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The Spanish parliamentary debate about the ratification of the European Constitution

Abstract: In this paper I will present and analyse the discussion, the positions and the arguments of the Spanish political parties regarding the ratification of the European Constitution. The Spanish discussion can be differentiated in a temporal dimension, a regional and a thematic dimension; latter divided in domestic and foreign themes. (Last updated 15/03/2005)

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Introduction

The Spanish referendum has been the first public referendum in the ratification process of the European Constitution. While results are interpreted on the one side, with regard to the 42 per cent participation rate, as a warning to the nine other EU countries and on the other side as a “catalyst” in rallying support, with regard to the overwhelming approbation, in these countries, it seems worth to analyse the Spanish pre-referendum discussion. The question whether to ratify the Constitution by a referendum provoked in Spain less turbulent discussions than in other countries but the positions of the main actors have changed several times.

In this paper I will give an overview firstly, over the evolution of the referendum idea from the genesis of the idea until the referendum was held and later, over the positions of all political parties represented in the Spanish parliament and the arguments within the civil society. The paper is based on the analysis of various Spanish national and regional newspapers, polls carried out by different institutes, party statements, minutes of parliamentary discussions and first analytical analysis on the subject. You can find a complete list of all resources at the end of the document.

Analysis

Spain was the only EU member state where all political parties in 1986 voted in favour of membership. But a popular referendum has never been held on European matters. The last time Spain held a referendum was in 1986 on the question of NATO membership. The Socialists party proposed in its contribution to the Convention Forum the idea of a referendum to ratify the Constitution,¹ while former Foreign Affairs Minister and member of the Convention Ana Palacio rejected this proposal in 2002 and said that since it is a Treaty, it should not be subject to a popular consultation, “nobody has ever seen a treaty being ratified by a referendum. It is not the usual way, since a referendum always refers to internal matters of the member states”.² Only less than a year later, in June 2003, she announced the possibility to hold a national referendum on

¹ “Zapatero aboga por aumentar el peso de las autonomías en la UE y crear un impuesto europeo”, El Mundo, 08/09/2002.

“Our Idea of Citizens' Europe”, proposal from the Spanish Socialist Party (PSOE) to the Convention Forum, September 2002.

² “Palacio se muestra contraria a ratificar en un referéndum la futura Constitución Europea”, El Mundo, 30/10/2002.

the European Constitution.³ Two months before, in April 2003, former president Jose Mario Aznar, following the Member of the Convention's Presidium, Iñigo Méndez de Vigo (EPP-ED), had already proposed to hold a wide European referendum at the same day as the European elections in June 2004.⁴ Once the official position of the former governing Partido Popular, Peoples Party (PP), turned in favour of a referendum, no other opposition against holding a referendum was left, because all parties, with different motivations, and the civil society had already supported and argued in favour of the convocation of a referendum.⁵

While the nationalist parties saw a referendum like an opportunity to express their rejection to the Constitution, the former government and the former leading opposition party agreed to campaign for a yes vote.

After the election on 14th of March 2004, the Spanish negotiation behaviour in the IGC changed and facilitated an agreement on the European Council in Brussels on the 18th of June 2004. Shortly after his election José Luis Rodríguez Zapatero as Spanish Prime Minister, has made an official statement that he intends to hold a referendum on the EU Constitution as soon as possible. In an appearance before the Parliament on the 23rd of June 2004, Zapatero said: “This government thinks it is in Spain's interests to be one of the first countries to ratify the Constitution; we want to be among the first to act in this new crucial stage of European integration and by showing our example to help to combat any possible scepticism or attempt to go backwards”⁶. The Spanish Ministry of Foreign Affairs and Cooperation announced at the beginning of October that the Constitution would be the subject of a referendum which was foreseen for the 20th of February 2005⁷, exposing the question “Do you approve the Treaty establishing a Constitution for Europe?”⁸. With this the Spanish government confirmed to be the first Country holding a referendum assuming the responsibility to celebrate the first referendum test in the process of ratifying the European Constitution which would have

³ “El Gobierno prevé someter a referéndum la futura Constitución de la Unión Europea”, El Mundo, 17/06/2003.

⁴ “Aznar propone someter a referéndum la Constitución de la UE en junio de 2004”, El Mundo, 11/04/2003.

⁵ “Todos los candidatos apoyan que la Constitución Europea sea sometida a referéndum en España”, El Mundo, 04/06/2004.

⁶ Comparecencia, a petición propia, del Presidente del Gobierno ante el Pleno de la Cámara, para informar sobre el Consejo Europeo celebrado los días 17 y 18 de junio en Bruselas, Diario de Sesiones, Nr. 20, 23/06/2004.

⁷ “La Constitución europea se votará en España el 20 de febrero”, El País, 05/10/2004.

important repercussions on the public opinion in other Member States. The question and the date were not discussed, although the project of the government to be the first member state in celebrating a referendum was criticised by the United Left (IU) and the PP.⁹ In contrast, no political party was 100 per cent satisfied with the final text of the treaty establishing an European Constitution and all parliamentary fractions articulated their worries for a low participation in a referendum although the participation in the election of the European Parliament was with 46% slightly over the European average, I will analyse the arguments in a deeper way on the following pages.

After the election in March the ratification process on the European Constitution took two different dimensions. On the one hand the referendum was seen as an **instrument for the foreign policy**: The new Socialist government was very interested in showing that Spain had come back to Europe – after the proamerican policy of the Aznar government - in this sense the symbolic hurry to be the first holding a referendum can be interpreted as an instrument to reaffirm the European position of Spain. Zapatero expressed variously the hope that a massive yes-vote would show Spain was in the first line of building Europe, and had “returned to the heart of Europe.”

And on the other hand as **an instrument in the domestic relations**:

While the Popular Party government, specially during their second mandate when they had an absolute majority in parliament, didn't need the support of regional parties to pass their policies, the Socialist government, with 164 seats in the lower house of parliament, 12 less of those needed for an absolute majority, need to forge alliances with smaller regional or left-wing parties. This fact strengthens the negotiation position of the regional parties. In consequence the minority Socialist government has developed various activities to satisfy the demands of the regional parties. The Minister of Foreign Affairs, Miguel Ángel Moratinos, expressed in a letter to the Irish Presidency EU the Spanish Government's trust that Basque, Galician and Catalan will be recognised as EU official languages.¹⁰ A similar letter was sent in September to the Dutch Presidency

⁸ Comparecencia del señor ministro de Asuntos Exteriores y de Cooperación, Moratinos Cuyaubé, para tratar de la convocatoria de referéndum sobre el proyecto de Tratado por el que se establece una Constitución para Europa a la Comisión Mixta para la Unión Europea, 18/10/04.

