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**The Lisbon Treaty and Spain:  
Background, Context and Impact**

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# **The Lisbon Treaty and Spain: Background, Context and Impact\***

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## **Abstract**

The year 2010 will be remembered in the European Union (EU) circles of governmental Spain as a crucial milestone regarding the role of the country in one of the most important alliances of world history. During the first semester, from January to June 2010, Spain had previously been scheduled to hold the rotating presidency as done since the times of the inception of the predecessor of the EU, the European Economic Community (EEC). Furthermore, on June 12, Spain would be ready to celebrate the 25<sup>th</sup> anniversary of its adhesion (along with Portugal) to the European integration experiment, by signing the treaty, effectively acceding to the European Community (EC) on January 1, 1986. While all of this was set to occur, the new Reform Treaty (“of Lisbon”) was set to be implemented as a substitute for the failed constitutional text floated during the first years of the new century. Moreover, these spectacular events unraveled in the middle of one of the worst economic crises of the world, with considerable impact on the evolution of the EU and, most especially, Spain. This paper will review the background, context and impact of particular novel aspects of the new treaty governing the EU and several milestones regarding the experience of Spain in the European process.

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# I

## Rescuing the EU Constitution<sup>1</sup>

### 1. Spain at the Helm

2007 was considered to be a decisive year for the EU for the coincidental reason that fifty years earlier the EU took its second daring step with the approval of the Rome Treaty of March 1957. This decision complemented the initial European Coal and Steel Community (ECSC), officially born in 1951, by incorporating the European Economic Community (EEC) and the European Atomic Energy Community (EUROATOM).

The EU was in more recent times considerably strengthened by two bold moves. First, during the negotiations of the Maastricht Treaty in 1992, the EU decided to adopt the euro as a common currency. The impasse of the constitutional process marked its presence five years after the effective adoption of the euro by 300 million citizens in thirteen countries of the EU, as well as a handful of mini-states that had previously used the currencies of the EU Member States. The euro has been a success in all basic monetary operations.<sup>2</sup>

Second, since the end of the Cold War in 1998, the EU proceeded to execute the most spectacular broadening in its history-nearly doubling in population and size.<sup>3</sup> However, the need for institutional reform of an organization used to dealing through fifteen collegial Member States had to be addressed. The EU then proceeded to complete its legal framework with the approval of a “constitutional treaty.” Unfortunately, the planned constitution was derailed halfway through the ratification process with the rejection by Dutch and French voters. With the project put on hold, alternative plans were considered. The EU was seen as a ship running into an iceberg, much like the Titanic. An alternative to the rescuing plans was the preservation of the basic load of the failed ship, combined with the method of selecting most special aspects of the EU text.

Within this context presented by the shocking rejection of the EU constitutional treaty in 2005, Spain considered several options and scenarios; each implied risks and opportunities in the rescuing of the spirit of the original text. More than anything else, Spain wanted to show the same loyal commitment as performed since 1986. Spain had ceased a long time ago to walk alone in both Europe and the world. Since then all sectors had embraced the trend-setting

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<sup>1</sup> This part of the essay draws on the logic, content and scope from a previous work (Roy 2008).

<sup>2</sup> For a review of the performance of the euro, see Lorca 2007, and 2009.

<sup>3</sup> For a comprehensive collection of essays on the enlargement, see Joaquín Roy and Roberto Domínguez, eds., 2006. From a Spanish perspective, see Barbé/Johansson 2003 and Torreblanca 2001.

lecturing of philosopher José Ortega y Gasset: “Spain is the problem; Europe is the solution.” Development and democracy meant to be inserted in Europe. From all angles of analysis, the balance of this obsession has been positive.

The record of Spain’s membership in the European Union has been truly impressive.<sup>4</sup> History shows that even during the second part of the Franco regime, the Spanish dictatorial leadership tried to cope with requirements that were politically impossible to meet. When Spain became a member of the EC, numerous experts and scholars were ready to join the effort and strengthen the resources available in Spanish universities and publishing networks.<sup>5</sup> Simultaneously, the best and the brightest of Spain’s governmental cadres joined the expanded institutions, taking on positions of responsibility in decision-making bodies (Viñas 2006; Granell 2002). Spain, in sum, “was not different.” as a redrafting of a popular tourism slogan crafted by the Franco regime would say. It was a European country like any other that was returning to its natural home after a long exile. In the background of successful EU Spanish presidencies, prominent Spaniards had chaired the EU institutions.<sup>6</sup> When the process of drafting the Constitutional Treaty was announced, Spain embraced the mission, rather than regarding it as a standard duty.

Spain, in turn, received considerable benefits through funds of regional policies, development aid, and financing of infrastructure. From an index of 60 percent of the European median in 1986, today Spain’s income is in the range of 105 percent, with some regions surpassing 125 percent. From being a country that was a net receiver of aid, Spain is today a net payer, with traditional funds vanishing, resulting in the considerable alarm of public works officers in the middle of the current crisis.<sup>7</sup>

The successive PSOE governments from 1982 to 1996 distinguished themselves in building fruitful alliances with the influential European partners, specially the Franco-German duo. In 1996, when the Popular Party, led by José María Aznar, won the elections, Spain’s European commitment was maintained. Spain was early in the lead of the constitutional project. However, as a result of the events of September 11, the government decided to change its loyalty for a Euro-Atlantic alternative. Madrid elected to join the so-called “new Europe,” disdainful of the “old Europe,” following the terminology coined the U.S. Secretary of Defense Donald Rumsfeld. The change of government in 2004 turned the setting to the traditional way of priming

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<sup>4</sup> For a selection of classic and recent books on the insertion of Spain in the EU, see: De la Cruz, Closa/Heywood, Moreno Juste, Gillespie/Youngs, Barbé 1999, Crespo, Jones. Farrell, Bassols, Pipes, Marks, Roy/Kanner 2001.

<sup>5</sup> For an additional selection of the classic textbooks and standard reference works on the EU developed and used in Spanish universities, see: Abellán/Vilà, Tamames, Muñoz de Bustillo, Calonge, Morata, Aldecoa 2002, Mangas/Liñán, and Fernández Navarrete.

