



**From the European Convention to Public Discourse:
Debating on Common European Future**

**Istituto Affari Internazionali
in cooperation with
The Trans European Policy States Association**

convention watch

SPAIN

1. Evaluation of the work and results of the European Convention

1.1 Overall assessment of the results of the Convention

What is your government's overall assessment of the results of the Convention? How have they been received by the other main political and social actors?

The Spanish government's assessment of the achievements of the Convention has been, in general terms, quite positive. Nevertheless, there are still some points that the Spanish government wants to re-negotiate in the framework of the next Intergovernmental Conference (IGC).

The main opposition party, the socialist party (PSOE), has shown a positive attitude towards the Convention, especially concerning its working method.

Some initiatives, especially at regional level, have also given a relevant contribution to the debate. Various autonomous regions have, in fact, promoted a debate on the Convention. In particular the regional Parliament of Catalonia created a forum of discussion that involved a large number of people.

1.2 Convention method

Is there the perception in your country that the Convention has contributed substantially to making the process of constitutional reform of the EU more transparent and democratic? What are considered to be the main positive elements of the Convention method? And those that, on the contrary, have drawn the most widespread criticism?

The perception regarding the method is that the Convention improved the level of transparency while it had a more limited impact on the EU level of democracy. In fact, it included representatives of European and national institutions, but not of local ones.

The main positive elements of the Convention are perceived to be the following:

- The transparency and the wide debate that it has generated;
- The fact that it involved on an equal basis the representatives of all the member states; and
- The promotion of an active participation by citizens.

On the contrary, the most criticised point is that the Convention has gone, in certain aspects, beyond its scope and mandate.

1.3 Performance of national representatives

How do you judge the performance of the representative of your government in the Convention? Do you think that he/she played a proactive and dynamic role? What are the Convention issues on which he/she concentrated his/her interventions and proposals? Did your government work actively to adopt common positions or establish a unity of action with other governments? Did the representatives from your country at the Convention take similar stances on the most important issues, or did their different political affiliations and ideological convictions reflect in substantially different positions?

The Spanish representatives have played an active role throughout the work of the Convention. In particular, the Spanish Government has actively sought an alliance with other countries, in particular the UK and Italy.

The Spanish representatives took similar positions on most issues, even if the members of the opposition party adopted different positions in matters related to social policy, the Christian heritage and institutional structure.

2. National debate and public opinion trends

2.1 Public opinion trends

How have the attitudes of public opinion towards the EU evolved in your country in the last months of the Convention's work? Can it be argued that the completion of the Convention's activities, and the presentation of the draft constitutional treaty have had a substantial impact on public opinion trends?

Generally speaking, the Convention has had a very limited impact on the Spanish public opinion and the debate has been restricted to the academic and political circles. Consequently, the draft of the Constitutional treaty is scarcely known by the citizens. It should be noted, however, that the public opinion debate regarding European affairs has always been quite limited.

2.2 The role of parliament

Was the draft constitutional treaty approved by the Convention discussed in your national parliament? Did the committees of your parliament working on EU issues address and examine, on a more or less regular basis, the work of the Convention? How did the government inform parliament about its initiatives and positions concerning the constitutional reform of the EU?

To date, the draft Constitutional Treaty has not been discussed by the Spanish Parliament in plenary session. In fact, the overlap with the budgetary session, the Iraq crisis and other internal matters prevented the final work of the Convention from becoming a priority issue. Nevertheless, the project was examined and discussed at the committee level (*Comisión Mixta para la Unión Europea*).

The Spanish Government has used the normal channels to inform the Parliament about the Spanish positions in the Convention and about its results. However the information provided by the government has not been considered satisfactory by the regional parliaments.

2.3 Other relevant initiatives

Do you think that the many initiatives undertaken by the EU to promote a public debate on European constitutional issues, notably by involving civil society, have had an impact in your country? Has your government played an effective role in raising the knowledge and awareness of public opinion concerning the Convention's goals and activities?

The different initiatives have had an impact mainly in the political and academic arena, while it is not possible to affirm that the civil society has been involved in the debate.