⁹ “Rajoy pide que el Constitucional opine sobre la Constitución europea antes del referéndum”, El País, 31/10/2004.

See also, Comparecencia del señor ministro de Asuntos Exteriores y de Cooperación, Moratinos Cuyaubé, para tratar de la convocatoria de referéndum sobre el proyecto de Tratado por el que se establece una Constitución para Europa a la Comisión Mixta para la Unión Europea, 18/10/04.

¹⁰ Anasagasti Olabeaga en la comparecencia del señor Ministro de Asuntos Exteriores y Cooperación, Moratinos Cuyaubé, para informar sobre: el próximo consejo europeo de Bruselas en la Comisión Mixta para la Unión Europea, 10/06/04.

including Valencian in the catalogue,¹¹ Spanish PM Zapatero had already demanded in May 2004 the official recognition of the regional languages in the European Constitution.¹² Apart from these linguistic offers, which provoked not only happiness but also discussion between the nationalistic parties, he proposed to the regional parties more participation of the Spanish Comunidades Autonomas in European Affairs, regional representatives at the ministerial level will participate in the Council of Ministers, as the Article I-23¹³ of the European Constitution allows.

If a referendum was held at the end of October 2004, only four per cent of Spaniards would have voted against the new Treaty,¹⁴ but more than 40 per cent wouldn't have known whether to vote for or against a European Constitution. Many adults were not familiar with the text, according to the poll, 90.8 per cent of respondents said their knowledge of the proposed text was either low or inexistent. A similar poll carried out by the Opina Institute in December and published by the daily El Pais, said that out of the 1,000 people questioned for the survey, 58.8 per cent were undecided compared to 28.1 per cent who said they planned to vote in favour of the Constitution, 4.6% planned to vote against the text and according to the survey up to 90 per cent of Spaniards have little idea what the Constitution says. During January and February different polls offered different pictures.¹⁵ While government friendly sources predicted a low abstention rate, more critical papers already forecasted a low participation level.

Official sources said before the referendum that a turnout of more than 40 per cent would save Spanish honour, less than 40 per cent would be disappointing, and less than 35 per cent a serious setback for Mr Zapatero.

Since October in Spain a debate has come out whether the European Constitution can become in conflict with the Spanish Constitution. Nevertheless the topic was hardly

¹¹ "Moratinos incluye al valenciano entre las lenguas que propone oficializar en la UE", ABC, 14/09/2004.

¹² "El Gobierno ya ha pedido a la UE que reconozca en la Constitución las lenguas oficiales en España", El Mundo, 10/05/2004.

¹³ Article I-23 (2) The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.

¹⁴ Survey held between 21 and 26 October by the Centro de Investigaciones Sociológicas (CIS)

¹⁵ **OPINA for SER Radio, on January 19, 2005;**

Yes: 45,3 % ; No: 7,1 %; Undecided:35,21 %; Will not go to vote:11,3 %; Blank Vote: 0,9 %

OPINA for SER Radio, on February, 2, 2005 (www.cadenaser.com)

Yes: 40,4 %; No: 6,5 %; Undecided: 38%; Will not go to vote:10,9 %; Blank Vote: 1,6 %

Celeste Tel for the newspaper La Razón, February 10, 2005

Yes: 37,1 %; No: 3,9 %; Will not go to vote:58,4 %; Blank Vote: 0,7 %

Noxa Institute for the newspaper La Vanguardia, February 10, 2005

Yes: 57 %; No: 14 %

Torreblanca, J.I.; Sorroza, A., Spanish Ratification Monitor (WP), Real Instituto Elcano, 03.02.2005.

connected with internal politics, a controversy project of the Socialist party to reform the Spanish Constitution in several points is defeated by the main opposition party. The European Constitution Article I-6¹⁶, which specifically establishes the supremacy of community law, has been criticised by several constitutionalist experts as being difficult to reconcile with the Spanish Constitution's Article 93¹⁷ and Article 9, which holds that “citizens and public authorities are subject to the [Spanish] constitution and to the legal order”¹⁸.

The Popular Party and the communist-ecologist United Left (IU) demanded that the Socialist government had first to submit the matter to Spain's Constitutional Tribunal prior to the referendum to clarify that the text of the new European Constitution does not contradict any of the clauses in the Spanish Constitution.¹⁹ A conflict in case of far-reaching constitutional amendments could benefit the main opposition party and the United Left as Article 168²⁰ of the Spanish Constitution provides for the dissolution of parliament and senate and consequently a general election. IU leader Llamazares argued that what is at stake is a reform of Spanish law, which makes necessary a dissolution of the chambers,²¹ and he accused the Socialists of acting in their own interest and with a very doubtful legislative background.²²

¹⁶ Article I-6 the Constitution and law adopted by the institutions of the Union in exercising competences conferred on it shall have primacy over the law of the Member States.

¹⁷ Spanish Constitution Article 93 [Transfer of Sovereignty]

By means of an organic law, authorization may be established for the conclusion of treaties which attribute to an international organization or institution the exercise of competences derived from the Constitution. It is the responsibility of the Parliament or the Government, depending on the cases, to guarantee compliance with these treaties and the resolutions emanating from the international or supranational organizations who have been entitled by this cession.

¹⁸ Spanish Constitution Article 9 [Rule of Law]

(1) The citizens and public powers are subject to the Constitution and the legal order.

(2) It is the responsibility of the public powers to promote conditions so that liberty and equality of the individual and the groups he joins will be real and effective; to remove those obstacles which impede or make difficult their full implementation, and to facilitate participation of all citizens in the political, economic, cultural, and social life.

¹⁹ Comparecencia, a petición del Grupo Parlamentario Popular en el Congreso, del Secretario de Estado para la Unión Europea, Excmo. Sr. D. Alberto Navarro González, 02/11/2004.