<sup>6</sup> Viñas 2006.

<sup>7</sup> For a selection of the bibliography on the experience of Spain in the EU, see: Almarcha, Barbé 1995, Closa & Heywood 2004, Crespo 1986, Farrell 2001, Gillespie & Youngs 2001, Granell 2006, Marks 1997, Roy & Kanner 2001, Royo/Manuel 2003.

Europe, but the EU itself had changed in profile and attitude.<sup>8</sup> When the PSOE came back to power in 2004, the government wanted to send a message of unconditional loyalty and efficient leadership in European integration. First, the new government decided to be the first of the group of Member States that submitted the ratification process of the Constitutional Treaty to a public referendum. 76.73 percent of the participating voters (42.3 percent of the actual electorate) said “yes,” setting the pace for the rest to emulate.

However, Spain’s recent path through the EU labyrinth offers a perceptive oscillation. On one hand, the enthusiasm with which the successive administrations, starting with Felipe González in 1982, approached the process of European integration, priming the supranational path should be noted. On the other hand, this pattern would subtly contrast with the fractious ambivalence expressed at times by the government of José María Aznar (1996-2004), more inclined towards an intergovernmental approach, especially during his second term from 2000 to 2004 supported by an absolute majority (Pipes, Roy 2005). In part because of his support for the adventure taken by U.S. President George W. Bush in Iraq, Aznar led the inclination of the “New Europe” towards a neo-Atlantism, damaging the deepening of the EU.

Nonetheless, the Spanish government, the academic community, and the media exerted an impressive influence in making the role of Spain in the Convention process a model of participation. The government (and the representatives of the Popular Party, delegated by Madrid) actively participated in the elaboration of the text of the Constitution.<sup>9</sup> However, in the last stages of the proceedings of the Intergovernmental Conference (IGC) that took on the task given by the Convention, the government of Spain led by Aznar left the process in a frozen state when it refused to accept the new double majority voting system that modified the line-up that had been in effect since the Treaty of Nice.<sup>10</sup> This decision retarded the process and produced further doubts on other electorates and governments eager to obtain last minute advantages of dubious effective power results.

The victory of the PSOE in the 2004 elections removed this obstacle.<sup>11</sup> The new government diplomatically consented to a new modification of the double majority, opening the way for the ratification process that proceeded throughout much of 2005 and getting ready for completion at the end of 2006. This was viewed as one of the milestones of the new Spanish foreign policy (León 2004).

The Spanish government then dutifully contributed to the promotion of the project.<sup>12</sup> That is the reason why when the period of ratification was announced, Spain decided again to lead the

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<sup>8</sup>For a sample of analysis on the change of Spanish attitude from the policy of the Partido Popular to the performance of the PSOE when elected, see: Roy 2005.

<sup>9</sup> For selected books authored by Spanish protagonists: Borrell 2003, López Garrido 2005, Méndez de Vigo 2005.

<sup>10</sup> For details, see Chary 2004.

<sup>11</sup> See Roy 2005.

<sup>12</sup>See Valcárcel, Navarro, and *Política Exterior*.

pack. Interpreting the internal constitutional mandate with a sense of extreme dignity and importance, Madrid not only submitted the approved text to a national referendum, but it also scheduled that kind of poll as the first of several in February 2005, setting a precedent and an example for the rest. When an overwhelming majority of the disappointing turnout participants voted “yes,” Spain was on record as being ready to maintain its status of good European-ness.<sup>13</sup> Then, the shock came from France and the Netherlands.

In spite of some bad omens from experts (Closa, 2004), polls, and surveys held in France and the Netherlands, the first immediate reaction to the results of the referendums was of disbelief. Then, doubt about the European process set in. When the initial trauma was overcome, the sentiment about the overall picture of the EU and its constitutional process was a resigned feeling that no one is perfect. Then, this was followed by a mission to pave the way towards a resurrection solution, propelled by a counterattack strategy.

## 2. The Salvaging

Few sectors of Spanish society, government, political parties, media, and scholars have remained absent from the debates on the constitutional process.<sup>14</sup> Key official documents produced by the Ministry of Foreign Affairs, a set of analytical papers generated by the Real Instituto Elcano, commentaries that appeared in policy-oriented journals such as *Política Exterior*, and a bibliographical reference of scholarly products in the form of books and journal articles was the result.<sup>15</sup>

In September 2005, a congressional commission entrusted the Spanish Ministry of Foreign Affairs (Secretaría 2006) to draft a report. It stressed that Spain had ratified the constitutional treaty twice, both in a public national referendum and through parliament. Therefore, Spain was obliged to maintain its position for the continuation of the agreement as expressed in the text. Spain and the other seventeen countries (already a majority of the EU population) that had approved the text had the moral obligation to insist that the essence of the treaty be preserved. Hence, a limited implementation could not be accepted as sufficient. In any event, Spain was in a comfortable position. It had fulfilled its obligations and it had no interest in opening a negotiation in which it could lose. The burden of opening the treaty was on the countries that had rejected it or were dubious about it. In sum, the initiative taken in Madrid set an example and it had also been sending a strong message of leadership.

Within this array of alternative scenarios, the Spanish government wished to send a clear message, consisting of pointing out that the option of proceeding towards the completion of the referendum process, while considering the text still alive and useful, was a valid card to be

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<sup>13</sup> For selected detailed analysis of this exercise, see Ruiz Jiménez 2004 and 2005, Torreblanca-Sorroza 2005, Torreblanca 2005, and Font 2005.

<sup>14</sup> For additional detailed analysis, see Kurpas, Torreblanca-Plan B, 2005.

<sup>15</sup> As samples of recent analytical works on the Constitution, see: Aldecoa 2003, Mangas 2005, Albertí, Petschen 2005, Esteve/Pi, and Ruipérez.

played. Consequently, as a repeat of the Spanish initiative two years earlier that led to the ratification process, the representatives of eighteen European countries of the EU (with the moral support of two others) met in Madrid on January 25, 2007. These twenty Member States had already approved the constitutional project or had promised to do so in the case of Portugal and Ireland. Only Spain and Luxemburg had ratified the complicated code in popular referendum. The rest had prudently bestowed their seal of approval through a parliamentary process (Torreblanca 2007).

