing to abstain from giving voting orders, the assembly regrouping the representatives of the various branches voted against the text on February 3rd 2005 (81 against and only 18 in favour). This outcome is considered as a step backwards. Indeed, after it had endorsed a “no” vote for the Maastricht Treaty, this organisation had tried to “europeanise” its platform.

The division is also important among the non-members of the ETUC. The two main trade unions teachers' (FSU, SNES) have serious doubts about the constitution, the latter denouncing the "serious dangers" implied by the text. At the same time, the main agricultural trade union (FNSEA) refused to officially endorse the text but underlined the need for "rules' clarification" in the EU. Unlike the FNSEA, the growing Confédération paysanne previously led by José Bové opposed the text. Finally, the so-called "groups of 10" (which include some important trade unions like SUD and has about 90 000 members) called for a "no" to the text.

THE CIVIL SOCIETY

Civil society has been equally divided so far. Although the debate is still limited, some trend-makers have already announced their position. On the left, the Copernic foundation, which is close to the Communist party, has been the most outspoken for a "no" vote. On October 20th, a list of 200 names coming mainly from the *altermondialistes* and the anti-liberal Left called for a "Left no". Included were political leaders (F.Wurtz, M.Dolez), as well as actors (J-P. Daroussin, A.Ascaride) and members of trade unions (J. Bové, FSU, CGT). Moreover, on December the 12th, the main *altermondialistes* movement, namely ATTAC, officially took an electoral stance for the first time in its short history, a majority of 85% calling for an opposition to the treaty. This movement has been particularly active in opposing the constitution, notably at the local level.

The "yes" side has also started to unite. On November 16th 2004, several organisations such as New Republic, Europa Nova, Europartenaires, Femmes Débats et Société, the Robert Schuman Foundation, Génération Europe 21 (etc) organised a joint meeting in Paris to launched the "platform for the 'yes'". Likewise, in March, the PS set up a support Committee chaired by J. Delors. It includes prominent intellectuals such as B-H. Lévy, A. Grosser, R. Rémond, A. Decaux, as well as both national and international artists (P. Almodovar, P. Arditi, F. Chandernagor...). Nevertheless, the "yes" side appears to have a smaller influence on public opinion than the opponents.

2-Ideological cleavages and political strategies as explanatory factors

The intensity of the debate in France was both surprising and predictable. It derives from the resurgence of political oppositions, which have appeared since the early 80's, as well as from the on-going transformation of the French political scene. To this extent, one needs to analyse it as a cleavage-based debate fuelled by partisan realignment.

THE CLEAVAGES ON EUROPE

Whereas the pro-/anti-integration cleavage had structured the Maastricht debate, polarising the oppositions on the extremities of the political spectrum, the division lines of the current debate are more blurred. If the "independence/integration" cleavage is still palpable, another structuring cleavage is emerging based on the idea that an alter-Europe is possible.

THE SALIENCE OF THE " PRO-/ANTI-INTEGRATION" CLEAVAGE

This cleavage appeared as soon as the EU developed into a polity. Very salient during the Maastricht debate, this factor remains pertinent to explain most of the anti-constitutional positions. The Front national, the RPF, the MPF, a few members of the UMP (hence continuing to a lesser degree the split that had occurred in the former RPR), and the MRC, all refuse the idea of transferring additional competencies to the EU level. The inclusion of the Charter of Rights, the supremacy of the EU law, the use of qualified majority voting in the CFSP field, the creation of a permanent President of the European Council and the omnipotence of the ECB are some of the most criticised clauses.

As some scholars have already argued (Bartolini, 2001), this cleavage is not exempt from all ambiguity⁵. Indeed, whereas for some more independence means the end of the deepening of European integration (de Villiers), for others it means the promotion of intergovernmental enhanced co-operation (Chevènement). This ambiguity in fact reflects the emergence of a second cleavage that opposes the proponents of the incremental integration and the others.