²⁰ Article 168 [Revision]

(1) When a total revision of the Constitution is proposed, or a partial revision thereof, affecting the Preliminary Title, Chapter II, Section 1 of Title I, or Title II, the principle shall be approved by a two-thirds majority of the members of each Chamber, and the Parliament shall immediately be dissolved.

(2) The Chambers elected must ratify the decision and proceed

to examine the new Constitutional text, which must be approved by a two-thirds majority of the members of both Chambers.

(3) Once the amendment has been passed by the Parliament, it shall be submitted to ratification by referendum.

²¹ “El PSOE quiere consultar al Constitucional después del referéndum europeo”, El País, 01/11/2004.

²² El Gobierno consultará al TC sobre la reforma de la Carta Magna tras el 20-F y no antes, como piden PP e IU, El Mundo Fecha, 30/10/2004.

Also the Council of State advised that the Tribunal should first review whether there were any incongruities between the two texts. Francisco Rubio Llorente, president of the State Council, said in a Conference held in the Real Instituto Elcano at the end of October that a reform of the national Constitution would not require early dissolution of parliament and new elections.²³

Firstly the Socialist government had planned to allow the referendum on the European Constitution and to address the compatibility issue afterwards.²⁴ Later the government said it would consult the Spanish's Constitutional Tribunal before holding a referendum on the European Constitution.²⁵ Finally the Constitutional Tribunal requested the opinion of the Government and the Parliament with respect to four questions:²⁶ Firstly, regarding a possible contradiction between the Spanish Constitution and the Article I-6, secondly a contradiction between Article 10.2 (Spanish Constitution) and Articles II-111 and II-112 (Fundamental Rights), thirdly concerning Article 93 (Spanish Constitution) and the way to adopt the European Constitution and finally regarding the procedure of a possible constitutional change in Spain. Finally the Constitutional Tribunal decided on 13 December with nine of its 12 members that there is not contradiction between the European Constitution and the Spanish Constitution and that there was therefore no need to reform the latter.²⁷

As a complicating fact, the Spanish debate took place at a time when the country has already entered a process of reform of some regional autonomy statutes and, as a consequence, a process of a general reform of the Spanish Constitution.

Despite the disagreement in the Spanish political debate regarding formal aspects of the ratification process, the campaign had started with the slogan: "Being First with Europe" according to the government, the campaign was concentrated on Spain's significant political, economic and social progress since it joined the European Community in 1986. By law, there can be no institutional propaganda in favour of a "Yes" vote once the referendum has been called. In this sense the government had ran

²³ "El Consejo de Estado advierte de la posible 'divergencia' entre la Constitución española y la Europea", *El Mundo*, 28/10/2004.

²⁴ "El PSOE quiere consultar al Constitucional después del referéndum europeo", *El País*, 01/11/2004.

²⁵ "El Gobierno rectifica y decide consultar ya al Constitucional sobre la Carta europea", *El País*, 03/11/2004.

²⁶ "El TC pide al Gobierno y a las Cortes que opinen sobre posibles choques entre la Constitución Europea y Española", *El Mundo*, 11/11/2004.

²⁷ "El Tribunal Constitucional dictamina que no existe contradicción entre la Constitución española y la europea", *El Mundo*, 13/12/2004.

"El constitucional no ve necesario reformar la Constitución para adaptarla a la europea", *El País*, 14/12/2004.

the information campaign and motivate public participation. The information campaign stopped 30 days before the referendum, from then, only political parties made their campaigns encouraging people to vote one way or the other.

Some commentators accused the PP of seeing the poll as a chance to get back at Mr Zapatero in a “revenge second round” of the general elections.²⁸ During the campaign José Durao Barroso, Jacques Chirac and Gerhard Schröder supported actively the “yes” campaign through appearances at party meetings.

What were the arguments of the political parties?

Firstly, a cleavage between nationalistic parties and national wide acting parties and secondly a cleavage between the moderate parties and the left wing parties can be determined. Apart from the PSOE, the PP and the Canary Islands party (Coalición Canaria), all the other parties were either ambiguous or critical with the European Constitution.²⁹ Therefore it was difficult to achieve consensus, but after the moderate regional parties PNV and CiU expressed their support, a strong “yes” was almost probably. Although the radical regional nationalistic and the left wing parties argued in the last months before the ratification against the referendum, all parties underlined that voting “no” on the referendum will not be a rejection of their “Europeanness”. In a hypothetic ballot in the Spanish parliament ahead of the public referendum, the Constitution would have received more than 94% support, 332 MPs would have voted in favour of ratification of the European Constitution and only 18 would have voted against.³⁰ After reaching a broad consensus between the political parties, worries about the turnout increased.

Socialist’s party - 164 parliamentary seats

The socialist party was, as already mentioned; the initiator of the referendum idea in Spain and had already agreed as former leading opposition party to campaign for a “yes” vote. Although some party members criticized the final text, party leader Zapatero has called the European Constitution “excellent for Europe and Spain”. The Socialist party campaign had three aims: firstly to mobilise the population to participate in the

²⁸ “Last bid to crack Spain's EU indifference”, The Independent, 19/02/2005.

²⁹ “Sólo Coalición Canaria garantiza su apoyo a la Ley fundamental”, El País, 24/06/2004.

³⁰ Torreblanca, J.I., The three points of dissensus on the European Constitution, Real Instituto Elcano, 09/02/2005.

referendum in February³¹ and secondly to reach a consensus between the political parties and thirdly to reach a favourable vote.³² A consensus, which wasn't omnipresent in their own political organisation. After some discussions and negotiations with regional party fractions, the Catalan Socialist Party especially opposed to the official position, an internal favourable position to the Constitution was reached.³³ Tension with the Catalonia's regional government provoked Madrid's decision to print almost identical Catalan and Valencian versions of the EU constitution, which was viewed as "linguistic secessionism" aimed, according to regional interpretations, at reducing the status of Catalan.³⁴

After a party consensus was reached, Maragall and the president of the region Aragon criticised the Constitution in a meeting of the leaders of the Comunidad de Trabajo de los Pirineos (CTP) arguing that the text did not give answers to the economic and social problems of the regions.³⁵ Furthermore Maragall as president of Catalonia expressed reservations against the Constitution regarding the direct access of the region to European institutions and its representation in them and finally that the text does not recognized regions with a democratic voted parliament.³⁶ In this sense some political leaders held different positions on the one hand in a party dimension and on the other hand in a regional dimension.