The majority of the Europeanist and federally-inclined population considered that the result, in the first place, was not fair. In the second place, it damaged the general welfare of the EU in a complex and uncertain world that needs the effective action of political blocs and economic conglomerates, equipped with impacting influence and political vision. A European Union half way finished, with institutions designed for a dozen members, and now enlarged to twenty seven, is not the way to go forward..

Faced with this situation, the Spanish government took the initiative and convoked the Madrid meeting to exchange ideas that would help the EU get out of the constitutional trap. The government of Rodríguez Zapatero seemed to have taken the same risk it accepted when coming to power in 2004, when it planned the early referendum as a launching pad of its Europeanist example. Spain delivered magnificently, with more than two thirds of the voters saying “yes” to the text.

Spanish experts chose an optimistic attitude; some elected a realistic analysis, while others pressed for the strategy that would prove most advantageous for Spain.<sup>16</sup> One sector (Aldecoa 2006) pointed out that Spanish opinion went from a decisive backing for the project to considering the Constitution as dead, finally opting to resurrect it. They came to the conclusion that the problem resided in the political path taken, not in the constitutional details, and that the treaty was reinforced by democratic legitimacy provided by the Convention. The key was to find a political solution for what is a combination of European and national dilemmas. Other reports (Rodríguez-Iglesias/Torreblanca) considered different scenarios and concluded there was a divorce between the citizens and the elites and a difficult consensus among the States that led to a freezing of the decision-making process, making future enlargements doubtful and cumbersome. Further, the existing veto power made the revision and ratification procedures doubtful, making a more efficient institutional framework a mandatory task. A more decisive leadership role was called for.

Considering these needs and recommendations, experts and government officials contemplated a series of main scenarios.<sup>17</sup> The option consisting of selecting some of the most fundamental items of the Constitution, as candidates in the formation of an acceptable document for approval, was considerably attractive. Whatever the Spanish calculations were—regarding the different scenarios—the reality was that the front of resistance to the approval of the

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<sup>16</sup> The Real Instituto Elcano had earlier issued a study with a much wider scope on the general European policy of Spain (Powell 2005).

<sup>17</sup> Earlier, Closa 2005 outlined six options that could be detected as a base.



constitutional treaty, if pushed as an alternative to save face, would make the “cherry picking” a difficult task<sup>18</sup>

Expanding on the Titanic metaphor, an independent academic expert (Mangas 2007) offered a useful parallel with the process of salvaging ships and merchandise after accidents, particularly those that are at risk of sinking. The most feasible option was based on salvaging the ship, in its entirety—in other words, not only its “content” but also its “container”. It should be composed of a fundamental “Framework Treaty” (abandoning the term “Constitution”), which should be an agreement emphasizing synthesis, supplemented by a “General Treaty.” This would be backed by the conviction that the hull (the “Framework Treaty”) was good, that the overall philosophy is still unique in its class, and that it would benefit from the removal of unusable items. The internal elements included essential policies that make the Union work effectively and they were clearly outlined in the General Treaty (containing part III and the remaining sections of other parts).

On the eve of the 50<sup>th</sup> anniversary of the Treaty of Rome, the German presidency was mandated with the issuance of a Declaration. It was to be a short address, easily understood by the common citizens, but its background ran the risk of presenting it as a convoluted document that encountered difficulties in developing a consensus. Observers (Torreblanca 2007, Granell 2007) accurately pointed out that the EU had previously missed the opportunity to define itself both at the 50th anniversary of the Schuman Declaration and when the Treaty of the European Coal and Steel Community’s half-century term expired in 2002.

### **3. The Final Stretch**

Following the constitutional gathering in Madrid, the difficulties of the process became increasingly evident. Finally, the Declaration was issued, reflecting a minimal consensus and a strategy developed by the presidency that had limited success. Although the word “constitution” was dropped from the text, it still read as having the intention of finding a solution for a documentary commitment to the spirit and purpose of the Constitutional Treaty. The time-frame provided a temporal context for the “road map” which is supposed to be issued at the end of the German presidency in June of 2007. Skeptics evaluated this compromise simply as a postponement of the thorniest issues, such as those detected by the Polish government regarding the voting system. The same can be said about the diplomatic compromise to gloss over the European socio-economic “model,” a source of conflicting interpretations during the disastrous ratification process in France and the Netherlands.

In anticipation of this uncertain scenario, Spanish experts and government officials recommended that the remaining valid option was to take on a more aggressive position, sending warning messages, and to wait for the looming possibility of an unconvincing or very controversial Declaration or for a call for a subsequent IGC with unknown results. The worst

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<sup>18</sup> John Kerr, “Pick the sweetest European cherries”. *Financial Times*, Feb. 28, 2007.

case scenario could be a “rupture of the system or selective demolition of the process” (Torreblanca 2005b).

In the Spanish domestic context, two issues might, both in theory and practice, pose obstacles for the development of an effective strategy towards this goal. The energy of the Spanish government may be eroded in the future for two reasons. One is the potential lack of consensus about the nature of the European mission, crafted by the two main political parties. Considering the continuous harassment by the Popular Party, the temptation to use the EU stalemate to attack the PSOE and to show a lack of support remained a possibility. This confrontation would then be staged within the context of the elections to be held before March 2008 (a limit according to the electoral law). However, the benefits of the risky policy executed by the Popular Party are negligible in comparison with the potential to develop a minimal level of support. The second source of danger was reflected by the pressure of the latest wave of ETA terrorism, derailing the announced truce with the bombing of the Madrid airport parking lot. Although the attention given by the Spanish government to this problem is paramount, expert opinions indicate that it can still be achieved with a strong commitment to the European project.

In terms of the constitutional process and its possible outcomes, what did all of the above alternatives represent for Spain? Both sets of scenarios (the catastrophic and options for action) were positive for Spain. Spain did not have anything to lose by applying pressure and insisting on the continuation of a positive process that called attention to the spirit of the constitutional path and its most necessary ‘container’ (the “ship”). By abandoning the strategy and tactics followed until then, Spain would be rewarded either with a less favorable position in the future of the EU or with being labeled as a supporter of a potentially dying dream. While still seeking to maintain a strong leadership position, in the event of a catastrophe, the Spanish government and its collaborators could simply point to the fact that they did their best.

