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Bringing Europe Closer to the Citizen? Regions, Stateless Nations and the European Convention

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ABSTRACT This article investigates whether increased concern to ‘bring Europe closer to the citizen’ and the more inclusive European Convention format enhanced the influence of member state territorial actors in EU treaty-making. To this end, four questions are explored in a case study of Spanish territorial actors’ experience of the Convention process: What did regions and minority nationalists hope to gain from the Convention? Who represented them there? What domestic pressures could they apply on Convention members? To what extent did individual Convention members defend or articulate regional and minority nationalist preferences? It is concluded that while the Convention method facilitated participation of actors formally representing certain Spanish territorial actors for the first time, overall the Convention method did not greatly improve their involvement in debate. This was largely due to the partisan and representative mandates of the Spanish Convention delegation, limited domestic collaboration between territorial actors, limited pressure territorial actors could apply on Convention members via domestic institutions, and the tendency of Convention members to articulate government or purely partisan positions.

KEY WORDS: Convention on the Future of Europe, Constitutional Treaty, Regions, Minority Nationalism, Spanish Autonomous Communities

Introduction

Negotiation of the new ‘Treaty establishing a Constitution for Europe’ presents an opportunity to reassess the relationship between the EU and member state territorial actors. If the constitutional treaty is implemented, territorial actors can expect some, albeit modest, gains. These include new powers for the Committee of the Regions (CoR), including a right to defend its prerogatives in the European Court of Justice (ECJ); formal recognition of regions in the text of the treaty and in a new definition of subsidiarity; regional involvement in a new subsidiarity enforcement mechanism and
an improved status for minority languages (for details see Jeffery, 2004; Keating, 2004). But even if the constitutional treaty does not enter into force, it is still pertinent to examine EU constitutional debates, which contemplated issues of importance to regions and other territorial actors such as minority nationalists, and which mobilized many regions seeking to influence debates.

A new treaty-making procedure and concern about the EU’s democratic legitimacy provide further reasons for reassessing the role of territorial actors in the EU. Hitherto, an intergovernmental conference (IGC), dominated by state government representatives, was the sole EU body for negotiating new EU treaties. For the constitutional treaty, a 17-month Convention on the Future of Europe preceded, and produced a draft treaty for, an IGC held in 2003–04. Convention membership was much wider than that of an IGC; it was composed of member state government and parliamentary representatives and EU institutional representatives, including six CoR observers. Many observed qualitatively different working methods too, contrasting the bargaining ethos of an IGC with the Convention’s ambitions, however imperfectly achieved, for inclusiveness, creative thinking, deliberation and greater openness (Closa, 2003; Shaw, 2003).

Part of the rationale behind these innovations was concern about citizen dissatisfaction with the EU. The shadow of the Maastricht and Nice treaty ratification crises, declining turnout in European Parliament (EP) elections and Euroscepticism have had some impact on the EU political elite, despite equivocation about the significance of these phenomena in academic debate. Important EU declarations have signalled a desire to improve the EU’s democratic credentials, references often framed as a desire to ‘bring the EU closer to the citizen’. While a concept as vague as ‘closeness to the citizen’ is open to varying interpretations, many linked it to the role that regions and other territorial entities could play in the EU, given their geographical proximity to citizens. If one accepts the argument that discourse and norms matter in EU treaty-making processes (Falkner, 2002: 3), it may be that this construction of the EU’s democratization and legitimization problematic made member state territorial actors more relevant during constitutional debates.

Regions and other non-state territorial actors have traditionally been weak in EU treaty-making, despite their influence or formal prerogatives in certain member states (Jeffery, 1997; Bursens, 2002). Thus, it is pertinent to ask whether the more open and inclusive Convention format and concern to ‘bring Europe closer to the citizen’ had any added value for EU territorial actors, particularly their influence on treaty outcomes. This article develops a set of research questions and applies it to a study of Spanish territorial actors’ experience of EU constitutional debates as a foundation for future comparative research. The Spanish case is particularly relevant. There is evidence of territorial elite interest in EU constitutional debates (see León et al., 2004). It also appears, prima facie, that the innovation of a pre-IGC Convention, a body purportedly committed to a more open and inclusive style of deliberation, would make a bigger difference to territorial actors in Spain than to those in certain other members states. Regional authorities in Austria, Belgium and Germany, for instance, can participate in IGCs and have a formal role in the ratification of EU treaties, prerogatives which the most powerful sub-state territorial authorities in Spain, the Autonomous Communities (ACs), lack.

The paper begins by outlining a framework for evaluating the participation of EU territorial actors in the Convention. It then analyses preferences in Spain on
Convention issues relevant to ACs and minority nationalist parties. This is followed by an examination of domestic institutional responsibilities, partisan backgrounds and the formal representative roles of Spanish Convention members. There is then an analysis of the ability of ACs and minority nationalist parties to influence the conduct of Spanish Convention members through domestic pressures. The last section evaluates the extent to which individual Spanish Convention members defended AC demands or articulated the plurality of views in Spain on issues relevant to territorial actors.