But in general, the party supported the Constitution as a treaty which elevates the efficiency, the transparency and the democracy of the Union and as a new and important step in the European integration process.³⁷

At the same time as governing party the PSOE was very interested in a successful result of the referendum on the one hand to stabilize the Spanish position in the EU, reaching a success in foreign affairs and on the other hand to assure an internal victory which would affirm the politic of Zapatero's government. In this sense the PSOE was very

³¹ <http://www.psoe.es/ambito/actualidad/docs/index.do?id=40438&action=View>

³² Comparecencia del señor secretario de Estado para la Unión Europea (Navarro González), para informar del Consejo Europeo informal celebrado los días 4 y 5 de noviembre, Diario de las Sesiones, Sesión núm. 6, 10/11/2004

³³ "El PSC dice 'sí' a la Constitución Europea y deja en suspenso crear grupo propio en el Congreso", El Mundo, 25/07/2004.

³⁴ "Maragall pide el 'sí' para la Constitución europea como un eslabón hacia la Cataluña futura", El País, 12/01/2005.

³⁵ "Maragall y los líderes pirenaicos critican la Constitución europea", Periódico de Cataluña, 18/09/2004.

³⁶ "Catalunya no pueda dirigirse directamente a las instancias de la UE", Periodico de Cataluña, 18/11/2004.

³⁷ <http://www.psoe.es>

grateful about the support from the other majoritarian party PP³⁸ but interpreted the lately critic position, “yes, but ...”, of the PP as an intention to cast doubts about the Constitution between the citizenship.³⁹

The campaign was dominated by external arguments like firstly, the political responsibility to be the first country holding a referendum, secondly, the message to show that Spain has come back to Europe in direct opposition to the euro-scepticism of the Aznar Government and finally, to thank the economic progress reached through EU membership and at the same time to increase the hope of continuously receiving communitarian funding. Latter argument has been used very frequently to bolster support for the Constitution. José Blanco, Head of Organisation of the Socialist Party said: “We can’t ask for resources to finance the AVE (high speed trains), any finance infrastructures and to ask for more cohesion and development for our country by voting “no” to the European Constitution.”⁴⁰

And Alfonso Perales, Secretary responsible for relations between Madrid and Spain’s autonomous regions, argued that a “No” would be a “No” against Europe and a doubtful position regarding the benefits of the EU membership in the last years and with reference to the regional nationalistic parties he added voting “No” to the project for territorial questions as the use of a special language can’t be justified.⁴¹

The party also evoked memories of the 1978 referendum on the Spanish Constitution, arguing that the high participation and the ‘yes’ vote in 1978 marked the final end of the Franco regime.

Peoples Party (PP) - 148 parliamentary seats⁴²

The former government party had revealed a certain amount of Euro-scepticism on several occasions while at the same time had become one of the main obstacles to the negotiations on the Constitution. Former premier Jose Maria Aznar said Spain had been among the losers in the negotiations over the Constitution with regard to the voting distribution in the Council, in this sense he called Party members to vote “No” in a

³⁸ “Zapatero agradece al ‘PP de Rajoy’ el sí a la Constitución europea”, El País, 15/11/2004.

³⁹ Rodríguez Ramos en la Comparecencia, a petición del Grupo Parlamentario Popular en el Congreso, del Secretario de Estado para la Unión Europea, Excmo. Sr. D. Alberto Navarro González, 02/11/2004.

⁴⁰ Blanco critica a los que piden apoyo financiero de la UE y ahora rechazan la Constitución europea, El País, 10/01/2005.

⁴¹ <http://www.psoe.es/ambito/actualidad/docs/index.do?id=40438&action=View>

⁴² Soravilla Fernández en la Comparecencia del señor ministro de Asuntos Exteriores y de Cooperación, Moratinos Cuyabé, para tratar de la convocatoria de referéndum sobre el proyecto de Tratado por el que se establece una Constitución para Europa. A petición propia. 18/10/04.

referendum on the European Constitution.⁴³ These comments contradicted those of Popular Party General Secretary Mariano Rajoy, who had called on Spaniards to ratify the document.⁴⁴

Jaime Mayor Oreja, head of the Spanish Popular Party fraction in the European Parliament, argued regarding the intents of the government to get an official status of the regional languages, that Zapatero knows it is impossible to include Catalan and Basque as official languages of the EU in the European Constitution. He accused him of making the request as strategic movement to please the nationalist parties whose support he needs in order to govern.⁴⁵ Mayor Oreja, was also displeased because the Constitution did not mention Christianity as the EU's main religion, which was finally used as an important argument in the campaign to reach the support of the Catholic Church. While the new PP leader Rajoy defended the elimination of paragraphs regarding to Christianity roots of the party in its program in September 2004.⁴⁶

As mentioned the PP, however, wants the consultation of the Constitutional Tribunal to take place before the referendum. Thinking that it could benefit them as Article 168 of the Spanish Constitution provides, in case of far-reaching constitutional amendments, the dissolution of parliament and hence a general election.⁴⁷

Apart from these points there were still critics of this party with regard to the place where the Constitution has been signed and with regard to the general organisation and communication strategy of the campaign, which was characterised by party leader as starting to late, provided with an austerity budget and not balanced.⁴⁸ The party especially criticised the date, 20 February 2005, as to early to hold a referendum. Íñigo Méndez de Vigo, said “I would not say it is an error to hold a referendum. I would say it is an error to hold it on February 20. And I think it is a political error not to inform and to avoid debate [furthermore he said] ... there is a lack of information and an absence of debate”⁴⁹

⁴³ “Zapatero exige al PP que aclare su postura sobre las Constituciones española y europea”, El País, 06/07/2004.

⁴⁴ “Rajoy marca distancias con el discurso de Aznar y le recuerda que él es ‘el responsable del PP’”, El País, 07/07/2004.

⁴⁵ “Mayor dice que Zapatero no cree en el modelo de España que predica”, El Mundo, 12/05/2004.

⁴⁶ “El PP eliminará de sus estatutos toda referencia al ‘humanismo cristiano’”, El País, 10/09/2004.