For the above reasons, the Spanish government maintained a solid commitment first to the salvaging of the letter and the spirit of the constitutional treaty. Then a basic consensus developed at the end of the German presidency showing that a strong majority of Member States were in favor of supporting a script presented by Chancellor Angela Merkel regarding the complete abandoning of the constitutional path. The choice then was to approve the skeleton of a reform treaty. Madrid then sent clear signals that there were some fundamental aspects that should be respected from the spirit of the constitutional treaty. It then acted as a loyal partner in supporting the German initiative and leadership, which was praised by Spanish commentators and then forming a practical coalition with the new French president in convincing the hardliners (Poland and the United Kingdom) that a compromise was in order.

A majority of the experts expressed general satisfaction, stressing the positive dimensions of the solution, based on the fact that it included the most fundamental institutional reforms envisioned in the defunct constitutional text (Martín, Torreblanca 2007, Mangas 2007). However, some observers and media editorials pointed out to areas of concern. A strong minority expressed displeasure for the path taken by the Union, casting doubts over its prospective future regarding the limitations of the supranational aim and the perceived return to the intergovernmental logic. Overall, government and analytical sources targeted the negative role of the Polish government in resisting making a deal over the final text expressing fears of impact over the drafting of the “Reform Treaty” (of Lisbon) and its ratification process in 2008, on time for its implementation in 2009.

## II

### The Implementation of the Treaty

#### 1. Old and New Challenges for the EU and Spain

The dawn of the new era of EU history with the implementation of the Lisbon Treaty had had a triple effect on Spain. First, it coincided with the height of the economic crisis that has affected many corners of the world financial network, and most especially having its epicenter in the cradle of democracy, Greece. Second, Lisbon was set to be implemented during the decisive moments of the beginning of the rotation presidency of the European Union, although the system has been modified with the foundation of the new semi-permanent position of President of the European Council. Third, when this term was about to finish, Spain had started to commemorate the 25th anniversary of the signing of the accession process to the then still named European Community on June 12, 1985, while the effective membership took effect on January 1 of the following year. However, what for some casual observers and specialized scholars a few years earlier appeared to be a pleasant celebration, it was inserted into a series of unconnected events, but they were also coincidental with a notable impact on the timeframe context.<sup>19</sup>

Spain had just been invited by French President Sarkozy to share his country's permanent seat in the G-20 summit. This move was dictated in recognition for its expanded global role. Spain has been ranked as the eighth largest world donor of development aid (the leader in key regions such as Latin America), backed by the eighth largest global economy in total volume. In 2009 Spain still enjoyed the number ten position in the Anholt list of "country brand names," In this context, almost instantaneously, Spain was confronting a series of challenges.

In the strictly economic field, Spain was immersed in one of its most grave financial crisis in the global modern history. Its economy has frontally suffered the consequences of the worsening and scandals of the international financial system. The explosion of the building bubble has revealed itself as the beachhead of the specific Spanish crisis.<sup>20</sup> Moreover, Spain had arrived at the quarter of a century of membership in the European Union with some worrisome socio-economic indicators that have clouded the previous enjoyable image. Its budgetary deficit has been over eleven percent. Official unemployment rate has reached twenty percent, double than the European average. Alarmist predictions call for a thirty percent unemployment for 2012. While some years ago the growth rate was over three percent, in 2008-2009 it has been flatly negative. Better perspectives were far from implementation in the short term. The worse problem seems to be the total (when adding government and private figures) debt volume, estimated at four-hundred percent of the GDP.

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<sup>19</sup>For an accurate analysis, see: Torreblanca 2010.

<sup>20</sup> See Lorca 2010.

Spain has been facing challenges at the same time that there is a notable divorce of its political sectors. While the social-democrat government of the PSOE has been judged by a wide general public opinion as incapable of solving the current problems, the conservative congressional opposition has opted by a strategy of frontal harassment devoid of a spirit of cooperation.<sup>21</sup> From out of Spain, numerous voices (prudently coming from governments, in a striding fashion from the media) has been attributing the absence of remedies to the indecision of the PSOE government presided by José Luis Rodríguez Zapatero. The sudden (but expected) decision of implementing drastic economic measures and budget cuts in mid May 2010 partially muffled the demands.

Just before this major decision, that according to high financial sources saved Spain from defaulting, international media polemics adorned themselves with special features, including the direct intervention of key members of the Spanish government, when answering critics of the Anglo-American press.<sup>22</sup> Foreign journalists recalled that Zapatero had captured power as a result of the disastrous performance of the government of José María Aznar when facing the grave terrorist attack of March 11, 2004, labeled as the Spanish equivalent of the criminal action of September 11, 2001, in the United States. Reelected in 2008, Zapatero appeared to be overwhelmed by the confluence and magnitude of problems derived from the crisis, while maintaining a cold bloody attitude, delaying major economic decisions.

In spite of all this, the fact remains that Spain is still a country with impressive cultural, geographical, and social resources that together should balance the weight of purely (and hopefully transitory) economic arguments. Spain is still the third tourist destination in the world (only outranked by the United States and France). Barcelona and Madrid are ranked as # 5 and # 11 in the European cities with brighter future. Catalonia is the 11<sup>th</sup> in the list of regions.<sup>23</sup> However, in mid May 2010 the government, under the shadow of Greece on the road to default, was the object of the pressure of the EU and the United States, finally caved in. Zapatero decreed the first important cut in the government budget in democratic times, with the consequent reduction of many emblematic welfare state services (pensions, family subsidies) and the threat of impacting others (free medical care). The result of all this deterioration is that the foreign image of Spain has been seriously damaged. In certain countries Spain has ceased to be considered as a “serious” partner.<sup>24</sup>

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<sup>21</sup> Fernando Garea. “El PP amenaza con enturbiar la presidencia española de la UE”, *El País*, 18 agosto 2009.

