

## 'Some thoughts on why the French public has gone sour on Europe' from Le Monde (15 June 2005)

**Caption:** On 15 June 2005, in a lengthy article published in the French daily newspaper Le Monde, Valéry Giscard d'Estaing, former President of the French Republic and former President of the European Convention, analyses the causes and the political consequences of the negative outcome of the referendum held on 29 May 2005 in France on the ratification of the Treaty establishing a Constitution for Europe.

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## Some thoughts on why the French public has gone sour on Europe

by Valéry Giscard d'Estaing

'Who has wholesome counsel to declare unto the state?' Eurypides

It might be worthwhile, I believe, to carry out a thorough analysis of the factors that led a majority of the French people to say 'No' in the referendum on approving the Treaty establishing a Constitution for Europe. The result was achieved democratically. But comprehending exactly why the Treaty was rejected will help us to find ways to minimise the harmful consequences of the 'No' vote, for both France and Europe, and will also prevent us from being misled by an incorrect interpretation of the vote's outcome.

Since votes both for and against the Treaty result from muddled thinking, which became even more confused at the very last minute, such research is not easy. Were we to find, for example, that 10 % of 'No' voters were rejecting the French Government and that 6 % were expressing hostility to Turkish accession to the European Union, then that would lead us to a different interpretation of how the outcome actually relates to the Constitutional Treaty. Unfortunately, such precise information is unavailable.

Before going into detail, let us look at the curious geographical distribution of the votes for and against the Treaty.

While the 'Yes' vote prevailed in most big cities, such as Paris, Lyons, Bordeaux, Nantes, Strasbourg and Toulouse, sometimes securing an overwhelming majority (Marseilles being the exception), most people in small towns and rural areas clearly voted against the Treaty. This is the first pointer towards a sociological understanding of the voting.

What were the consequences of calling a referendum? Which were the most telling arguments throughout the campaign? What were the psychological factors behind the 'No' vote? Was the 'No' vote aimed at the powers that be or at Europe? What are the implications for France's European policy?

Since the Treaty sought to establish a Constitution which would have given the European Council a permanent Presidency and laid down new rules for the adoption of European laws, the French President was justified in calling a referendum. This was in keeping with the wishes of France's various political classes, myself included, but involved certain risks: experience shows that votes in referendums are influenced by factors which bear no relation to the question posed.

These risks were increased by the way in which the referendum was handled. In order truly to 'attract' the general public's interest, the question should have been as simple as possible. Instead, voters were presented with a 191-page booklet encompassing 448 articles, 36 protocols and 50 declarations. Many voters felt threatened by what they perceived as an intimidating document. This reinforced the negative attitude of all those who had already been told that the Constitution was 'too complicated'. The document was comprehensible only to specialists. Surely the unintelligibility of certain details masked hidden dangers ...

Upon learning that the document would be sent to voters in its entirety, I called President Chirac so as to draw his attention to the risk involved.

'The document is far too long,' I told him, 'It will antagonise voters. They should be sent only the constitutionally binding part, i.e. the first 15 pages and the five-page-long Charter of Fundamental Rights, which are relatively easy to read! Voters could then be told that Part III, the Protocols and the Annexes would be available for consultation in local council offices.'

'I've been informed that this is impossible, on legal grounds!' the President replied. 'There could be an appeal, and that might render the referendum null and void.'

I insisted: 'These texts have already been adopted in accordance with the correct legal procedure, especially

in France's case, and, indeed, were ratified in the referendum on the Maastricht Treaty! A simple reference to them is all that is required. And I think it rather unlikely that an appeal would overturn a majority vote!

My suggestion went unheeded. Confusion arose over the draft Treaty and, in particular, over how to interpret Part III. The Constitution helped to create a 'cultural divide' vis-à-vis those who came to the conclusion that they had been denied a voice in the debate.

And the draft Constitution's exact format, may I remind you, simply consisted of some innovative proposals in Part I, while Part II set out the legal basis for the Charter of Fundamental Rights. That is all.