⁴⁷ <http://www.eubusiness.com/afp/041101154955.w8nne5hx>

⁴⁸ “Acebes critica a Zapatero por ‘ir contra la Iglesia y el PP’ y pedir a sus seguidores el ‘sí’ en el referéndum”, El Mundo, 06/02/2005.

⁴⁹ “‘Pretentious, propaganda’ EU vote looms in Spain “, EUpolitix.com, 16/02/2005.

Supporting the “yes” campaign seemed to bring the People Party in an inner conflict, a massive “Si” would be interpreted as a strong support for Zapatero’s government. Less than 35 per cent would mean a serious setback for Zapatero.⁵⁰ In this sense a low participation in the referendum could be interpreted as critic to the European policy of the government and its management skills and would have been the ideal situation for them. Several party members underlined variously the fact that a low turn out would be bad for the PSOE and the critic position of the government with the Catholic Church while the PP stands for the defence of the catholic values.⁵¹

In contrast to the governing party that stylized the referendum as vital for the future of Spain in Europe, the head of Spain’s PP opposition party said that if Spain votes against the European constitution it will not be a disaster. “It won’t paralyse the process nor will it be the end of the world. Those two things are absolutely certain”.⁵² The campaign was focused on the debate over the weight of votes in the Council and the loss of Spanish power in the Future European Constitution compared with the Treaty of Nice.

⁵⁰ “Last bid to crack Spain's EU indifference”, The Independent, 19/02/2005.

“A partir del 40%, la participación irá bien”, El Pais, 10/02/2005.

⁵¹ “Acebes critica a Zapatero por 'ir contra la Iglesia y el PP' y pedir a sus seguidores el 'sí' en el referéndum”, El Mundo, 06/02/2005.

⁵² “Pretentious, propaganda' EU vote looms in Spain “, EUpolitix.com, 16/02/2005.

Convergence and Union (CiU)⁵³ - 10 parliamentary seats

Convergència i Unió – CiU (Convergence and Union) is an alliance of the conservative liberal Convergència Democràtica de Catalunya – CDC (Democratic Convergence of Catalonia) and the christian-democratic Unió Democràtica de Catalunya – UDC (Democratic Union of Catalonia). During the IGC, the party tried in various occasions to influence the national negotiation position concerning minority languages and the official recognition of regions with legislative competences in the European Constitution.⁵⁴

Generally speaking the alliance has shown its support to the idea of celebrating a referendum, interpreting this political instrument as a possibility to express their political thoughts.⁵⁵

While the Democratic Union of Catalonia was in favour of the Constitution and its leader Josep Antoni Duran Lleida adopted a positive attitude in the alliance internal discussion, the Ex-leader of the Democratic Convergence of Catalonia, Jordi Pujol, was more critical. The Union's MEP Ignasi Guardans fought hard, and finally with positive results, in discussions with the party's basis defending the European Constitution.⁵⁶ This internal discussion was, apart from the discussion in the Catalan left party, the unique internal party discussion where two controversial positions were discussed.⁵⁷

Nevertheless both parties agreed to fight for an official recognition of the Catalan language in Spain and in the European Institutions.⁵⁸ In general, the CiU had two basic interests: firstly the acceptance of the Catalonian culture as the essential point to decide

⁵³ Convergència i Unió (Convergence and Union): Catalan regionalist coalition, founded in 1979. The CiU is an alliance of the conservative liberal Convergència Democràtica de Catalunya (Democratic Convergence of Catalonia) and the christian-democratic Unió Democràtica de Catalunya (Democratic Union of Catalonia), the latter being member of the Christian Democratic International and the European People's Party)

⁵⁴ “CiU negará su apoyo al Gobierno si Aznar bloquea en Bruselas el proceso de construcción europea”, Europa Press, 03/12/2003.

⁵⁵ Espasa i Oliver en la Comparecencia, a petición propia, del Secretario de Estado para la Unión Europea, excelentísimo señor don Alberto Navarro González, para informar de la política del Gobierno en la Unión Europea y hacer balance de la Presidencia irlandesa. Comisión Mixta para la Unión Europea.29/06/04.

⁵⁶ “La dirección de Convergència frena una iniciativa de sus bases para pedir el no a la Constitución de la UE”, El Mundo, 10/07/2004.

⁵⁷ Torreblanca, J.I., El referéndum sobre la Constitución Europea en España: una doble decepción, Real Instituto Elcano, 21/02/2005,

<http://www.realinstitutoelcano.org/analisis/691.asp>

⁵⁸ “Mas y Duran reclaman a Zapatero que el catalán sea lengua oficial en toda España”, El País, 11/09/2004

whether to accept or not the European Constitution.⁵⁹ In this sense the party demanded the official recognition of the Catalan language in the linguistic framework of the EU, before holding a referendum. Catalan has to become an official EU language, this will be the prerequisite to support the European Constitution in the referendum, said Jordi Pujol.⁶⁰ At a party's congress in October, he said that a “No” vote on the referendum was no more anti-Europe than a “yes” vote would be anti-Catalan. In this context party leaders pronounced in various occasions in October the connection of their “yes” in the referendum to the treatment of the Catalan in the Constitution.⁶¹

And secondly, the direct access to the Court of Justice, especially in themes regarding the application of the subsidiarity principle.⁶² As Jordi Pujol said, the CDC will vote in favour of the European Constitution if Catalan is an official language and Catalonia is represented in the EU. Like other party leaders he denied that voting “no” on the referendum would be a rejection of the “Europeanness” of the Catalan nationalists but this would be a refusal to the way the Spanish State arranges the participation of the Spanish regions in the European Union.⁶³

The Democratic Union of Catalonia decided in a party meeting on the 17th October that they would support the European Constitution.⁶⁴ The party voted with 94,3% of the votes in favour of supporting the Constitution in a referendum,⁶⁵ saying that the “yes” to the text is a very critical yes. Following the partner, at the end of October the CDC signalled its disposition for compromise.⁶⁶

Republican Left of Catalonia (ERC)⁶⁷ - 8 parliamentary seats

The Catalan republican party spokesman announced his party's intention to campaign for a “No” to the Constitution, because the draft text didn't include either Catalan as an

⁵⁹ Gasóliba i Böhm en la Comparecencia del señor ministro de Asuntos Exteriores y de Cooperación (Moratinos Cuyaubé) para informar sobre: el próximo Consejo Europeo de Bruselas. a petición propia Comisión Mixta para la Unión Europea. 10/06/04.