<sup>22</sup> *El País*. *The Economist*: “España es el nuevo enfermo de Europa”. 27 noviembre 2009; *The Economist*. “The zapping of Zapatero”. Feb. 11, 2010; *The Economist*. “Muddle obscures message: A prime minister caught between the unions and the bond market”. Feb. 11. 2010; *El País*. “*The Economist* pide liderazgo a Zapatero para superar la ‘desidia y la paranoia’ “. 11 febrero 2010; Tony Barber. “Spain, spooks and the phantom anti-euro conspirators” *Financial Times*, February 21, 2010; Tony Barber, “Spain’s Kites Keep the EU Rotating Presidency Flying High”. *Financial Times*, January 12, 2010.

<sup>23</sup> *Revista fDi Magazine (Financial Times)*, “European Cities & Regions of the Future” 2010/11.

<sup>24</sup> For a selection of commentaries in main Spanish newspapers: Galindo, Cristina. “Como vivir sin fondos europeos”. *El País*, 26 mayo 2010; Galindo, Cristina. “El perfil internacional de España se pone a prueba” *El País*, 23 mayo 2010; Pérez, Claudi. “La ‘marca España’ se cae del pedestal” *El País*, 28 mayo 2010.

Pessimistic leaders and cynic observers of the European Union's evolution could easily predict the new derailment (provisional?) of the European constitutional process. When the French and the Dutch electorates rejected the new treaty in 2005 (branded as a Constitution) to reform the institutional framework of the Union, opponents to the project certified the death of that new bold step. The stealth and action method that Schuman and Monnet plotted so well in 1950 had failed. Commentators since then warned that with this rejection Europe lost confidence in itself and its future, exacerbated by the worsening of the financial crisis that exploded in 2008 (Esparza 2009). Federalists and common sense leaders tenaciously went back to the drawing board, facing a period of reflection. Germany felt the pressure during its presidency of the first part of 2007 and responded to the historical responsibility. Then, the relay baton was passed to the Portuguese presidency for the rest of the year.

The governments of the Member States and constitutional experts rolled up their sleeves and rushed to salvage the precious load still stored in the bowels of a sinking Titanic (Roy 2007, 2008, Mangas 2007). Drafters produced a new document that in essence was a smaller clone of the Constitution (Conference 2007, European Union 2008, Foundation 2008, House of Lords 2008, Official Journal 2007). It was a shorter text, but not so much to appease the liking of many observers (Granell 2007b). On December 13, the European Council signed the new Treaty of Reform, justly re-baptized as the Treaty of Lisbon, for the site of its official birth. As in other stages of European history, scholarly production was set in motion even before the premature legal birth of the Treaty (Bertocini 2007, Bronzini 2008, Egmon 2007, Hynková 2008, Ziller 2007, Holmes 2008, Roy-Domínguez 2009, Piris 2010). Media, governments and think tanks felt that some degree of summarizing the basic aspects of the Treaty was needed for the common citizen (Independent 2008, BBC News 2009, Ratification Monitor, Europedia).

However, while EU documents can be amended, each treaty step needs to be ratified by all of the states. Skeptics were lurking behind the light fog that rarely disturbs Lisbon's perennial blue skies. Then, the Irish electorate said "no" to the Lisbon Treaty on June 12, 2008, just at the end of the Slovenian presidency.

This "accident" has been nothing new in the recent history of the EU. In fact, it happened in other occasions with the same actors. The Irish electorate is a notorious reincident. It earlier rejected the Maastricht Treaty that needed a second ratification referendum. This seems to be, at the moment of closing the compilation ready for press, the alternative, perhaps the last, to avoid the burial of the Treaty of Reform.

## **2. Lisbon, the Spanish Presidency and the New EU**

As a paradoxical and cruel reward for leading the process of the Constitution ratification, the dream was shattered in front of the disbelieving eyes of the Spanish government when the Dutch and French electorates rejected the text in referendum. A decade after the beginning of the designing of the constitutional treaty, the project was resurrected by the substitute, the Treaty of

Lisbon.<sup>25</sup> But all the scene seemed to have changed again, and badly according to numerous analysts.<sup>26</sup> Other commentators do not believe in the eventual dissolution of the European project or in the abandoning of the euro because of its problems. They recommend in turn the rescue of the EU foundational mission.<sup>27</sup> In any case, the historical register shows that Spain was loyal to the reinforcing of the enterprise of integration (Roy 2007). Spain fulfilled Ortega's discourse in reverse: "Europe is the problem; Spain is the solution."

In spite of the fact that it was still too early for an evaluation, the first steps taken by the reformed institutions did not seem to be very impressive during the first quarter of 2010. The governments and the EU Council, under the pressure of the Parliament, insisted on having a say regarding the functioning of the External Service, still in drafting stages and subject to turf battles between governments and the Commission (Fernández-Sola 2009). Until the end of 2009 under the command of HR Javier Solana,<sup>28</sup> the recreation of the new post of High Representative for the Common Foreign and Security Policy, did not look to be giving many signals of effectiveness under the lead of Baroness Catherine Ashton, former EU Commissioner of Trade, doubling as one of the vice presidents of the Commission.<sup>29</sup> For the Spanish interests, the creation of the innovative position of a more permanent presidency of the European Council (for a one-time renewable period of two and a half years) muffled slightly what was sold by the Madrid government as a spectacular effective Spanish presidency. This expectation was reasonably logical, especially taking into account that preparations were implemented during the previous year of 2009, when the passing of the second Irish referendum was not yet known.<sup>30</sup> The fact that the EU Commission was not named and set to work until mid March also added a factor for Spain to execute certain missions under full preparation.

The protocol theatrics of appearing in press conferences was a combination of a learning experience of things as usual and some novelties. On the one hand, individual press conferences were simply presided by a national figure, dealing with the press on a variety of domestic and EU-related subjects. Other EU officers, Spain's leaders, and representatives of the institutions of the EU and the units dealing with Latin America and the Caribbean were absent. However, the top leadership reappeared in full regalia when global issues were discussed and declaration on the progress of subregional negotiations were announced.