Research Questions and Approach

The research aims to examine whether the Convention – and particularly the innovation of new types of treaty-making participants – provided more effective channels for the participation of member state territorial actors in treaty decisions. Four main tasks, or additional questions, need to be addressed to tackle this research question.

What Did Territorial Actors Want From the New Constitutional Treaty?

The first major task is to identify what territorial actors hoped to gain from their participation in EU constitutional debates. In itself, this is a complex question. Collaboration among representatives of EU regions, local authorities and stateless nations often reveals significant cleavages and, in EU constitutional debates, this meant that different networks, bodies and groups presented some quite different demands. Given this complexity it is more manageable to focus on single or cross-national studies of regional or (where relevant) minority nationalist demands in separate member states. In some cases, such as Germany and the UK, regional authorities from the same member state did find agreement on important matters discussed in the Convention. However, party political (ideological) differences, socio-economic or cultural-linguistic cleavages may prevent meaningful collaboration among territorial actors within a member state. This was the case in Spain. In such cases it becomes necessary to identify common views by comparing different territorial actors’ separate statements or to identify patterns of preference variation within the state on relevant constitutional issues.

Who Represented Territorial Actors in the Convention?

A second major task is to identify those Convention representatives who could claim to represent member state territorial actors. The European Council’s December 2001 Laeken Declaration established four main categories of Convention membership:

- 28 representatives of the heads of state and government from (then) existing and applicant member states;
- 56 national parliamentary representatives of (then) existing and applicant states;
- 16 EP representatives;
- 2 Commission representatives.
In addition, former French president Valéry Giscard d’Estaing was appointed Convention President and former Italian and Belgian prime ministers, respectively Giuliano Amato and Jean-Luc Dehaene, as vice Presidents. They were assisted by the ‘Presidium’, a powerful agenda-setting and co-ordinating body incorporating representatives of the three governments holding the rotating EU Presidency during the Convention (Spain, Denmark and Greece), national parliaments, the EP and the Commission.

Formally, regions were represented by six CoR observers, initially a kind of second-class membership. However, in practice the participation of observers – and indeed the 102 ‘alternates’ appointed to stand in for each of the full Convention members if necessary – was little different from that of full members (Shaw, 2003: 57). One important and obvious line of enquiry would be to examine the work of these CoR observers (see, for example, Keating, 2004). However, it is also necessary to broaden the scope of research to consider other channels of influence, given that actors representing territorial interests could be (and were) appointed to fill other Convention roles. Erwin Teufel, minister president of the Land of Baden-Württemberg, for example, was one of Germany’s two national parliamentary Convention members. He formally represented the German *Bundesrat*. Francesco Speroni, from the minority nationalist Northern League, was an (alternate) Italian government appointee.

Another feature of Convention practice supports the need for analysis beyond the CoR’s role. Although formally ‘representatives’ of various national and EU institutions, Convention members’ representative roles could be multiple and somewhat diffuse in practice. They were encouraged, through appeals from the President and procedural rules, to consider themselves ‘not simply spokespersons for those who appointed them’ and to make personal contributions (Giscard D’Eistang quoted in Magnette, 2003: 30). Parliamentarians from both national and European parliaments probably had more, if not absolute, room for manoeuvre. EP alternate and member of the Scottish National Party Sir Neil MacCormick, for instance, interpreted his role broadly enough to include representing the EP, ‘civic nationalist’ or regionalist opinion, and the interests of the Scottish fishing community (MacCormick, 2004). Some representatives probably had more room for manoeuvre than others, however. As Carlos Closa (2003: 10) notes, ‘closeness to government wishes may be fairly assumed’ for Convention members simultaneously holding government office, ‘as may [their] role as gatekeepers of national governmental interests’. Given the complexity of representation in the Convention and the possibility that territorial actors could take on a variety of formal Convention roles, it is necessary to identify those Convention members holding office in regional level bodies, state institutions representing regional interests or in minority nationalist and regionalist parties. It is also necessary to evaluate the extent to which individual members were prepared to move beyond their formal Convention roles to articulate the views of other constituencies, such as regions or minority nationalists.

**What Domestic Pressures Could Territorial Actors Apply?**

A third task is to gauge the pressures which territorial actors may exert upon Convention members through domestic politics. The nature of pressures will vary. Regions in
The political culture and commitments to co-operative federalism may also be relevant (Börzel, 2002). State-wide parties may need support from minority nationalist or regionalist parties to govern. Other more mundane but potentially effective pressures include those brought to bear in the usual bodies where territorial relations in the state are conducted, such as parliaments or inter-ministerial conferences.

**Evaluating Convention Members’ Engagement With Territorial Actors’ Concerns**

A final task is to evaluate the extent to which different Convention members defended collectively defined territorial interests or articulated the range of views prevalent in the state on matters identified as important to territorial actors. Convention documents provide a rich data set enabling evaluation of individual Convention member’s engagement with these matters. Comparing Convention members’ plenary attendance records and numbers of plenary interventions, proposed amendments and contributions relating to issues relevant to territorial actors should provide evidence of levels of commitment to the Convention process and the importance they placed on territorial issues. It is also possible to examine the content of interventions, contributions and proposed amendments in order to determine the nature of positions defended.