⁶⁰ “CiU vincula su apoyo a la reforma constitucional al papel del catalán”, El País, 18/10/2004.

⁶¹ “CiU vincula su apoyo a la reforma constitucional al papel del catalán”, El País, 18/10/2004.

⁶² Gasóliba i Böhm en la Comparecencia del señor ministro de Asuntos Exteriores y de Cooperación (Moratinos Cuyaubé) para tratar de la convocatoria de referéndum sobre el proyecto de Tratado por el que se establece una Constitución para Europa. A petición propia. 18/10/04.

⁶³ “Convergència deixa en mans de su directiva la decisió sobre la Constitució europea”, El País, 03/10/2004.

⁶⁴ “Duran logra que el congreso de Unió dé un apoyo masivo a la Constitución de la Unión Europea”, El País, 17/10/2004.

⁶⁵ “Unió apuesta por un 'sí crítico' a la Constitución europea”, El Mundo, 16/10/2004.

⁶⁶ “AMOR CONDICIONAL A EUROPA, CiU puede ir del 'no' al 'sí' en el referendo de febrero a medida que el Gobierno nos abra puertas” Periódico de Cataluña, 18/10/2004.

⁶⁷ Catalan regionalist progressive centrist party - <http://www.esquerra.org/index.php>

official European Union language nor a recognition of the Catalan culture, society and politic.⁶⁸ Furthermore he claimed in the argumentation line of the European left parties that the Constitution defends a neoliberal state model. On several occasions party leaders insisted on having more activity of the central government in the promotion of Catalan interests.⁶⁹ The party tried to mobilise its sympathisers to campaign against the Constitution but interpreted the referendum possibility as a step in the direction to more democratic participation. In this context the party offered itself as platform or centre of the “No” campaign. The left wing nationalistic party ERC, had signed with EA (Eusko Alkartasuna - Basque Solidarity) and CHA (Aragonese Union - Chunta Aragonesista) a manifest against the European Constitution affirming their negative vote in the referendum.

Basque nationalist party (PNV)- 7 parliamentary seats

The PNV Basque nationalist party was also critical about the treaty, arguing it came far short of what the party had hoped for the Basque country and criticized the absence of Christianity references.⁷⁰ Although in August 2004 a “No” to the Constitution was more likely than the “yes”.⁷¹ In November a “yes” was already possible, the executive committee underlined in a party meeting the Europeanist tradition of the party and the former positive European positions with respect to the treaties of Maastricht and Amsterdam.⁷² In this tradition, according to the party, a vote against the Constitution would have been only a vote against the national governments in Madrid and Paris – which hadn’t fought enough for the minority cultures during the IGC. In an appearance before the working group on European affairs in the Spanish parliament the representative of the PNV underlined the importance of the cultural and linguistic aspects in the moment to form the position of his party.⁷³ The Basque nationalists denied the

⁶⁸ “Ejecutiva de ERC, pidió a los ciudadanos que voten “no” a la Constitución de la UE”, *Periodico de Cataluña*, 19/07/2004.

⁶⁹ “ERC pedirá el apoyo de Zapatero para que la Constitución Europea incluya una mención expresa al catalán”, *El Mundo*, 08/06/2004.

⁷⁰ Anasagasti Olabeaga en la comparecencia del señor Ministro de Asuntos Exteriores y Cooperación (Moratinos Cuyaubé) para informar sobre: el próximo Consejo Europeo de Bruselas, Comisión Mixta para la Unión Europea. 10/06/04.

⁷¹ “Los partidos nacionalistas se niegan a apoyar la Constitución europea”, *Expansión*, 07/08/2004

⁷² EAJ/PNV convoca asamblea nacional para decidir su postura ante el tratado constitucional europeo – 23/11/2004, www.eaj-pnv.com

⁷³ Anasagasti Olabeaga en la Comparecencia del señor ministro de Asuntos Exteriores y de Cooperación (Moratinos Cuyaubé) para tratar de la convocatoria de referéndum sobre el proyecto de Tratado por el que se establece una Constitución para Europa. A petición propia. 18/10/04.

responsibility of Europe and underlined that it is the task of the national state to recognise firstly the Basque language as official language.⁷⁴

Finally after four hours of intensive debate the Basque nationalist party decided at the beginning of December that they will support the European Constitution.⁷⁵ Juan José Ibarretxe, President of the Basque country, said its better to sleep at home although the roof has leaks.⁷⁶ The reasons for this favourable vote were that the Constitution did not mean either an obstacle for the Basque nation nor a wall against the Basque president's plan to develop self-government in the Basque country. Latter although the president of the European Parliament Borrell had informed the Basque president that his plan will not have a space in the Constitution.⁷⁷ Furthermore the PNV underlined in the referendum campaign the positive aspects of the Constitution as the incorporation of the Charter of Fundamental Rights and the establishment of the EU as a separate body in law.⁷⁸ Finally, for the party the Constitution means more Europe and less Paris and Madrid.

United Left - IU - ICV - 5 parliamentary seats⁷⁹

Gaspar Llamazares, the leader of Izquierda Unida pronounced in various occasion the rejection of his party to the content of the Constitution and to the form of the elaboration. The United Left has started a campaign with the slogan “Europe, Yes - but not this way”. Llamazares complained that the Constitution is far too conservative, to neoliberal, antidemocratic, antisocial and militaristic. In its argumentation line the party defended its European roots and its European orientation.⁸⁰

The European Constitution doesn't represents the social and labour rights and didn't mention in a sufficient way the protection of the environment, in this sense doesn't mirror the social and anti-war attitudes of the European people, said Llamazares. It could have been an ideal opportunity for Europe to design its own social model, distinct from the North American one.⁸¹ In this sense the European Constitution, according to

⁷⁴ Es el estado, no Europa, el que niega la oficialidad del Euskera, 02/12/2004, http://www.eaj-pnv.com/noticias_des.asp?id_contenido=7178

⁷⁵ “La Asamblea Nacional del PNV da el 'sí' a la Constitución Europea”, El Mundo, 03/12/2004.