An example of this is the creation of the Council for the debate on the future of the EU which was articulated in three forums: a first one at the political level, a second one at the academic level and third one at the civic level. However, this last forum received a relevant contribution only by the Spanish Entrepreneurial Confederation of Social Economy (CEPES). In fact, the Spanish government has insisted on the need to organise a popular referendum in 2004 about the final text of the Constitutional Treaty. If a referendum is called, a more exhaustive explanation of the text of the Constitutional Treaty and of its consequences will be required for the benefit of the wider public.

2.4 Media coverage

How was the media coverage of the final, crucial phase of the Convention's work? How extensive has information on the content of the draft constitutional treaty been? Has it been presented in a positive or negative light? Which issues have been covered the most?

The media coverage of the Convention work has been very poor. Only the newspapers have provided information on the key phases of the Convention, while television has only briefly informed about them in the news. No special programs or surveys have been broadcast on TV or radio.

Almost all the articles written about the Convention have taken a positive approach, focusing on such topics as the role of Spain in the future Constitution, Spanish participation in the Praesidium of the Convention and the main practical consequences for the citizens.

3. Prospects for the Intergovernmental Conference

3.1 Link between the Convention and the IGC

The Thessaloniki Council did not go beyond defining the text of the draft constitutional treaty “a good basis for starting the Intergovernmental Conference”. In your government’s view, should the IGC limit itself to endorsing the results of the Convention, concentrating only on the few issues that still remain controversial, or engage in a more comprehensive review of the draft constitutional treaty?

The Spanish government considers that the draft text of the Convention is a good initial basis for discussion, even though Foreign Minister Palacio and Prime Minister Aznar have both pointed out on several occasions that the Convention has changed the provisions concerning issues such as the system of qualified majority, the composition of the Commission and the number of members in the European Parliament that had already been firmly defined by the Nice Treaty in 2000 and confirmed in the Athens accession Treaty signed on 16th April 2003.

3.2 Organisation of the IGC

To prevent the upcoming Intergovernmental Conference (IGC) from bogging down in obscure and prolonged negotiations, as in the previous IGCs, the Italian government, which will hold the EU’s presidency until December 2003, proposes that the IGC be held mostly at top-level, i.e. at the level of the Heads of State and Government and the Ministers of Foreign Affairs. Does your government agree with this approach?

The IGC’s timetable and working methods proposed by the Italian Presidency have been criticised by the Spanish government. In fact, like other countries, it expressed doubts about the feasibility of the timing. Spain knows that its requests to introduce changes in various parts of the draft Constitutional Treaty will be opposed by other Member States (especially France and Germany). In this context it is felt that expert meetings will be necessary to prepare adequately the ministerial debates at the top level so that a consensus can be reached.

3.3 Controversial issues

3.3.1 Elected President of the Council

While there is general agreement concerning the establishment of a permanent and elected President of the Council, there are still different ideas on his/her functions, especially on whether or not he/she should play a co-ordinating role with regard to the presidencies of the other Council formations.

The creation of an elected President of the European Council was an explicit request that the Spanish government put forward rather early, jointly with the French and the British governments.

While Spain is generally satisfied with the provisions concerning the elected President, it would have preferred a longer mandate than the 2^{1/2} years agreed upon in the draft

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text and a wider range of attributions and competences such as a more active role with regard to the sectoral councils.

3.3.2 Composition of the Commission

The debate in the Convention concerning the European Commission eventually concentrated on its composition. The Convention approved the following proposal: “The Commission shall consist of a College comprising its President, the Union Minister of Foreign Affairs/Vice-President, and thirteen European Commissioners selected on the basis of a system of equal rotation between the Member States.” In addition, “the Commission President shall appoint non-voting Commissioners, chosen according to the same criteria”. Does your government back this proposal or is it in favour of a different solution?

The Convention’s proposal for the composition of the Commission and the division of power among its members have been firmly rejected by the Spanish government. In fact, Spain insists on applying article 4 of the Protocol of Enlargement adopted in Nice which states that in a Union of 25 each member state will have its own representative in the Commission.