**Debates in Spain on the Role of Territorial Actors in the EU**

There is no collective statement of AC views on EU constitutional debates. Interview evidence revealed regular collaboration among officials working in AC Brussels offices, but little collaboration at the political level. One document, ‘The Common Position of the ACs on the Future of Europe’, was drafted in 2001 but did not obtain endorsement of all ACs (MAP, 2001: 54). Some, but not all, ACs produced their own statements on EU constitutional issues. Those produced are difficult to compare. Some were produced by AC governments (Fundación Galicia Europa, 2002, 2003; Basque Government, 2003), while ‘mini’ Conventions, involving some combination of political, social, cultural and academic participants produced others (Fòrum Cìvic, 2002; Convenció Catalana, 2003; Foro Andalucia, 2003).

International activities of AC governments provide further information about Spanish territorial actors’ views on EU constitutional issues, especially participation in networks of legislative regions (RegLeg) and the CoR. Patterns of involvement in these regions’ networks highlight important cleavages among ACs. Support for the Liege (2001), Florence (2002) and Salzburg (2003) RegLeg declarations highlight a partisan cleavage. Most ACs governed by the centre-left Partido Socialista Obrero Español (PSOE, Spanish Socialist Workers Party) endorsed more than one RegLeg declaration, while most ACs governed by the centre-right Partido Popular (PP, Popular Party) signed none. The special socio-cultural features of politics in the Basque Country, Catalonia and Galicia also set these ‘historic nationalities’ apart from other ACs, although not necessarily in the same ways. Thus, a notable exception to the absence of PP-run ACs in RegLeg networks was the involvement of the then PP-stronghold Galicia, whose government, like that of the other historic nationalities, endorsed all three major RegLeg declarations. Furthermore, minority
nationalist parties involved in AC governments in Catalonia and the Basque Country endorsed the Convention activities of the EP group of state-less nations, the European Free Alliance.

Together with the programmes of the main political parties operating at the state-level and/or governing in Spanish ACs, this collection of documents reveals the prevalence of three main views in Spain on the role of territorial actors in the EU.  

Maximum Involvement for ACs in EU Decision-Making

The first is a maximalist view espoused by many minority nationalist parties and Catalan and Basque Convention contributions (Basque Government, 2003; Convenció Catalana, 2003). It emphasizes greater recognition for EU regions and ‘stateless nations’ and greater unmediated AC involvement in EU decision-making. While there are important differences among minority nationalist parties on EU issues, commitments to ‘post-sovereigntist’ conceptions of power-sharing involving EU, state and sub-state authorities in many of those parties (Keating, 2001: 72–83) sustain common demands. On EU constitutional issues this often translates into proposals favouring creation of a European union of citizens, states and peoples (or nations).

The most distinctive element of the maximalist position is demands for recognition of member states’ minority national identities, languages and cultures, including explicit recognition of stateless nations in the constitutional treaty. Emblematic of such demands were calls for recognition of Spain’s co-official languages (notably Basque, Catalan and Galician) as official EU languages, which would require use of these languages as media for communication in many instances. Some also called for constitutional treaty endorsement of the right of self-determination of peoples and procedures for internal enlargement, which would allow new states separating from existing member states to join the EU.

Those supporting this position also proposed measures to maximize the range of unmediated channels by which ‘stateless nations’ – and in Spain the ACs where they were based – could participate in EU decision-making. They called for special recognition of regions with legislative powers or ‘regions with national personality’ in the constitutional treaty, sustained in the form of: new EP electoral constituencies reflecting national territorial boundaries; rights to defend the interests of their nation or the prerogatives of its self-governing institutions in the ECJ; rights to be consulted on matters affecting their nations’ (material and cultural) interests; a clear role for AC parliaments in the enforcement of subsidiarity; a restructuring of the CoR to recognize differences between authorities with and without legislative powers; and rights for their institutional representatives to be present in EU institutions, especially the Council of Ministers.

Enhanced Role for Regions with Legislative Powers in the EU

A second position calls for major improvements in domestic machinery for incorporating AC views in state EU positions and a more significant degree of AC involvement, some of it unmediated by the state, in EU decision-fora. It is most clearly articulated in major PSOE documents on EU constitutional debates (PSOE, 2001, 2002, 2003) and
that produced in Andalucia (Foro Andalucia, 2003). Documents produced by the PP government in Galicia, a somewhat strange bedfellow for the PSOE, also endorsed this position (Fundación Galicia Europa, 2002, 2003). It also incorporates major arguments articulated in various RegLeg declarations supported by many PSOE-run ACs, but with the exception of Galicia, few PP-run ACs. Underpinning this position is recognition that European integration has material effects on AC powers, including the transfer of AC competencies to EU decision bodies and requirements that ACs implement many EU policies. For purposes of efficiency and compensation for transferred powers, therefore, those supporting this view argued that ACs ought to have some measure of involvement in EU decision-making.