The Convention's discussions addressed only those matters included in Part I of the Treaty. Similarly, the future Treaty's preliminary outlines, which I had submitted in October 2002, concerned only Part I. The same also applied to the alternative draft put forward by the European Commission in the autumn of 2002. This is why the 'Draft Treaty establishing a Constitution for Europe', which I had submitted to the European Council in Thessaloniki on 20 June 2003, consisted of just two parts: the Constitution and the Charter, in the form of a slim booklet. It was this draft that had secured the European Council's approval of principle.

So why was Part III added, and what did it cover? The Laeken Declaration, which launched the constitutional process, spoke of 'simplifying the existing Treaties without changing their content'. We were faced with a choice: leave the Treaties intact, adding a constituent 'preface'; or include policies that had been previously adopted under existing Treaties at the end of our document.

We believed, rightly or wrongly, that, if existing instruments were to be genuinely simplified and a single Treaty drafted, we had to repeal all the existing Treaties yet preserve the body of laws created over time. Policies that had been previously adopted and ratified, most of which have been implemented for many years and are now routine, had to be able to continue without the slightest hindrance. Hence Part III, aimed solely at ensuring continuity.

The Convention had no fundamental debate on Part III because we did not have the authority to amend its content.

It seemed to me that the problem of ratifying the Treaty went as follows:

The fundamental debate dealt only with Part I, the only completely new part, which voters could approve or reject.

As for the Charter, the question was whether or not to incorporate it in the Constitution. The general feeling was that it should be included, and at no point during the campaign was this view invalidated.

Part III was included, on purely practical grounds, so as to ensure legal continuity with the previous treaties. The problem of its ratification was simply not an issue, since its content would remain unaffected, even in the event of the Constitution being voted down.

As soon as the Treaty's format was settled and the decision taken to ask people to vote on all three parts, the holding of a referendum was no longer the sensible option. Had Part III really required a thorough debate, then parliamentary consultation would have been the only way to proceed. Only Parliament was equipped to enter into a debate about the existing Treaties. Asking, or pretending to ask, voters to undertake such a painstaking and technical task was expecting the impossible of them, provoking them into an instinctively mistrustful and resentful 'No!' Sending voters such an overly complicated document blew the referendum campaign off course from the outset.

There was a fundamental inconsistency in all of this.

### **The referendum campaign**

After it had been introduced in Thessaloniki and then formally signed by all the Heads of Government on Rome's Capitoline Hill, the Constitution was welcomed by the French people. This was reflected by the polls, all of which indicated that a majority of over 60 % would approve the Treaty. This was the instinctive reaction of French voters. But all this would change in February 2005.

In early March 2005, there was a huge shift in opinion. The political and social climate worsened as a result of a series of events that bore no relation to the referendum itself: a number of companies announced record profits, which contrasted with the 'stagnation' of employees' purchasing power; unemployment continued to rise, despite commitments that this would not happen; rumours circulated about the next wave of company relocation; and the expected growth rate for 2005 was revised downwards. The worsening public mood coincided with two ratings which had begun to plummet sharply and which had become virtually indistinguishable: confidence in the French economy and support for a 'Yes' vote in the referendum. At the same time, the popularity ratings of major political leaders were dropping and would continue inexorably to do so until May.

Another factor must be taken into consideration: the first political manoeuvring of those on both the Left and the Right who had their sights set on the 2007 presidential election. If the United States is anything to go by, such political forethought is not uncommon. While ruling party MPs were asking themselves 'who will benefit from a "Yes" vote?' those on the Left contemplated gambling on a 'No' vote.

These were the precarious circumstances in which the referendum campaign started out, its purpose hijacked from the outset.

The 'Yes' camp was handicapped on two fronts: expecting an easy victory, it was taken by surprise; it had given no thought to formulating an overall strategy and failed to galvanise the general public with an inspired vision for Europe.

As long as victory seemed within easy reach for the 'Yes' camp, the main concern was claiming the credit ahead of the forthcoming presidential election. Hence the discreet manoeuvring by some to distance themselves from those 'great' Europeans, former European Parliament and Commission Presidents, who were thought to be overplaying the importance of Europe in the debate. But once the 'No' camp had taken the lead, there was a change of mood. On 24 March, the Prime Minister made a televised address to millions on TF1, France's most-watched TV station, declaring that he was 'leading the campaign to explain the Constitution'. Thereafter, the Government was anxious to be associated with the campaign's high points, thereby running the risk of provoking a protest vote. At no point did anybody attempt to forge a consensus on how best to promote a 'Yes' vote. The result was an uncoordinated media campaign. While the Constitution's left-leaning supporters waged an admirable and bold campaign, the 'Yes' camp was reduced to the uninspiring role of refuting the clever but spurious arguments coming from the Treaty's opponents. To the very last, the main concern was not the overriding importance of actually ratifying the Treaty but the individual players' roles in the ratification process.