THE EMERGENCE OF AN "ALTER-EUROPE" CLEAVAGE

Albeit heterogeneous, this cleavage is based on an assertion: another Europe is possible and should be realised (this, for instance, was the title of an article written at the end of

⁵ Bartolini, Stefano, « La structure des clivages nationaux et l'intégration européenne », *Politique européenne*, n°4, printemps 2001, pp.15-45

September by Paul Thibaud, the former head of the famous periodical "Esprit"). Such an assumption reflects both the growing distrust towards the neo-functionalist method with its incremental spill-over effects and the doubts regarding the European identity resulting from the waves of enlargements. There are two variants, which both share the view that the social dimension of the EU has been neglected for too long and that a political constitution should not incorporate such bias.

A first one, which also partially plays on the sovereignty idea, focuses its criticism on the liberal bias of the EU. Arguing that the neo-functionalist method of integration has had no impact on the development of a truly European social system and that it may even harm the current national welfare systems, these people support a more social Europe. Inspired by the French social system, they ask for a new Stability pact, a political control over the ECB's policies, a stronger emphasis on the social aspects of the constitution and the recognition of the French "*service public*". This view derives most of its support from the left of the socialist party (the "New World" *courant*), the left of the green party, the extreme-left parties (PCF, LO, LCR and the PT) and the *alter-mondialistes*. Amplifying the PCF slogan used during the last EP's elections ("Europe, yes, but not this one"), they also denounce the idea that European policies should be included in the EU constitution (part III). The recent debate on the Bolkestein directive provided them an opportunity to illustrate their thesis.

The second variant, which calls itself the "realist no", as promoted by L. Fabius, holds that the constitution dilutes the European project. Entitling his book "A Certain Idea of Europe" (in reference to the General de Gaulle's "certain idea of France"), L. Fabius estimates that another Europe should be shaped. Whereas Europe needs to be powerful, which implies a more substantial budget, the constitution does not provide any hint in this direction. Consequently, he advocates voting "no" to this constitution, hoping that the resulting crisis would facilitate the launch of a new round of negotiation. This would shape Europe according to three circles: a first front-runner circle with France, Germany, Spain (and smaller countries), a second circle with the other current members and a third one linking the EU to third States (such as Turkey and the Maghreb countries) through special partnerships. Such a view emerged following the 2004 enlargement and the likely opening of negotiations with Turkey. It is partially based on the idea that France is losing its pre-eminence within the EU and that the EU's original identity needs to be reasserted. In this regard, the "realist no" is an idealist return into the past, used for strategic motivations.

THE POLITICAL STRATEGIES UNDERPINNING THESE POSITIONS

Even though European issues fuel the debate, domestic political concerns remain in the background. Consequently, the current debate also needs to be analysed through the lens of personal and partisan realignment.

THE PERSONAL POLITICAL REALIGNMENT

The 2005 referendum on the EU constitution will be the last national election before the presidential election of 2007. Consequently, potential candidates have used this issue to improve their political profile. This was particularly the case for L. Fabius. Knowing that the European idea is not popular among the least favoured social classes, L. Fabius concluded that the only way to avoid another 21 April 2002 (when L. Jospin was beaten in the first round of the presidential election) was to oppose this treaty. Even though this strategy was not successful during the internal debate in the PS, L. Fabius is still convinced that France will reject the constitution. In the meantime, the internal referendum's outcome strengthened the political profile of F. Hollande, who remains nevertheless less popular than the other possible presidential candidate (D. Strauss-Kahn, J. Lang, B. Delanoë, M. Aubry).