Sharing some demands with the maximalists, those supporting this second position favoured extending AC involvement in the Council of Ministers, more Commission consultation with ACs and some form of direct access for ACs to the ECJ. There was also support for a regional role in the enforcement of subsidiarity, even if this could take different forms (compare PSOE, 2003: 9; Fundación Galicia Europa, 2002: 48; Foro Andalucia, 2003: 28–9). There was also support for granting the CoR institutional status, a role in subsidiarity enforcement and access to the ECJ. Some supported explicit recognition of regions with legislative powers in the structure of the CoR (Fundación Galicia Europa, 2002: 36; Foro Andalucia, 2003: 26). Those associated with this position were not completely against the repatriation of EU competencies to member states or regions, accepting it either in principle or if certain conditions were met.

While respect for national and regional identities was seen to be important, improving the status of minority languages in the EU’s linguistic regime was not a priority. It is also notable that the language in which the demands of those supporting this second position was expressed was very clearly that of regionalism, rather than nationalism. There was also much stronger emphasis on the need to establish stronger domestic channels to complement AC participation in EU institutions and on the importance of ‘loyal cooperation’ or ‘constitutional loyalty’ as a principle regulating relations between different territorial levels.

A Minimal Regional Role in the EU, Mediated by the State

The third major position is a minimalist view emphasizing limited AC involvement in EU decision fora and a preference for domestic channels for incorporating AC views into EU decisions. It was most clearly articulated by the PP (2002) at the state level, but also finds some echo in speeches of PP AC politicians (Herrera Campo, 2002; El Mundo, 12 January 2002; Muñoz Ortega, 2003) and other AC-level documents (PP-Comunidad Valenciana, 2004; PP AC Presidents, Pact of San Esteban, 2004). It is founded on the principle of non-intervention in the internal affairs of member states, especially in the organization of political power ‘between the institutions or territorial entities’ in that state (PP, 2002: 5–6). As such, it rejects proposals that would give regions an unmediated role in EU affairs and considered that extra-state AC participation in EU decision-making should be mostly limited to the CoR. It did support strengthening this body by granting it institutional status and allowing it ECJ access. Emphasis on the principle of non-intervention in the constitutional order of member
states also underpinned rejection of references to regional-level competencies in any clarification and delimitation of EU and member state competencies and the option of ‘renationalizing’ already attributed EU powers back to member states (and the regions) (Aznar, 2000, 2001).

**Spanish Convention Members**

Around a dozen Spaniards were at one time or other Convention members (Table 1). Three of the Spanish Convention members could formally claim to represent Spanish territorial actors. AC presidents Eduardo Zaplana and his successor, Ramón Luis Valcárcel, had the strongest claim. As members of the CoR delegation, Zaplana and Valcárcel Siso were formally responsible for representing all EU regional and local authorities but they may have been able to use their Convention membership to highlight particularly Spanish concerns. As a senator, and thus a representative of what the Spanish constitution calls the ‘chamber of territorial representation’, Alejandro Muñoz Alonso could also claim to represent territorial interests. This mandate was somewhat shaky, however, given the difficulties this chamber has living up to its constitutional definition in practice. Of its 259 members, for instance, only 51 senators are directly appointed by AC bodies and Muñoz Alonso was not one of them. When contrasted with the formal roles assumed by regional authorities or representatives of territorial actors in the Convention delegations of states such as Germany and Belgium, it becomes clear that formal representation of Spanish ACs in the Convention was relatively weak.

Given that the range of views in Spain on the role of territorial actors in the EU follows major partisan divisions, it is pertinent to note the party affiliation of the Spanish Convention members. Most are politicians from the PP, which ran the Spanish central government during the life of the Convention, and the PSOE, the main party of opposition until March 2004 when it won the general election. Most AC governments were led by one or other of these two parties. Overall, PP affiliates, which included the two AC presidents and the Spanish senator, outnumbered those of the PSOE. Additionally, PP members held some of the most powerful positions in the Convention, including two posts in the Presidium (Ana Palacio and Íñigo Méndez De Vigo). There were no members of any of Spain’s minority nationalist parties, some of which governed or were major opposition parties in certain ACs during the life of the Convention.

This partisan pattern of membership was part accident, part design. The selection of Méndez de Vigo as EP representative in the Convention and the Presidium and Spain’s (successive) CoR representatives were choices largely dependent upon on internal dynamics and balances of power within these European-level institutions (Norman, 2003: 32; Lynch, 2004: 174). The prime minister selected his PP colleague Ana Palacio as Spanish government representative (*El Mundo*, 30 January 2002; Norman, 2003: 34). The parliament’s joint committee for the EU, composed of senators and representatives of the lower house, selected the parliamentary delegates. The election of two teams of representatives and alternatives from the PP (Cisneros and Muñoz) and PSOE (Borell and López) reflected the dominance of these two parties in the Spanish parliament. An alternative team composed of candidates from a Catalan nationalist
party and the left-wing Izquierda Unida (IU, United Left) lacked the numbers to defeat
the two main parties’ candidates.

It can, therefore, be anticipated that the minimalist position, supported by the PP, and
the legislative regions’ position supported by the PSOE, would get an airing during rel-
vant Convention debates. On the other hand, the absence of minority nationalists in
the Spanish delegation diminished the likelihood that the maximalist position would
have much relevance. That is, of course, unless domestic channels could be used to influence Convention members.