Given the circumstances, successful ratification of the Constitution should have been part of a wider vision that embodied an authentic blueprint for European integration. During my work with the Convention, I had spoken of a 'desire for Europe', or a European dream! With the exception of a few eminent pro-Europeans, hardly anyone in the 'Yes' camp was capable of setting out a coherent and appealing vision of European integration. Over the past 15 years, the habit of conveniently blaming Europe for all that was wrong with failed domestic policies, particularly on growth and unemployment, has killed off any noble European aspirations. The inability to advocate and defend a 'grand design' for Europe was all the more regrettable in that it could well have been one of the campaign's driving forces. Of those who voted in favour of the Treaty, 59 % claimed that they had wanted to 'give Europe greater international influence', which was, and remains, the main issue!

The 'No' camp resorted to a different approach: it opted for a campaign of harassment, involving strikes on what it deemed to be easy targets, and paid scant attention to the factual basis of its assertions. Two of its arguments had disastrous consequences.

The first one ran: 'If you say "No" to the Constitution, a better one can be renegotiated.' This was then backed up by claims of a mythical Plan B which, apparently, had been carefully concealed for just such an eventuality. This approach had the advantage of providing justification for those who 'wanted to say "No" to the Constitution without saying "No" to Europe'. Yet the argument's complete lack of plausibility, the absence of any common political will to implement it, as well as the fact that the draft Constitution had favoured so many French interests, indeed more than our partners were initially willing to accept, did nothing to prevent many voters from being taken in! After all, if it was simply a matter of saying 'No' to the Constitution in order to get a 'better' one, then why resist the temptation?

The second argument hinged on condemning the Constitution's 'ultraliberal' content and establishing a link between the Constitution, competition, enlargements, company relocations and unemployment. In a country that has suffered from unacceptable levels of unemployment for the past 20 years, this line was always likely to receive an audience. It was done in a cynical and dishonest manner which would have commanded respect had it been used to defend a just cause!

The only reference that the constitutional part of the Treaty made to competition, and not to ultraliberalism, appeared in Article 3, which set out the Union's objectives: 'An area of freedom, security and justice without internal frontiers, and an internal market where competition is free and undistorted'. There was nothing new about this definition: 'undistorted competition' also featured in Article 3 of the Treaty of Rome, in the copy that was placed on my desk in 1978 when I was French President, as did the 'four freedoms, free movement of goods, persons, services and capital', as defined in Title III of the 1957 Treaty. Indeed, the only thing that was new about the Constitution was the reference it made to 'a highly competitive social market economy, aiming at full employment and social progress' so as to avoid the threat of industry relocating abroad. The attacks that centred on the Constitution's alleged ultraliberalism, which was nowhere to be found in the text, simply meant that the social market economy and the reference to full employment were marginalised in favour of the 'four freedoms' which have featured in the existing Treaties from Rome to Nice! Those French people who acted in good faith have been cheated. They just don't know it yet.

A brief review of the campaign reveals that there was hardly any dispute over the constituent part of the Treaty. For some, the very word 'Constitution' was too binding; others wanted a more flexible revision procedure, overlooking the fact that it was impossible for all 25 Member States (including France!) to reach a consensus on a specific text which allowed for amendments to be made by a majority against the wishes of a minority! A noteworthy point regarding the French referendum campaign is the lack of interest shown in the allocation of competences between the European Union and its Member States, despite this being an issue of paramount importance! The term itself, 'competence', appeared to have been misunderstood. In answer to the question: 'Do education, health care, social security arrangements, civil law and so forth still fall within the competence of national governments?' the Constitution replied 'Yes'. Unlike the German people, however, the French showed little interest in such questions; this highlighted their inexperience in federal matters. They are more familiar with a centralised, nanny-state society than with a decentralised system characterised by personal responsibility.