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<sup>25</sup> For a review of the evolution of this treaty just before its ratification, see: Roy/ Domínguez 2009.

<sup>26</sup> Tony Barber, "Pursuit of a purpose", *Financial Times*, Feb 24, 2010; José Ignacio Torreblanca. "¿Se salvará Europa?" *El País*, 15 febrero 2010; Lluís Bassets, "Europa en transición" *El País*, 11 febrero 2010; Reuters. "EU's Juncker warns against eurozone drift apart" Feb 13, 2010. Simon Robinson. "The Incredible Shrinking Europe". *Time*, March 8, 2010.

<sup>27</sup> Judah Grunstein, "Don't Write Off the EU Just Yet" *World Politics Review*, Feb. 11, 2010; Mary Kaldor. "The EU needs to return to its roots". *The Guardian*, Feb. 27, 2010.

<sup>28</sup> M.C. "Solana vuelve a casa con tristeza", *El Siglo*, 16 noviembre 2009.

<sup>29</sup> *El País* (editorial). "Inquietante Ashton". 2 marzo 2010; EuroActiv. "Barroso sparks row over EU overseas appointments" February 23, 2010.

<sup>30</sup> Bruno Waterfield. "War in the EU as Herman Van Rompuy makes 'power grab'" *The Daily Telegraph*, Feb. 26, 2010.

In an press conference to make announcements on MERCOSUR, the podium was composed of President Cristina Fernández of Argentina (term president of sub-bloc), Herman Van Rompuy (as president of the European Council), José Manuel Barroso (as President of the Commission), and Spain's Prime Minister Rodríguez Zapatero (as semester rotating president of the EU Council, doubling as host of the conclave). Absent of this impressive line-up was EU HR Catherine Ashton. Absent also was the president of the European Parliament, a body that has strengthened its power with the implementation of the Lisbon Treaty.

Cynical observers would easily point out that the answer to the claim (never confirmed) of Henry Kissinger asking what was the telephone number of Europe has become even more complicated than when the EU created the position of High Representative for the Common Foreign and Security Policy, held by Javier Solana until the end of 2009 when the new machinery of the Lisbon Treaty was set in motion. Kissinger now could call five telephones. A joke emanating from Brussels depicted a fictitious phone call made by a non-EU leader about an important issue of foreign affairs. A recording then said: "If you want to know the assessment of the President of the European Council, press 1. If you want to speak to the HR, press 2. If you want to know how is the attitude of the President of the Commission, reflecting issues of shared sovereignty, press 3."

During the rest of 2010, universities and think-tanks engaged in the usual round of conferences, symposia, etc. to analyze the results of the Spanish presidency under the new Lisbon system.<sup>31</sup> Insiders in the Brussels institutions and independent observers agree that the new EU structure and decision mechanism, especially regarding the exterior face of the organization, have been very fortunate to have Spain as holding the rotating presidency in a sensitive time of shifting roles. What only high officers of the Spanish government and the EU Council know with some exactness, is that a consensual agreement was offered by Madrid: Van Rompuy was going to be in charge of the exterior representation of the EU, as well as piloting the decision-making structures of the EU. Spain would still coordinate and preside over the General Affairs council (as detached from the old General Affairs and Foreign Relations cluster), keep the responsibility of coordination of the rest of the EU councils, and host the series of summits and ministerial gatherings to take place in Spanish cities.

Observers with a degree of witty humor wonder what the result could have been if instead of Spain, a median power, the presidency was held by a European heavyweight, such as France, Germany, even the UK or, conversely, a small country. The powerful could not resist the temptation of making a show of the hinge presidency. The weak could be tempted to enjoy the last of the limelight exposure given by the rotating honor and responsibility. Spain, burdened by the economic crisis worsened by political internal pressures, performed in an impeccable way from the point of view of protocol and available resources. Only history will be able to offer a complete analysis of the record of this first peculiar EU presidency (a sort of Guinea pig experiment), as available by analysis of the four previous experiences (Granell 2010, Fernández 2010, Blanco]. International media based in Brussels pressed Spain to make a show in executing

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<sup>31</sup> A sample: "Encuentro en la UIM. *Una nueva Unión Europea: Balance de la Presidencia Española 2010*. Palacio de la Magdalena, Santander 28-30 julio 2010. <http://www.falternativas.org/opex> .

the presidency.<sup>32</sup> It is expected that the script offered by the Spanish semester could be offered as a learning mechanism for future implementation of what now is even more complex with the added format of the trio composed of the current, the past, and the next presidency (Closa 2010).

But any speculation about the actual performance of the new framework institutions will be subject to the personal savvy and behavior of the holders of the position. The relationship between the president of the European Council and the prime minister of the country holding the rotating presidency could learn a lot from the impeccable cooperation shown by Javier Solana and Chris Patten, a powerful UK commissioner supervising the external operations of the Commission. The same can be said about the sharing of foreign representation of HR Ashton and Van Rompuy. No matter what the personality factor will play in the future functioning of the EU, the fact is that nothing will be the same as usual in the future, regarding those two posts and the establishment of the External Service.

With considerable impact on Spain, especially for the future, some attention should be given to the score offered by the shifting of responsibilities and power among the different institutional pieces of the EU. Who has lost? Who appears to be winning? Recent history shows that when the Parliament managed to force the resignation of the EU Jacques Santer Commission, the legislative body claimed an early victory, but the real winner was the Council. Its overwhelming control has not only been maintained, but it has grown with the recent changes culminating with the Treaty of Lisbon. While the Parliament can justly claim that its powers have increased with the reinforcement of the traditional co-decision procedure, a new entity has been elevated to the category of full institutions--the European Council. And this is headed by the semi-permanent president who can stay at the helm for five years. The loser of this institutional surgery has been the Commission. It is also true that the right of legislative initiation has been kept by the commissioners, each one conserving special turf prerogatives, backed by the collegial power. It is too early to know how the new role of the High Representative will be, considering her dual loyalty and control. While the HR continues to be appointed by the Council, a basically intergovernmental body, it depends on Catherine Ashton's actions to see how she can act as part of the Commission, by definition a supranational entity.