**The Domestic Politics of EU Constitutional Debates in Spain**

In Spain, party politics has been an important vehicle by which territorial actors, and particularly minority nationalist parties, have influenced state decisions about the role of ACs in the EU. Periodic recourse to minority government at the state level has given minority nationalist parties with seats in the Spanish parliament, and particularly Catalan nationalists, the opportunity to extract concessions in exchange for support for first PSOE- and then PP-run, central governments. Throughout the life of the Convention, the PP had an absolute majority in the Spanish parliament, which placed the PP central government in a strong position. The PP’s majority removed an important source of leverage for minority nationalist parties, giving the PP a free hand to pursue its increasingly trenchant preference for minimal involvement of ACs in EU policy-making. During its first term in office as a minority government, the PP accepted AC participation in some Commission committees and creation of an AC Observer in the Spanish EU delegation. However, by its second term, the PP’s absolute majority allowed it to stall on commitments to allow AC participation in the EU’s Council of Ministers, to reject AC proposals for that participation and, eventually, to reject it altogether (Matia Portilla, 2003). The PP’s increasing opposition to AC participation in EU decision-making made it unreceptive to demands for direct AC or minority nationalist party representation in the Convention or for calls that PP convention members articulate anything but the minimalist positions during Convention debates. Government powers to appoint key Convention representatives and its majority in parliament also ensured that PP members could be chosen carefully and be relatively abundant in the Spanish delegation. The shadow of the IGC and the interstate diplomacy that took place alongside Convention debates also gave the views of governments, and thus the parties that governed them, additional weight during the Convention.

In addition to alliances between state-wide and minority nationalist political parties, a series of other domestic bodies served as channels through which ACs and territorial interests could communicate their views on Convention matters.

**The Conference for Affairs Related to the European Community (CARCE)**

The first of these is the CARCE, one of approximately two-dozen sector-specific, inter-ministerial conferences established to manage co-operation between state and AC administrations. The CARCE was specifically designed to foster co-operation between central and AC authorities on decisions about AC participation in the EU and the development of the EU more generally. According to reports produced by the central government Ministry of Public Administration (MAP) (2001, 2002) EU constitutional debates were an item on six of the eight CARCE meetings held during 2001 and 2002, meetings held within reasonable proximity to many Convention plenary sessions and attended either by all or most ACs. Some ACs, notably Canary Islands and Andalucia, submitted documents outlining, respectively, individual and
multilateral (though not unanimously approved), positions on Convention issues. Spanish government and national parliamentary Convention representatives also attended CARCE meetings to offer ‘first-hand’ information and give ACs an opportunity to explain their views on EU constitutional issues.

There is both academic and political debate about the effectiveness of CARCE (Grau Creus, 2000: 112; Börzel, 2002). Assessments of the utility of the CARCE during the Convention are also somewhat mixed. MAP reports note agreement that the CARCE was an adequate forum for ACs to receive information about, and transmit their views on, the Convention and that this was ‘the best way for ACs to gain access to the work of the Convention’ (MAP, 2002: 54). Records showed all 17 ACs attended this meeting. On the other hand, interview evidence indicates dissatisfaction. Despite various meetings of the CARCE during the Convention, half of the Brussels-based AC officials interviewed for this research said the central government did not consult their AC at all during the Convention. Those officials who said their AC had been consulted stated that it took the form of ‘exchange of information between ACs and the central government’ – preponderantly information about central government positions adopted on Convention matters – rather than a qualitatively different ‘exchange of views’ between them, or the ‘negotiation of common positions’. More generally, all interviewees stated that the central government should have consulted ACs ‘more than it did’.

**Spanish Parliament’s Mixed Committee for the EU**

The parliament’s Mixed Committee for the EU was another forum for the articulation of territorial interests during the Convention. The mixed committee is so-called because it involves representatives from both the lower and upper houses. Minority nationalist and regionalist parties have a presence in both houses and, as mentioned above, the Senate is nominally the chamber of territorial representation. The mixed committee was given the right to require Spanish Convention members to inform it about EU constitutional debates, principally but not exclusively, via a special Subcommittee on the 2004 Intergovernmental Conference established in April 2001.

The Subcommittee included representatives of various minority nationalist parties and met on 15 occasions between April 2001 and December 2003. Government Convention representatives, those for the Spanish parliament and a number of other Brussels insiders appeared before the Subcommittee. Prior to the December 2003 European Council, which was initially expected to conclude negotiations of the constitutional treaty, the Subcommittee published a report intended to convey the views of parliament (Subcommittee on the 2004 IGC on the Future of Europe, 2003). Regionalist and minority nationalist parties represented in the Spanish parliament also had access to other instruments to express their views in parliament and pose questions on EU constitutional matters. The Senate’s General Committee of the Autonomous Communities also held a special session in May 2003 on the draft constitutional treaty which gave ACs, minority nationalist and regionalist parties an opportunity to question Convention members.