In short, some opinions were voiced on Part I, the Constitution's very essence, but nobody rejected it outright or offered any alternatives.

Part II, the Charter of Fundamental Rights, was the subject of much campaigning on the Internet. Paradoxically, most of the comments concerning this text, which had been included at the insistence of the Convention's left-leaning members, were motivated by left-wing sensibilities. Concerns were raised over how references to the death penalty, abortion and secularism were to be interpreted. This must have delighted the Convention's British and Scandinavian members; they will not mourn the loss of a part of the Constitution that they had found hard to accept. I shall simply say that the *Bill of Rights* was the only addition that the American Congress made to the 1787 Constitution in October 1789.

In the end, it was Part III of the Treaty that was the main area of contention and drew the most fire from the opposition. The debate was strange, surreal almost, since, and I repeat, the document was simply a legal

instrument enabling the Union to pursue policies that were adopted when the existing Treaties were signed! Everyone is familiar with these documents: the Treaty of Rome has become almost sacred! The Maastricht Treaty was ratified by referendum in France; the Treaties of Amsterdam and Nice were signed by left-wing coalition governments which included Communist Ministers! These Treaties were given no expiry date. Any renegotiation would require a unanimous decision. And the draft Constitution included no changes to the arrangements for any future renegotiations. To cite just one example: Article 210 of the Constitution on 'social' policy is, quite simply, word for word, the same as Article 137 of the Treaty of Nice on the same subject, which reproduced and supplemented Articles 117 and 118 of the Treaty of Amsterdam.

So what was the reasoning behind this strange argument? Was it a question of reopening negotiations on existing Treaties? In France, there had been no real call for this; nobody was interested in the issue elsewhere. In times to come, some of these policies might well be supplemented and improved, just as new European laws might well be supplemented and adopted. But how was it that such a vacuous debate, on texts which had already been adopted by all the Member States, could upset the adoption of the new improvements set out in Parts I and II of the draft Constitution?

Surprisingly, the substance of the draft Constitution emerged essentially unscathed from the referendum campaign.

### **Explanations for the voting**

The reasons for the 'No' vote have been variously described as a protest vote against the Government, unemployment, a rejection of the competitiveness principle, fear of jobs moving abroad and of European enlargement, and, finally, the difficulty in understanding the text of the Constitution. But our attention should be focused on the interplay of all these factors, and on the particularly explosive mix that was the result of that interplay, if we are to see the bigger picture.

There had been much surprise in autumn 2004 when a large majority of the Socialist Party gave the Treaty their approval in a party vote on the matter. According to national polls, the 'Yes' camp was well ahead, with over 60 % of the intended vote. But, in the short space of time which spanned less than three months, from early March to late May, general approval turned into outright rejection. The arcane forces at work here? Fear and distrust.

First and foremost, there was unemployment and — that distinctively French characteristic — the fear of losing some of the statutory benefits linked to employment. Such fear was instinctive, but it was also stoked by observation and intuition. The media had announced job losses and published detailed reports on cases of companies relocating abroad. The public was aware that competition had become part of economic life. People surmised that this competition, and an attendant increased workload and lower wages, would endanger their acquired rights and established working practices. They were looking to protect themselves. They have still not taken on board the concept that increased efficiency, which is already a reality in many sectors, provides the best form of protection. They would like to be able to retreat into the safety of their social model, pulling up the drawbridge behind them. This is the danger that Europe represents for them, especially since enlargement.

Such fear is bolstered by distrust of not just the current incumbents but of all political and business leaders. The average voter had the impression of being hoodwinked: 'I'm never asked for my opinion,' went the complaint, 'and when I *am* asked, nobody takes any notice of what I say!' The failure to reshuffle the Government in the wake of the dire regional election results, a disaster in which the electorate had targeted the national rather than the regional authorities, served for many as proof of a refusal to listen and 'take notice'. Hence the necessity of a resounding 'No', so as to make the message loud and clear.

Of course, this distrust extends to Europe and all its leaders who, it is alleged, dare not admit to pursuing the same goal: sabotaging the 'French social model', which is considered as overly rigid and restrictive for businesses. Europe provides arguments and issues directives which are then seized upon by our political leaders as justification for pushing through their own decisions: privatisations, reform of the pensions and



health insurance systems, and so on.