⁷⁶ (“dormir bajo tejado” aunque tenga goteras que hacerlo al aire libre) “Ibarretxe se decanta por el 'sí' al tratado de la UE”, El Periodico de Cataluña, 11/11/2004.

⁷⁷ “Borrell recuerda a Ibarretxe que su plan no encaja en la Constitución europea”, El País, 04/09/2004.

⁷⁸ EAJ-PNV ante el tratado por el que se instituye una constitución para Europa, Dictamen final Noviembre 2004, http://www.eaj-pnv.com/documentos_des.asp?id_documento=4222

⁷⁹ las razones para el no de izquierda unida - <http://www.izquierda-unida.com/federal/asamblea/05.htm>

⁸⁰ “La campaña de IU por el ‘no’”, El País, 12/11/2004.

⁸¹ “La dirección de IU propondrá votar en contra de la Constitución Europea”, El Mundo, 04/09/2004.

the party leader, is a back step in relation to the social model in some member states. The United Left defended the “no” in the referendum and it was the unique left wing party, as already mentioned, which rejected the referendum. Regarding the possible conflict between the European Constitution and the Spanish Constitution, Llamazares had already warned Zapatero against signing the Constitution in Rome, he argued that the Spanish Constitutional Court hadn’t pronounced its opinion in this moment and the procedures to ratify the document were questionable legal. Gaspar Llamazares believed that what was at stake was a reform of Spanish law, which needed the dissolution of upper and lower house.

Canary Islands party - 3 parliamentary seats⁸²

The party supported the constitutional project from the beginning; this position separated the party from the rhetoric of other regional parties.⁸³ Party members variously have declared that they were broadly satisfied with the agreement reached for ultraperipheral regions in the final text.⁸⁴ The Government of the Canary Island was the first Spanish regional government that asked the citizen to vote “yes” to the Constitution.

The Canary Island has defended during the Convention and during the IGC its own interests as peripheral island, which constitutes two characteristics of a region (island and peripheral) with special treatment in the European Regional Policy.⁸⁵ The European Union has assumed a special responsibility for the ultraperipheral regions and the extremely sparsely populated regions in Europe. In this sense the European Constitution includes references to the structural economic and social situation of ultraperipheral regions as the Canary Islands in Article III-424.

This means that the island will have a special treatment in areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aids and conditions of

⁸² <http://www.coalicioncanaria.org>

⁸³ “Sólo Coalición Canaria garantiza su apoyo a la Ley Fundamental”, El País, 24/06/2004.

⁸⁴ Pregunta oral, pasos que está dando el Gobierno para garantizar el mantenimiento de las singularidades que tiene Canarias en la Unión Europea. Rivero Baute, Paulino (GCC), Intervención en el Pleno el 19/05/2004.

Solicitud de comparecencia del Presidente del Gobierno ante el Pleno de la Cámara, para que informe de la posición que defenderá el Gobierno en la Conferencia Intergubernamental sobre la Constitución europea. Rivero Baute, Paulino (GCC) Intervención en el Pleno el 15/06/2004.

⁸⁵ Comparecencia del señor secretario de Estado para la Unión Europea (Navarro González), para informar del Consejo Europeo informal celebrado los días 4 y 5 de noviembre, Diario de las Sesiones, Sesión núm. 6, 10/11/2004.

access to structural funds and to horizontal Union programmes. These aids will be compatible with the internal market as Article III-167⁸⁶ defines. In this context the party, which hasn't any strong cultural or linguistic interest, see its own demands well represented in the final text.⁸⁷

Aragonese Union (CHA)⁸⁸ 1 parliamentary seat

The member of European Parliament José Miguel Díaz Calvo argued in an official position paper of the party “Yes to Europe, but...with this treaty”,⁸⁹ that regional interests, identity and cultural peculiarities are not represented and recognised in the Constitution, furthermore he claimed the absence of an Article regarding a European social model. The treaty, following the argumentation, is a treaty between states without regional representation. Although there are some positive points as the Articles regarding the protection of personal data and the quality and safety of medicinal products that are recognised by the Union. The unique charismatic parliamentarian of the party in the Spanish Congress José Antonio Labordeta defended with reference to the historic referendum in 1978 his favourable vote in the ratification of the Constitution.⁹⁰

As mentioned before, the Aragonese Union had signed with the left wing parties ERC and EA (Eusko Alkartasuna - Basque Solidarity) a manifest against the European Constitution affirming their negative vote in the referendum.

Galician Nationalist Bloc⁹¹ 2 parliamentary seat

In October the regionalist coalition published a critical statement to the European Constitution, in this document the party rejected the text, an internal party votation, with

⁸⁶ Article III-167 (3), The following may be considered to be compatible with the internal market: Aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article III-424, in view of their structural, economic and social situation.

⁸⁷ “El texto europeo recoge las aspiraciones que en sucesivas ocasiones ha mostrado el pueblo canario”, El Dia.es, 14/09/2004.

⁸⁸ <http://www.chunta.com>

⁸⁹ <http://www.chunta.com/pdf/siaeuropa.pdf>

⁹⁰ “Su señoría levanta la voz”, El pais semanal, 30.01.2005, José Antonio Labordeta: “Pues votaré a favor, y lo haré por una razón: si hubiéramos hecho caso a los que decían que no en 1978, todavía estaríamos con el fu”

⁹¹ Galician regionalist coalition, founded in 1983. The coalition includes the communist Unión do Povo Galego (Galician People Unity), the social-democratic Esquerda Nacionalista (Nationalist Left), the social-democratic Unidade Galega (Galician Unity), the social-democratic Colectivo Socialista (Socialist Group), the trotskyite Inzar and the social-liberal Partido Nacionalista Galego-Partido Galesguista (Galician Nationalist Party-Galeguist Party). <http://www.bng-galiza.org/>

81 per cent of the votes against the Constitution, determined this position.⁹² The Galician Nationalistic Bloc doesn't find its own interests represented and argued that the Constitution defends a neoliberal antisocial state model. The Party-Alliance voted against a regional information campaign in support of the Constitution in a regional parliamentary vote.⁹³

Nafarroabai⁹⁴/ 1 parliamentary seat

As other regional nationalistic parties, Na-Bai, which supported the idea of celebrating a referendum, argued during the campaign for a “No”, saying that the political project designed by the European Constitution destroys the European social model and the labour rights, criminalises immigration and deletes cultural diversity. Furthermore the unique parliamentarian Uxue Barkos claimed that the Constitution does not recognise the historic competences of the region Navarra (fueros).⁹⁵

Civil society

The largest trade unions and business organisations supported the Constitutional Treaty and there was no strong “no” campaign from intellectuals and artists, although the latter supported the Constitution with a critical “yes”.⁹⁶ The anti-globalisation movements and other social movements campaigned with public actions for a ‘No’.