The work of parliamentary committees on Convention matters was criticized strongly by both the (then) opposition PSOE and Basque and Catalan minority
nationalist parties. The PSOE, who had initially come to a deal with the PP on the workings of the Committee, criticized the predominance of the PP parliamentary majority’s views (and government policy) in the narrative of the Subcommittee report (Estrella, 2003). The close proximity of the report’s analysis to government positions and its very limited treatment of AC concerns – by their reckoning around a dozen lines in a report of 68 pages – produced the conclusion in Basque and Catalan minority nationalist parties that ‘this committee does not work’ (Guardans i Cambó, 2003; but also see Lasagabaster, 2003). More generally, they concluded along the lines of the Catalan groups’ parliamentary spokesman that the parliamentary Convention representatives ‘acted in all moments for themselves and by themselves at the Convention, without paying any notice to the parliament’ (Trias i Vidal, 2003). In an indication of the complexity of territorial politics in Spain, however, it should be noted that other representatives of territorial interests expressed satisfaction with the work of the Subcommittee (from Coalicion Canarias, Arroyo Hodgson, 2003) or with the representation of regional interests by Spanish government Convention members more generally (from the PP-run AC of La Rioja, Muñoz Ortega, 2003).

Council for Debate on the Future of the EU

A special ‘Council for Debate on the Future of the EU’, a body created by the government to promote ‘the widest possible’ public debate in Spain during the Convention was also identified by the party of government as a forum in which territorial actors could air their views on EU constitutional matters (Primo, 2002). There is some evidence of AC participation in the activity of this body, particularly in the organization and support of debates and conferences on European issues in ACs (such as Madrid and Catalonia). There are also reports that the Council took part in academic seminars and activities in a number of ACs, including those at universities in Madrid, the Basque Country, Andalucia, Valencia and Castilla-La Mancha (Convention Secretariat, 2002). As mentioned above, however, a number of ACs – notably Catalonia, the Basque Country and Andalucia – held their own separate public consultations on EU constitutional debates rather than rely on the Council’s activities. The Council has also been criticized for its narrow remit, limited financial resources and for ‘a certain steering influence’ by the central government (Closa, 2004: 84).

Representation of Spanish Territorial Actors at the Convention

The Convention’s internet database (www.European-Convention.eu.int) provides documentary evidence enabling evaluation of each members’ levels of commitment to the Convention process, the importance they placed on issues relevant to Spanish territorial actors and the nature of positions they defended. This material is summarized in this section.6

The AC Presidents: Zaplana and Valcárcel

Zaplana initially played a leading role in CoR activity relating to the Convention. He was the CoR’s first vice-chair, chair of a CoR Convention Working Group and its
representative in the Convention’s contact group with regions and local authorities. Valcárcel was also active in the CoR. However, Convention records show low plenary attendance for both. They only attended three sessions each, or 39% of total sessions during their respective tenures. Zaplana spoke twice in plenary sessions, at least once on regions issues, and submitted only two contributions. Valcárcel did not have an opportunity to speak at the plenaries he attended, but he did endorse very many more proposed amendments (106 in total) relating to issues of importance to Spanish territorial actors than all other Spanish Convention members. However, there is little evidence that either Zaplana or Valcárcel made use of opportunities to make personal contributions or to represent constituencies of territorial actors other than the body from which their Convention mandate derived. All of the contributions and amendments they endorsed involved transmission of CoR documents, drew heavily on such documents or were endorsed by all members of the CoR Convention team.

Of the three main views in Spain on EU constitutional issues relating to the role of territorial actors, CoR positions are probably closest to the minimalist position favoured in PP circles insofar as they concentrated predominantly on improving the role and status of the CoR in the EU. However they also sought to enhance recognition of regional and local authorities in many parts of the treaties and, in so doing, took on board some, but not all, of the agenda of legislative regions. This included positions that were not much favoured by the PP, such as a right for regional access to the ECJ. While supporting inclusion of treaty commitments to respect the cultural and linguistic diversity of member states, the CoR took on very little of the maximalist position proposed by Spanish minority nationalist parties.

**Government Representatives: Dastis and Palacio**

Both Dastis and Palacio played much more important roles in the Convention. Both frequently spoke in plenaries (Dastis 26 and Palacio 18 times) and had better attendance records during their tenure (Dastis 95% and Palacio 65% of plenaries). Issues raised by territorial actors were not a priority for either. Each made some reference – often just passing reference – to such issues during plenary interventions (Dastis 4 and Palacio 3 times), in proposed amendments (Palacio 3 of 48) or in submitted contributions (Dastis 1 of 6 and Palacio 2 of 8). Dastis’ intervention in the 7 February 2003 Regions and Local Authorities plenary, was the most extensive intervention in this regard. In this intervention he articulated the minimalist view in bold relief, declaring himself in favour of greater EU institutional consultation of regions, a role for regions in subsidiarity enforcement and EU decision-making in general only insofar as this participation were mediated by state bodies. On numerous occasions and in his contribution, he spoke out against unmediated regional access to the ECJ, arguing that it would politicize and overload the ECJ.