### **3. A Learning Experience**

How could the result of this enigma and uncertainty impact Spain, and its successors? For a Member State such as Spain, by record considered a "federal" shareholder and a solid backer of the expansion of a more supranational EU, the appearance of a more inter-governmental Europe is particularly good news. In a framework of renationalizing policies and power struggles among leaders in Paris and Berlin, plus the ever present brake applied by London, Madrid could not do too much in building alliances in a complex expanded EU.

The new system and external representation did not seem to impress certain world powers and important regional networks. The first report card came from Washington. Early in

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<sup>32</sup> Tony Barber. "Spain's Kites Keep the EU Rotating Presidency Flying High". *Financial Times*, January 12, 2010; *European Voice*. "Spain must show value of rotating presidency", May 27, 2010



the semester of the Spanish presidency, the White House announced that the expected high level EU-US summit that regularly takes place in alternating cities across the Atlantic would not have the participation of US president Barack Obama. The official explanation was that his international travel agenda was too full, needing to concentrate on domestic issues. Off-the-record remarks made by US officials, confirmed by think tanks observers and well-informed media, pointed out that the real reason was his negative experience when he attended the 2009 gathering in Prague at the height of the Czech (holding the EU presidency) political crisis. Obama did not seem to know exactly who was in charge on the EU side.<sup>33</sup>

This decision was a major disappointment for the Spanish government because president Zapatero was eager to round up the series of fast meetings with his US counterpart and diplomatic visits to the White House. The Spanish socialist administration had suffered since its electoral triumph in 2004 the handicap of not enjoying the attention of the American presidency, as bestowed to Zapatero's predecessor, José María Aznar, for his support to the war in Iraq effort. As soon as he was elected, Zapatero bluntly withdrew the small number of troops that Aznar had sent. Only when Bush left the office could the Spanish government engage in reestablishing the rather good relations between the two countries since the reestablishment of Spanish democracy 1976. Interpreted as a dual rebuff to Spain and the EU, the Spanish government was hoping to salvage the high-level meeting agenda with the celebration of two other summits to be held in Spain, with traditionally very important regions –Latin America and the Mediterranean.

The EU-Latin America/Caribbean biannual conclave, held in Europe and Latin America in alternate occasions since 1999, was supposed to be the scenario for some progress in the negotiations between Brussels and the different Latin American subregional networks.<sup>34</sup> The most positive result was the closing of an Association deal with Central America, while the zone did not show any proof of deepening its integration, a standard precondition from Brussels. Second, there was the signing of individual (a taboo just some years ago) free trade agreements with Perú and Colombia, as a substitute for the impossible negotiations with the Andean Community, in a state of convulsion after the exit of Venezuela and the antagonism of Bolivia. Third, the confirmation of a path towards an agreement with the always shaky group of MERCOSUR was announced, but details seem to be clouded.

But the most important disappointment was the postponement (cancellation?) of the summit of the EU states with the Mediterranean neighbors as scheduled for June 2010. That was meant to be the consolidation of the plans for the “Union for the Mediterranean” (UfM), an ambitious entity originally proposed by French President Sarkozy, as a successor of the Barcelona Process set in place in 1995.<sup>35</sup> The general secretariat of the new network was already in place in Barcelona, a reward for the efforts of the successive Spanish governments in giving its attention to this strategic area. One must say that this cancellation (and Obama's no-show

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<sup>33</sup> Lluís Bassets. “Obama da una patada al hormiguero europeo”. *El País*, 3 febrero 2010; Sarah Wildman. “Obama's 'Snub' Adds to the Pain in Spain”. *Politics Daily*, Feb. 22, 2010.

<sup>34</sup> For a current state of regional integration in Latin America, see the content of Roy-Domínguez 2010).

<sup>35</sup> See Boening “The Euro-Mediterranean Union and the Lisbon Treaty”, Astrid Boening in Roy-Domínguez 2009.

plans) could not be attributed to a faulty implementation of the Lisbon Treaty's new mechanisms by the Spanish government. Spain was not the culprit, but the sorry victim.

All the debate of the institutional impact of the Lisbon Treaty was devoured by the gravity of the economic crisis. Spain and the EU collided with an iceberg even much bigger and murderer than the one represented by the negative referendums. The Spanish government seemed to be working solely on one issue –what to do with the warning coming from Brussels and Washington. The office of the Prime Minister ceased to give priority to important foreign affairs issues. The concrete crisis derived from cancellation of summits and the usual confrontations between Israel and its neighbors

What is the impact of the new External Service on the ranks of Spanish diplomacy? It is too early to say and distribution plans have been subject to arguing between the Parliament, the Council and the Commission. Figures mention that the total of new positions will be 5,000. One third would come from the Member States and another one third from the Commission. Calculations estimate that the number of Spanish diplomats that would receive appointments would be just 100. It is also predicted that the number of applications will be high. Considering that the cost of the new positions will be covered by the EU, the yearly rounds of concourse in Madrid could be expected to be enlarged in numbers. However, inside estimates point out that a number of the approximate 1,000 Spanish diplomats are not assigned to effective foreign service positions in the field and wait in Madrid for the proper occasion. There are no plans to consider the incorporation of members of the trade ranks that are attached to embassies but maintaining their own status (Fernández 2009). Some post Spanish presidency period measures were taken to redress the perceived lack of ambitions and means in Spain's diplomatic front. As examples, the Ministry of Foreign Affairs abandoned the possible disestablishment of the State Secretariat (level of Vice Minister) for European Union Affairs, as part of the drastic cuts in budgets.<sup>36</sup> Second, a strategy was developed to capture important future EU ambassadorial posts in key capitals considered to be sensitive for Spanish interests.<sup>37</sup>

In the event of a negative evaluation on the role and influence of Spain in the EU network as a result of the impact of the implementation of the Lisbon Treaty one should take into consideration other reasons beyond the weakening of Spanish weight in certain areas. This problem cannot also be attributed mostly to the effects of the economic crisis. A more permanent explanation is the inexorable reconfiguration of the EU itself as a consequence of the huge enlargement that took place in 2004 and more to come. With less perceived interest in the Latin American continent (the absence of key Latin American leaders in the Madrid EU-LA/Caribbean summit were notorious), the next geographical region for the interests of Spain—the Mediterranean--is under the strains of confrontations of the southern neighbors and double talk performed by some unavoidable European players, such as France.