Fear and suspicion also prevail when it comes to the question of European enlargement. 'Why are we being asked for our opinion on a document which is difficult to understand, and why, on the contrary, were we not consulted last year when 10 new countries became Member States of the European Union? Ten countries whose lower wages and levels of social protection will be the downfall of our own system!' Suspicions turn to anger when it comes to Turkish accession to the European Union and to the perceived risk of more jobs moving abroad as a result. 'Everybody knows that a large majority of the French are opposed to Turkish accession, yet nobody takes any notice, and accession talks go on anyway!' Government ambiguity on the issue also contributed to these suspicions. Apparently, it was the French Delegation which, at the Helsinki European Council meeting, insisted that a date be set for opening talks on Turkish accession; the public will not have forgotten the French President's 'dream' in Berlin last year of Turkey one day becoming a Member State of the European Union. So the promise to hold a referendum on the matter, at the end of the accession process, hardly reassured voters for whom suspicion is the norm: 'They'll only ask for our opinion when it's too late. And we know that they're trying to pull a fast one on us.'

This was probably the main inspiration for the final upsurge in 'No' votes. Fear and mistrust would be magically willed away with a 'No' vote. A 'No' would provide protection; a 'Yes' would be to give in and would prevent a 'No' from keeping the consequences of globalisation at bay!

It was this mixture of fear and distrust which finally won out, by a far greater margin than anyone had predicted, and it represented a rejection more of the Government than of the draft European Constitution.

Three more observations regarding the voting.

Firstly, there was a complete lack of communication between the interested parties. There was no two-way dialogue. Those fervently opposed to the Treaty had become completely impervious to the reasoning behind a 'Yes' vote.

Secondly, the voting patterns, right across the political spectrum, painted a worrying sociological picture of French society: the higher the voters' level of education, the less likely they were to vote against the Treaty. More than 75 % of people without qualifications said 'No', with the figure dropping to 65 % among those who had left school at the age of 16, and representing a minority of graduate voters (44 %). Vertical dialogue, which is essential if a healthy democracy is to thrive and social mobility be promoted, has given way to a divide that fuels anti-elitism.

Finally, and most worryingly of all: an overwhelming majority of young people voted 'No'. Sadly, this was a first in Europe's political history. Hitherto, young people have always been in favour of the European Union's progress. This was in keeping with their characteristically modern and open-minded outlook, and, according to polls, this was still the case in autumn 2004. Unemployment alone cannot account for such a sea change. Could it be that they were overcome by fear of the world that awaits them, or were they seeking a complete overhaul of the present system?

An analysis of the voting would not be complete without mentioning the 45 % of people who voted in favour of the Constitution. Their choice was not an easy one, since they were up against popular sentiment, were vulnerable to attacks from anti-Europeans on the furthest extremes of the political spectrum and had to contend with the arguments of opportunistic left-wingers.

While the 'No' camp encouraged an insular stance and attempted to alarm people with simplistic, xenophobic tactics that included references to the imaginary threat from the poor old Polish plumber, the Treaty's supporters chose to go on the offensive so as to create opportunities for France in Europe and for European influence in world affairs. They opted for the path of modernity, which can enable France to resume progress on the economic front by tackling unemployment head on, that is to say, by encouraging growth. And, although they were in the minority, they formed a large minority which can serve as firm foundations for any future policies aimed at reviving France's economy.

## France's position in Europe

At the risk of labouring the point, France really has let slip some golden opportunities in rejecting the Constitutional Treaty!

Regrettably, France has just confirmed its poor reputation in Europe as an arrogant and unreliable country. The idea that the other 24 European Member States will be keen to renegotiate a Treaty which we had all drafted and then signed together, the notion that these countries will be willing to accept demands that we ourselves cannot even identify, and the belief that they will suspend their ratification procedures, simply because we have written off our own, will humiliate our partners and end any chances of a new consensus being forged in the foreseeable future.