As the Presidium member responsible for chairing a Convention contact group with local and regional authorities and reporting this to the Convention, Ana Palacio was in a good position to give voice to Spanish territorial actors’ preferences. To some extent she did this on 25 June 2002 when she communicated the desire of organizations involved in the contact group to be consulted throughout the Convention, for regions and local authorities to be consulted at all stages of the EU decision-process and to
support the work of the CoR. She also proposed an amendment, justified on the grounds that it reflected demands from EU regions, to require the Commission to consult regional and local authorities, in collaboration with national authorities, in a new treaty title on the democratic life of the EU. This was one of the most widely supported regions’ demand, but was one of many and among the least ambitious. It was also in line with a minimalist view of regions’ role in the EU, as were positions expressed in plenary debates and contributions urging against a rigid catalogue of competencies (for fear of increased conflict between different levels of government) and in favour of a role for regions in the EU channelled through the CoR.

**National Parliament Representatives: Cisneros, Muñoz, Borell and López**

The two PP parliamentary representatives at the Convention, Cisneros and Muñoz, had good plenary attendance records (Cisneros 85% and Muñoz 70%), but spoke less than most other Spanish Convention members (Cisneros 12 and Muñoz 2 times). Neither spoke on issues identified as relevant to Spanish territorial actors, which suggests that Muñoz in particular did not take the territorial dimension of his Senate mandate as seriously as he might have. Both Cisneros and Muñoz signed up to three amendments relating to EU regions’ issues proposed by the European Peoples Party Convention group and endorsed one PP contribution briefly mentioning the CoR. The amendments present something of a mixed picture, but are generally in line with a minimalist position on the role of territorial actors in the EU. One proposed amendment would cut the number of CoR Observers in future Conventions from six to one. Another amendment they endorsed would allow access for both the CoR and regions with legislative powers to the ECJ in cases of subsidiarity violations, effectively a new right for regional participation. However, in line with the minimalist view, and existing practice in Spain, regional access to the ECJ would be indirect insofar as it would be ‘brought under the authority of their respective member states’. Like Palacio, they endorsed a PP contribution favouring the CoR as the best route for channelling regional interests into EU decisions.

Of the two PSOE parliamentary representatives, Borrell played a particularly active role in the Convention, attending most plenaries (89%), speaking often (34 times), endorsing 132 proposed amendments and 12 contributions. His alternate, López, had a good attendance record too (62% of plenaries), spoke less often (11 times) but signed up to 130 of the same proposed amendments and eight of the same contributions as Borrell. Both spoke, albeit rarely and quite briefly at times, on issues relevant to Spanish territorial actors (3 occasions each) and made three joint proposed amendments and one joint contribution briefly mentioning these issues. While Lopez mostly spoke in general terms in favour of a role for regions in the development and execution of EU laws, Borrell made more substantive points favouring regions’ involvement in subsidiarity enforcement which were generally in line with legislative regions’ views. Borrell called for inclusion of a regional right of access to the ECJ and for separate roles for territorial chambers of state parliaments in proposed subsidiarity enforcement mechanisms. Indeed, one of his responses to proposals from the Convention’s subsidiarity working group was to call for further deliberation to better respond to the demands of regions and local authorities. Borrell and López’s joint
proposed amendments and contributions also supported access for the CoR and legislative regions to the ECJ for subsidiarity enforcement and institutional status for the CoR. It is notable, however, that many more of their proposed amendments supported an enhanced role for the EU’s Economic and Social Committee.

**EP Representatives: Carnero and Méndez de Vigo**

Both of the Spanish EP representatives were very active in the Convention. They both attended all plenaries and spoke often (Carnero 24 and Méndez de Vigo 14 times). Carnero endorsed around 250 amendment proposals and made 18 contributions, while Méndez de Vigo made only three contributions. Carnero spoke on issues relevant to Spanish territorial actors on three occasions, most extensively during the 7 February 2003 plenary on Regions and Local Authorities, where he supported the main tenets of the legislative regions’ agenda: recognition of regions in the definition of the EU; formal recognition of regional diversity; promotion of domestic mechanisms for the participation of regions in state EU decision-making; consultation of regions ‘from the beginning to the end’ of the legislative process; institutional status and access to the ECJ for the CoR and rights for regional access to the ECJ. Coming closer to the maximalist position than any other Spanish Convention member, Carnero also called for the constitutional treaty to ‘promote and give life to the defence’ of minority languages. Among the more than one hundred amendment proposals and the contributions he endorsed with his PSOE colleagues Borrell and López, he also endorsed those proposing a role for regions in subsidiarity enforcement, ECJ access for regions and institutional status for the CoR. Somewhat contradictory, however, was his endorsement of an amendment to the subsidiarity protocol that would remove requirements for the Commission to take account of burdens that new legislative acts might create for legislative regions.

As chair of the Convention working group on subsidiarity, Méndez de Vigo played an important role formulating positions on an issue of central importance to Spanish territorial actors. His speeches on this issue mostly took the form of reports of working group discussions, but there were occasional statements of his preferences. In line with the minimalist view, he frequently invoked the principle of non-intervention of the EU in the territorial relations of member states and spoke in favour of regional parliaments’ involvement in subsidiarity enforcement being mediated by state parliaments. However, he also spoke in favour of allowing territorial chambers of national parliaments separate votes – something which Dastis, the prime minister’s representative, rejected – in order to give a voice to territorial interests within member states. In one intervention (18 March 2003) he also appeared a little more open than his other PP colleagues to regional access to the ECJ, although he did emphasize similar concerns about the need to maintain the unity of the state before the ECJ and to avoid overburdening it.