The reason behind this attitude is that Spain wants to preserve its power in an enlarged Europe.

3.3.3 Definition of qualified majority voting

The Convention has proposed abolishing the current weighting system for qualified majority voting (QMV), by defining QMV as the majority of the member states representing at least 60% of the European population. Is your government satisfied with this provision, or would it rather change it?

The Spanish government totally disagrees with the qualified majority system (QMV) as defined by the draft Constitution. It insists on a return to QMV as defined in the Treaty of Nice.

In this context Ana Palacio considers that the proposed QMV goes against basic principles of the EU. According to her, the European Union is a union, not a federation of states. In fact, applying this new system, three “big” States - one being Germany - would be able to block the approval of any proposal.

3.3.4 Extension of qualified majority voting

Does your government support an extension of QMV to policy fields other than those indicated in the draft constitutional treaty, such as taxation and CFSP?

Spain will certainly not support a further extension of the QMV to new fields, especially in such domains as fiscal policy, where it thinks national sovereignty should remain. This also applies to CFSP. Although the Spanish position has not been as explicit as those of other countries like the UK, this has been affirmed on different occasions by Ana Palacio.

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3.3.5 Minister of Foreign Affairs and EU diplomatic service

While there is a consensus on the creation of a EU Minister of Foreign Affairs, different views exist concerning the executive structure he/she should rely upon. What is your national government's position on this issue? Should the structure be placed within the Commission or the Council?

The Spanish government considers that the effectiveness of this new institutional figure will depend on adequate mechanisms for his/her appointment, terms of office and hierarchical links with the Commission and the Council.

Spain seems to prefer that this figure be placed within the Council instead of the Commission since it is against the “communitarisation” of CSFP.

4. The ratification process

4.1 Eventual obstacles

Do you think that the process of ratification of the new constitutional treaty may encounter difficulties or major political opposition in your country? If so, which?

Considering the current political situation, the ratification process of the new Constitutional Treaty should not encounter great obstacles. Traditionally, in fact, there is a convergence of opinions between the two major parties, Partido Popular and PSOE, on EU issues.

4.2 European Parliament elections

According to the conclusions of the Thessaloniki Council, the Intergovernmental Conference should “complete its work and agree the Constitutional Treaty as soon as possible and in time for it to become known to European citizens before the June 2004 elections for the European Parliament”. Do you expect the constitutional issues to become a central matter of debate during the electoral campaign in your country? Or do you think that the European Parliament elections are more likely to be dominated by national issues?

In the coming months there will be a number of important political events in Spain, in particular five different elections (including national elections) that will take place by next spring. For this reason it may be expected that the debate on the Convention will not be particularly intense.

4.3 Referendums

For constitutional reasons, some countries need to submit the EU Constitutional Treaty to a national referendum before it can enter into force. Others may decide to hold a referendum in order to give the national ratification more legitimacy. Is a referendum foreseen in your country? If so, do you expect this to be a factor that will complicate or facilitate the ratification process?

According to the Spanish Constitution, a referendum is not required for the entry into force of the Constitutional Treaty. Nevertheless, Spanish Prime Minister Aznar has proposed the celebration of a referendum in coincidence with the European parliamentary election in order to give greater democratic legitimacy to the new “European Constitution”. An initiative of this kind could however generate some problems. An active support by the citizens could be difficult to obtain given their scarce involvement in the debate.

4.4 What to do in case of failed ratification

Has your government expressed any preference on the eventual initiatives to be undertaken in case one or more countries should fail to ratify the new treaty?

From a legal point of view, any country can block the enactment of the Constitution. If one State does not ratify the Constitutional Treaty, this would be a serious political problem. Spanish Foreign Affairs Minister Ana Palacio has affirmed that in this case it would be important to find a solution that avoids the fragmentation of the Union and, at the same time, prevents just one member state or a tiny minority from blocking the entire process.

Spain did not agree with the Commission proposal to exclude from the EU the countries that fail to ratify the new Treaty, since it considers that such rule could generate a climate of mistrust among the member states.