Though the catholic church adopted a critical position, the spokesman of the Spanish bishops, Martinez Camino, said that the church will not encourage people to vote either “yes” or “no”, but neither did he encourage people to go to vote.⁹⁷ “Abstention is not legitimate when a citizen goes on holiday. It is legitimate when it is not possible to overcome the complexity (of the issue) or for people who do not agree with the conditions in which the referendum is being organised,” he said.⁹⁸ Instructing in this sense to believers that their moral duty to vote in the referendum could be satisfied by abstention.

⁹² O Consello aproba un documento moi crítico coa Constitución europea e traslada o debate ás comarcas Santiago de Compostela, www.bng-galiza.org, 30/10/2004.

⁹³ “El Parlamento de Galicia apoya la Constitución de la Unión Europea”, *El Mundo*, 02/12/2004.

⁹⁴ <http://www.nafarroabai.org/>

⁹⁵ “Na-Bai, BNG, EA, IU y ERC apoyan el referéndum, pero pedirán el ‘no’”, *Diario de Navarra*, 12/01/2005.

⁹⁶ “La cultura dice 'sí, pero' a la Constitución Europea”, *El Mundo*, 21/01/2005.

⁹⁷ <http://www.conferenciaepiscopal.es/>

⁹⁸ “Franco followers and bishops urge a boycott of EU vote”, *The Observer*, 20.02.2005.

Referendum results (Yes 76.73% - No 17.24% - Turnout 42.32%)

The key battle in Spain wasn't on if the 'yes' side won comfortably, that was already assured. The key battle was if the government could reach high turnout.

Spanish voters overwhelmingly endorsed the Constitution and after first positive impressions on the favourable result, both majoritarian parties crashed about the participation level. Days before the referendum was held, both parties already started to sharpen the tone.⁹⁹ The last time Spain held a referendum was in 1986 on the question of NATO membership. In this poll there was a 59.7 per cent turnout, in the last general elections, turnout was over 77 per cent and the European elections last June saw a record low turnout of 44.9 per cent.

As it is usual in the Spanish voting behaviour, the results are determined by a territorial dimension. While in peripheral regions as Andalusia, Ceuta, Melilla, Balearic Islands and Canary Islands participation was with 27-36 per cent very low, we can see a higher participation level in centric regions. Furthermore the higher participation level is related to a high level of favourable votes. We can also detect a sociological dimension the participation intention was especially low within population segments with low formal education, adolescents with less than 25 years, women and unemployed and housewives. What we can explain with the low knowledge about the subject on which to vote and the complexity of its nature, at the same time the predictable positive result has had as consequence apathy with regard to the participation in the real referendum.¹⁰⁰

The political classes began just minutes after the referendum was closed to interpret the results as their own victory. While José Luis Rodríguez Zapatero said after the referendum: "I feel very satisfied that 14 million Spaniards went to vote," Mariano Rajoy, criticised the campaign saying: "Mr Rodríguez Zapatero wanted to be the first in Europe, [...] He wanted to be a model for the rest of the Europeans. He acted hastily and this turnout it not a model for anyone in Europe."

Gaspar Llamazares, leader of the United Left party, said the low turnout showed most Spanish citizens "do not feel concerned by the proposed treaty".

As the political landscape was divided the press had also different interpretations while the conservative paper ABC said the government had "saved its bacon -- largely owing to the behaviour of the PP electorate, which resisted the temptation to castigate the

⁹⁹ "Rajoy aprovecha el último mitin europeo para lanzar su crítica más dura a Zapatero", 19/02/2005.

¹⁰⁰ Perea, E.A. (2005), ¿Quiénes se abstuvieron y por qué?: la participación en el referéndum sobre el Tratado por el que se establece una Constitución para Europa, Real Instituto Elcano, 03/03/2005.

government.”¹⁰¹ The newspaper El País wrote: “The yes triumph was conclusive. This will be the most significant point in the run-up to the referendums in other countries.”

Conclusion

After this analysis we can differentiate between a temporal dimension, a regional and a thematic dimension, latter divided in domestic and foreign themes, in the Spanish discussion about the ratification of the European Constitution.

Temporal, regarding the different internal political situation in Spain after the election in March. While during spring and summer both majority parties demonstrated their consensus and the nationalistic parties constituted the opposition. In autumn the conflicts between the PP and PSOE in institutional questions and in domestic political issues were growing, and the main nationalistic parties supported a favourable vote of the Constitution. And finally both party started to sharper the tone days before the referendum.

Regional, regarding the varieties of the voting results within Spain, which can be divided into participation and voting direction.

We can detect in historic regions, as in Catalonia and in the Basque country but also in Navarra, where radical nationalistic parties campaigned against the Constitution, a high degree of no votes, around 30 per cent. While in peripheral regions as Andalusia, Ceuta, Melilla, Balearic Islands and Canary Islands participation was with 27-36 per cent very low.

Thematic, regarding the internal and external dimension of the Spanish referendum.

The new political landscape after the election on 14th of March offered for the nationalistic parties new possibilities to demand their interests, in this sense the referendum was instrumentalized to reach different internal and external goals with special focus on the recognition of the different languages in Spain and to express the nationalistic dissatisfaction with the insufficient institutional prospects of future regional presence in the European decision-making process. Among politicians and

¹⁰¹ “PSOE y PP se enredan en un cruce de reproches sobre la participación”, ABC, 21/02/2005.

analysts it seemed clear that the European Institutions weren't able to move to a more broadly recognition of minority languages in October – in this sense the rationalistic pressure aimed to more internal rights than external issues. The referendum has also a strong relation with the positioning of the socialist government in Europe with perspective to the important financial negotiation in the next months.

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PP - <http://www.pp.es/PP/esp/partido.asp>

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PNV www.eaj-pnv.com

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