**Conclusions**

This article explored the experience of Spanish territorial actors in EU constitutional debates in order to examine whether the Convention format enhanced their
involvement in EU treaty-making. The evidence reviewed here suggests that despite prima facie assumptions, the involvement of Spanish territorial actors in constitutional debates was not greatly improved by the Convention innovation. National parliamentarians and CoR involvement in the Convention meant that, for the first time, successive AC presidents and a member of what is ostensibly the territorial chamber of the Spanish parliament had a formal role in EU treaty-making. However, none of these Spanish Convention members emerged as trenchant defenders of Spanish territorial interests. They either attended few or spoke rarely at plenary sessions and generally failed to take advantage of opportunities to move beyond their formal representative roles or partisan affiliations to communicate the range of views in Spain on relevant issues. Those choosing the Spanish parliamentary and government Convention representatives did not follow the example of other decentralized states such as Austria, Germany, Belgium and Italy, where regional authorities, other territorial entities or minority nationalists were selected to take on these Convention roles.

Similar conclusions can be drawn about most other Spanish Convention members. The rhetoric of ‘bringing Europe closer to the citizen’ appears not to have made much impact on their propensity to champion the interests of territorial actors. All spoke or made submissions on issues relevant to territorial actors on only a few occasions. When they did so, they tended to defend their own parties’ or the government’s views. Lack of agreement among major territorial actors on EU constitutional issues, especially among ACs, is probably an important explanation for why this occurred. The consequence was that there were advocates for both the minimalist and legislative regions’ positions but, in the absence of minority nationalists in the Spanish delegation, only bare mention of the maximalist position. The predominance of PP and government representatives, who were at best unsympathetic and at worst hostile to allowing extensive AC participation in EU decision-making, was also important for understanding why Spanish Convention delegates paid only limited attention to AC issues.

Domestic bodies used as fora for communicating territorial interests on EU matters more generally, such as the CARCE and the parliament, were used to communicate these interests to various Convention members. Nevertheless, they did not appear particularly useful for organizing collaboration among different territorial actors or providing alternative vehicles for channeling the interests of those without representation in the Convention.

One possible objection to this rather negative conclusion is that Convention members from other states or representatives of EU institutions may have been good advocates for Spanish territorial actors. Given space limitations, this possibility could not be explored in this article. Nevertheless, there is evidence to suggest that there may be other fruitful avenues for further investigation. Interview evidence, testimonials (MacCormick, 2004) and other commentary (Norman, 2003) suggest that some high profile Convention members, such as Erwin Teufel, minister president of the Land of Baden-Württemberg, and the Scottish National Party MEP Sir Neil MacCormick, articulated and defended positions supported by many Spanish territorial actors. Furthermore, the Commission’s White Paper on Governance and EP proposals, such as those in the (eventually much diluted) Lamassoure Report (EP.
2002), indicate the existence of regions’ advocates in EU-level institutions too. Careful examination of the Convention contributions of other member state and EU institutions’ representatives, using a similar approach to that applied here, could produce the more positive conclusion that a widening of participation in EU treaty-making through the Convention enhanced the profile of issues relevant to Spanish territorial actors.

Notes

1To complement use of documentary sources, a series of semi-structured interviews with Brussels-based AC European affairs officials were conducted in February 2004. Officials interviewed were targeted because of their involvement in Brussels AC networks following EU constitutional issues. Just over one third of the AC officials contacted agreed to be interviewed, namely officials from the AC Brussels’ offices of Andalucía, Asturias, the Basque Country, Cantabria, Castilla-La Mancha and La Rioja. Officials interviewed worked for ACs governed by one of the three main types of AC government formations in Spain: minority nationalist-dominated, PP (Partido Popular, Popular Party)-dominated and PSOE (Partido Socialista Obrero Español, Spanish Socialist Workers Party)-dominated.

2In this research the focus is on institutional aspects of AC and minority nationalist parties’ demands during EU constitutional debates. Other issues were raised by territorial actors, including preferences on regional policy, cross-border co-operation, justice and home affairs, but for reasons of space these could not be discussed in detail. Institutional issues were arguably most salient given the Convention’s focus on institutional issues more generally.

3For details see 2004 EP election programmes.

4Biographical details from www.european-convention.eu.int; www.congreso.es and www.senado.es. One Convention member, Carlos Bastarreche, is not included in Table 1. According to Convention documents he was appointed as a representative of the prime minister, but his contributions, interventions and attendance at plenaries barely registered. Consequently, Bastarreche’s contribution to the Convention will not be considered in this study.

5For details of interviews see note 1 above.

6The figures in this section should be considered indicative rather than definitive. They have been compiled from the Convention’s internet database (www.European-Convention.eu.int), which is extensive, but not always complete. A complete set of verbatim reports of plenary sessions is unavailable. There is also some (minimal) repetition in the content in proposed amendments, which has been difficult to filter out where the data set is large.

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