From a legal perspective, our current situation is quite clear: we have reverted to the Treaty of Nice, which is probably the worst possible outcome for France. The rotating six-month Presidency will remain intact and, with it, a succession of leaders of Member States whose number one priority will not be how to address the fears of the French electorate! The 25-member-strong Commission, soon to become 27, includes just one French representative and will continue to issue its directives and regulations. Those who thought that the Constitution was 'too complicated' will now have to consult 4 Treaties and 19 Accession Treaties whenever they have any queries about how Europe works. National parliaments will continue to play a marginal role in the European system. And France, with 13.5 % of the EU's population, will be entitled to only 8.4 % of the vote in the European decision-making process!

Surely of more concern is the fact that, for the first time in 50 years, Germany and France have given conflicting answers to the same question. This is what saddens me the most about the referendum result, especially when I think back to the final stages of the war and to my youthful dream of establishing a Franco-German relationship based on fraternity and friendship. Objections might be raised on the grounds that the two countries followed different ratification procedures: one involving a referendum, the other a parliamentary vote. But German MPs, almost all of whom voted for the ratification of the Constitution, knew full well that they would soon be seeking re-election. Therefore, they had to reflect the general will of the German people. Every effort will be made, quite rightly, to conceal any differences of opinion. The fact remains, however, that Franco-German initiatives, so crucial to the European Union's progress, will have lost much of their credibility.

One palpable effect of the rejection by France and the Netherlands of the European consensus, which had taken so much time and effort to achieve, has been to unleash those centrifugal forces which threaten European unity: ideological disputes, antagonism between large and small and between old and new Member States, conflicts of interest between countries which are net contributors and net recipients, and the temptation to disregard the financial discipline of the euro. Domestic considerations will, once again, take precedence over those of Europe. If each country merely 'defends its own interests in Brussels', who will provide the necessary impetus for organising the continent?

For some, this is a wholly acceptable state of affairs! All our partners eventually signed up to the Constitutional Treaty, including initial sceptics such as Great Britain and certain Scandinavian countries, but our 'No' has given them new room for manoeuvre.

Anyone claiming that our partners will use this room for manoeuvre to move towards the 'French model' will be cruelly and cynically misleading the public. They will wait and see if their partners can still agree on a draft Constitution. If no agreement is reached, they will settle for an arrangement more in line with their own interests, and they will happily abandon aspirations of creating a well-organised Europe that wields influence on the international scene. It would take just a fresh wave of enlargements, particularly if they were to include Turkey, to end the ideal of European integration once and for all and establish the free-trade area on a permanent basis.

We can take some comfort from the more judicious manner in which the British Prime Minister, Tony Blair,



announced the decision to abandon the planned referendum in his country. This contrasted with the way in which his Foreign Secretary had tactlessly declared the Constitutional Treaty dead. Tony Blair believes that an agreement can still be reached.

Everyone was aware from the outset that one or more Member States might fail to ratify the draft Constitutional Treaty. Nobody, if truth be told, thought that it would be France. Article 442 of the Treaty had made provisions for just such an eventuality. If four fifths of Member States have ratified the Treaty by November 2006, and if one or more countries is encountering difficulties in following suit (which is precisely the case at present!), the problem will be referred to the European Council.

The only course of action now is to:

- recognise the fact that, despite an overall rejection, closer examination of the voting reveals that voters in France and the Netherlands did not dispute the constituent part of the draft Treaty;
- allow the ratification process to continue, with each Member State proceeding as planned;
- give the French people time to realise that there never were going to be any miraculous renegotiations. The draft Constitution's sole purpose was to remedy the current system's defects and shortcomings. Let our compatriots rediscover these imperfections and look for possible solutions. They will then become familiar with the procedure that the Convention took 18 months to draw up;
- distinguish between Parts I, II and III in any future discussions: only Parts I and II of the Treaty are constituent;
- remedy current disaffection by making Europe 'desirable' again, focusing on the place that it guarantees us in the world and on the great things of which it is capable.

It will then be the right time for a 'comprehensive appraisal', one which will give a fair chance to the draft Constitution's substance which, after all the Convention's thorough work, can be further explained and even supplemented by government declarations.

'The worst is not the surest', wrote Paul Claudel.

Let us stake our own claim to the fine title of a film about the Normandy landings: 'Saving the European Constitution!'

Passion, sustained by fear and a distrust of authority, triumphed over reason. Passions are perfectly justifiable. But reason can bide its time ...