Personal motivations are not exclusive of the PS. Among the Greens, former leader D. Voynet was one of the first to advocate a "yes" vote, in spite of the absence of an official position of her party. Immediately after, the other potential candidates (N. Mamère, A. Lipietz) came out in favour of a "yes" vote. Even within the Communist party, the activism of MP P. Braouezec is considered by the other members as an indication of his willingness to be the Communist nominee in 2007. His attempts to link his «no» vote to other «anti-liberal no» are also interpreted as a strategic attempt to reshape the party's line towards more participation of civil society actors. In the UDF party, the active engagement of F. Bayrou in the campaign can be understood as a way to bank on the sympathy created by an issue where his party has traditionally had a comparative advantage. Recent polls show however that French people do not see him as a likely President of France⁶. Last but not least, the weakness of the current Prime Minister increases the dissension within the government as well as the struggle to succeed him. Specially illustrating is in this respect the behaviour of the current Home Affairs minister, D. de Villepin, who keeps criticising mildly J-P. Raffarin.

THE PARTISAN REALIGNMENT

Not only does the 2005 referendum give an incentive to politicians to personalise the debate, it also encourages parties to reconsider their political strategy. On the extreme-left, the debate on the constitution could help overcome the difficulties encountered to creating a broad coalition including the PCF, LCR, LO but also civil society members such as ATTAC and the Copernic Foundation. Still on the left of the PS, J-P. Chevènement's party will use this debate as an opportunity to regain influence after the catastrophic electoral results in the spring of 2004. This could be facilitated by the outcome of the PS's internal referendum, which gave him a political opening. The realignment of the PS remains, however, a controversial issue. Whereas the results of the referendum were analysed as the last move towards a social-

⁶ According to a poll made by B.V.A, 2/3 of the people think that he would not be a good President of France. In the same survey, 65% of the right-wing voters think that he should accept the position of Prime Minister if the President Chirac asks him to, *Le Figaro*, 8.04.05

democratic stance, as initiated in 1983, the situation may yet change in function the national referendum's outcome. Indeed, a "no" at the national level would force the party to bridge the gap on its left, which could lead to a partial reconstitution of the former gauche plurielle (the governmental coalition with the PS, the PCF, the Green and Chevènement's party that ruled France from 1997 to 2002). On the contrary, a "yes" vote will only strengthen the current PS's line if this party manages to differentiate its support from that of the Right parties. This explains why a broad coalition going from the centre-left to the centre-right, a project that has inspired the UDF since its creation in 1978, would be very dubious.

Conclusion

It is certainly too early to draw a conclusion or to evaluate the chances of success of the referendum. Today, the challenge for the proponents of the European Constitution lies in their ability to aggregate their strength and to address the frustration of the electorate. Indeed, the risk remains that domestic concerns hijack the referendum. More importantly though, what this campaign underlined so far is the growing incomprehension, and in some cases the obvious dissatisfaction, of the French voters towards the European integration, a phenomenon that various polls and Eurobarometers illustrated. The incremental method, the territorial limits, the goals and the place of France within this project have raised concerns not about the European ideal as such but about the way it is currently being implemented. These doubts, more than any partisan strategy, fuel the utopia of "another Europe".

List of Acronyms

ATTAC: Association pour une Taxation des Transactions financières pour l'Aide au Citoyen

CFDT: Confédération Française Démocratique du Travail

CFTC: Confédération Française des Travailleurs Chrétiens

CGT: Confédération Générale du Travail

ECB: European Central Bank

EP: European Parliament

ETUC: European Trade Union Confederation

EU: European Union

FN: Front National

FNSEA: Fédération Nationale des Syndicats d'Exploitants Agricoles

FO: Force Ouvrière

FSU: Fédération Syndicale Unitaire

LCR: Ligue Communiste Révolutionnaire

LO: Lutte Ouvrière

MEP: Member of European Parliament

MFA: Ministry for Foreign Affairs

MNR: Mouvement National Républicain

MP: Member of Parliament

MPF: Mouvement Pour la France

PCF: Parti Communiste Français

PS: Parti Socialiste

PT: Parti des Travailleurs

RPF: Rassemblement Pour la France

SNES: Syndicat National des Enseignants du Second degré

SUD: Solidaires, Unitaires, Démocratiques

UDF: Union pour la Démocratie Française

UMP: Union pour un Mouvement Populaire

UNSA: Union Nationale des syndicats autonomes