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<sup>36</sup> Miguel González, "Moratinos opta finalmente por salvar la Secretaría de Estado de la UE". *El País*, 22 julio 2010.

<sup>37</sup> Miguel González, "Exteriores pugna por las nuevas embajadas de la UE", *El País*, 16 julio 2010.

### III

#### Conclusion

Once the semester was over and summer vacation was on the horizon, the Belgium<sup>38</sup> presidency succeeded Spain, forming a triad with the following presiding Member State, Hungary. It then became more feasible to construct an evaluation of the experience and the implementation of some of the novelties of the Lisbon Treaty. The report card on Spain's performance had varied angles according to the source issuing the verdict. Roughly distributed the assessment includes negative comments, positive self-bestowed marks, and middle of the way, more realistic analysis.

Responding to opposition interests in the political spectrum of Spain, a part of media used the occasion to blast the overall performance of the government. Reports filtering the opinion of the leadership of the *Partido Popular* blamed the office of president Zapatero not only for its shortcomings at the helm of the EU, but also for the effects of the grave economic crisis. This was another occasion showing the lack of political consensus regarding Spain's role in the EU. On the other side, government officials rushed to positively justify the performance.<sup>39</sup> Briefings and media presentations stressed the fact that the main work in EU affairs is not done under the limelight of summits, but through the daily routine behind the scenes. Among the positive accomplishments were the fundamental aspects of the Lisbon Treaty, the implementation of the 2020 economic strategy, and the fight against the financial crisis through macroeconomic measures such as the stress tests.

More balanced, other commentators produced objective reports in which they offered points of criticism for lack of decision in tackling the economic crisis on time, not accomplishing spectacular results in the foreign affairs area. But at the same time they recognized that the financial scene diminished the number of alternatives in which to exercise an effective leading role. It was a fact that certain priorities of the program of the presidency were not met by success, but the balance was a confirmation of the innate limitations of the EU system of government, based on a give-and-take approach.<sup>40</sup>

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<sup>38</sup> Madrid newspapers as *ABC*, *El Mundo* and *La Razón* were in the lead of this trend. Middle of the road publications also offered ambivalent or negative commentaries, or even alarming predictions. A sample: A.R. "Zapatero esconde su presidencia de la UE", *Tiempo*, 19 febrero 2010; José Oneto, "Una pobre y descafeinada presidencia europea", *Tiempo*, 25 junio 2010; Antonio Rodríguez, "Un semestre para olvidar", *Tiempo*, 25 junio 2010.

<sup>39</sup> Samples: Diego López Garrido, "100 días de presidencia", *El País*, 20 abril 2010; Carlos Carnicero, "Europa, 3; chacales, 0". *El País*, 19 junio 2010.

<sup>40</sup> Samples: *El País*, "Aprobado en la UE". 20 junio 2010; Enric Juliana, "España, en manos de Carolingia", *La Vanguardia*, 17 junio 2010; La Vanguardia (editorial), "El éxito y el fracaso de España", *La Vanguardia*, 13 junio 2010; *La Vanguardia*, "España y la Unión Europea", 19 junio 2010; *El Periódico de Catalunya*, "Una presidencia de segon pla", 27 juny 2010; Pilar Santos, "El bumerang europeu" *El periódico de Catalunya*, 27 juny 2010; Beatriz Navarro, Juan Carlos Merino, "Misión cumplida, con más sombras que luces", *La Vanguardia*, 27 junio 20120; Francesc Granell, "Balança dels semestre espanyol", *Avui*, 10 juliol 2010.

Simultaneously, other media reports dealt with the effects of the ending of the benefits of EU funds produced by the ascent of Spain in economic status, the impact of the damaged image of the country as a victim of the economic crisis, and the internal depressing self-image as a result of the above factors confluent in the same circumstances.<sup>41</sup> Overall, most observers expressed a kind of nostalgia for the more successful presidencies of 1989 and 1995 under the Socialist government. The 2002 presidency happened during the serious confrontation over the war in Iraq.

Nonetheless, experts will easily agree that the institutional practical exercise will be a topic of research to follow in the future. It will also be doubly interesting because, as mentioned above, the semester term will be followed by the commemoration of the twenty five years of Spain and Portugal membership in the EU.

However, a major factor that was not considered when the EU decided first to proceed towards the constitutional path, both in its failed attempt and then through its substitute method of the Lisbon Treaty, was the looming economic crisis that would affect all corners of the EU structure and each one of its Member States. Any evaluation of the experience of Spain in the new Lisbon system will have to take into account the resolution of the financial disaster, among other reasons because it will certainly occupy the attention of government officials, at the price of making the institutional process secondary. Observers will also be advised to pay close attention to the internal evolution of politics in Spain, both in the case of the exhaustion of the congressional term (until March 2012) and in the event of a call for new elections and potential drastic changes in the top government structure.

No matter what the result is regarding the unraveling of these uncertainties, it is expected that Spain will remain a solid loyal member of the EU, with the same Europeanist zeal as in the past. It also can be expected that the economic crisis will also serve to strengthen the deep implication in the reformatted institutional network. As a median power, Spain could be one of the winners in the implementation of the plans for the External Service of the EU, both in the case of closing some unneeded embassies and in the strengthening of European representation in places where Spain's diplomats can be more useful. Rephrasing once more the statement by Ortega y Gasset, "neither Spain nor Europe are the problem, but both are the solution," in the global crisis.

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<sup>41</sup> José Antonio Gómez, "La depresión", *Foreign Policy en español*, mayo 2010; Cristina Galindo, "Como vivir sin fondos europeos", *El País*, 26 mayo 2010; Cristina Galindo, "El perfil internacional de España se pone a prueba", *El País*, 23 mayo 2010.

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[http://europa.eu/lisbon\\_treaty/index\\_en.htm](http://europa.eu/lisbon_treaty/index_en.htm)
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