

Spain's accession to the Council of Europe

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On the death of the dictator Francisco Franco on 20 November 1975, King Juan Carlos I became the new Head of the Spanish State. Thus began a transition period during which the gradual reforms and transformations of the Spanish political system would allow the country to recover its place among the democracies of Western Europe and gain access to the organisations working towards European integration: the European Community and the Council of Europe.

The Council of Europe had, of course, maintained a critical and cautious attitude to the Francoist regime, which had taken the form of close contact with the democratic opposition and a series of declarations and resolutions on Franco's Spain. Following the coronation of Juan Carlos I, the opposition would have in Strasbourg a forum from which to analyse the actions of Carlos Arias Navarro's government and to criticise its lack of enthusiasm for democratisation (in December 1975, José María Gil-Robles, Joaquín Ruiz-Giménez and Felipe González were among the anti-Francoist campaigners invited to the Parliamentary Assembly). The Parliamentary Assembly members Giuseppe Reale, an Italian Christian Democrat, who had written two reports on Spain since 1974, and Walther Hofer, a Swiss Liberal, met the new Spanish Minister for Foreign Affairs, José María de Areilza, on 18 December 1975, in the course of the visits made by the latter with the aim of acquainting Europe with the Spanish Government's intentions.

On 29 January 1976, two separate delegations, one from the Francoist *Cortes* and one from the democratic opposition, addressed the Parliamentary Assembly. Manuel Escudero Rueda, Jesús Esparabé de Arteaga and Juan Pablo Martínez de Salinas spoke on behalf of the *Cortes*, while Fernando Álvarez de Miranda, Gabriel de Zubiaga, María Teresa de Borbón, Eugenio del Río, Ignacio Camuñas, Santiago Carrillo, Rafael Calvo Serer, José Vidal-Beneyto, Rodríguez de Aragón, Emmanuel Riera Clavillé, Antonio García Borrajo and Jesús de Leizaola represented the opposition. The Assembly also discussed a third report by Reale, alongside an opinion drafted by the rapporteur for the Committee on Political Affairs, the British Labour politician Dickson Mabon, and assessed Arias Navarro's television address of the previous day. According to Giuseppe Reale, 90 % of Spaniards desired democracy, but the *ultras* continued to wield power and the Army's attitude was an unknown. Most Assembly members could not discern any significant changes in the Spanish political system and were especially distrustful of Arias Navarro. At the end of the debates, the Assembly adopted Resolution 614, which noted 'the [Spanish] Government's intention to reform the country's institutions', but drew attention to the lack of specific measures as regards the freedom of association, assembly and expression and recalled that respect for human rights, the restoration of freedom for all political tendencies and the election of democratic institutions by universal suffrage and secret ballot were indispensable conditions of Spain's accession.

The change of government and the appointment of Adolfo Suárez as Prime Minister in July 1976 were greeted with optimism by the Council of Europe. The new Minister for Foreign Affairs, Marcelino Oreja, had struck up a friendship with Reale during the latter's visit to Spain in 1974 to draw up his first report. At the beginning of July 1976, the Secretary General of the Council, Georg Kahn-Ackermann, met with various Spanish Ministers and, in September 1976, Reale and Hofer visited Madrid and Barcelona, accompanied this time by the French Socialist Claude Delorme and Roger Massie, secretary to the Parliamentary Assembly's Committee on Political Affairs. After meeting various government and opposition politicians and visiting the editorial offices of the magazine *Cambio 16*, they observed that a new political climate prevailed in Spain, raising the prospect of elections in the near future and Spain's immediate accession to the Council of Europe. Portugal, meanwhile, joined the Council on 22 September 1976.

On 21 September 1976, the Assembly debated Reale's latest report, which this time noted the Suárez Government's commitment to democratisation and proposed a resolution in support of its work (Delorme, who was essentially more critical, refrained from submitting his opinion to the Committee on Political Affairs). Reale praised the Spanish Government for measures such as the amnesty (although he regretted that it had not been extended to all political prisoners and exiles), and for its contact with the opposition and the forthcoming referendum on the Law on Political Reform. At the same time, he criticised the obstacles to

the legalisation of parties, which left the Communist Party of Spain (PCE) powerless. After a debate in which parliamentarians revealed themselves to be broadly in favour of supporting Spain in its efforts to carry out democratic reform, the Assembly adopted Resolution 640, which pointed out that Spain was now in an irreversible process of political transition, described as 'pre-democratic', while regretting that political parties and trade unions were still unable to express and organise themselves properly. The same day, a group representing the opposition parties, composed mainly of left-wing and Christian democrat politicians, signed a manifesto in Strasbourg calling for the Council of Europe to take a tougher line in its judgment of the Suárez Government, and demanding not just elections but the recognition of all political parties, the restoration of all public rights and freedoms (such as press and trade union freedom) and the participation in the electoral process of all the country's existing political and social forces. Spanish diplomacy applied itself to ensuring that the opposition's demands did not alter the Assembly's resolution.

In the months leading up to the elections, the burning issue was the legalisation of the Communist Party of Spain. In April 1977, a communist group was set up for the first time in the Parliamentary Assembly of the Council of Europe, coinciding with a new report by Walther Hofer addressed to the Spanish Government, which urged it to legalise the PCE, a development that finally took place during Holy Week.

On 15 June 1977, Spain held its first democratic elections since the dictatorship, which were won by Adolfo Suárez's Union of the Democratic Centre (UCD). The Council of Europe congratulated the Spanish Government, via José Luis Messía (Consul in Strasbourg between 1962 and 1970 and Ambassador Extraordinary with observer status from the beginning of 1976), on having successfully completed the process and subsequently began to take the necessary steps to bring about Spain's accession. A Parliamentary Assembly committee met in Antwerp from 6 to 9 July to consider the matter, while two Spanish magistrates, Fernando Martínez Ruiz and José María Morenilla, were sent to Strasbourg to examine the legal implications of accession.

The Assembly members Walther Hofer, Claude Delorme and Paul Channon (a British Conservative who took the place of Giuseppe Reale) visited Barcelona and Madrid from 12 to 18 September 1977 and, following a meeting with the King, Suárez and other leading figures, they drew up a report for the attention of the Assembly confirming the regularity of electoral proceedings. On 6 July 1977, the Assembly had adopted Resolution 656, in which it welcomed the 'political maturity shown by the Spanish people', noted the desire of the parties represented in the new *Cortes* for closer links with Western European organisations and instructed its President to invite a delegation of Spanish observers to participate in the Assembly's next plenary session in October.

The question that needed to be resolved if Spain was to join the Council of Europe with immediate effect was whether or not it was necessary for a Constitution to be adopted beforehand that sanctioned and guaranteed the principles and values upheld by the institution, a point highlighted by Paul Channon in a new report drawn up following the September visit to Spain. Once the *Cortes* elected on 15 June had taken on a constituent nature, it was clear that the drafting of the Constitution would take months or years. The Austrian Chancellor, Bruno Kreisky (a party colleague of Karl Czernetz, President of the Council's Parliamentary Assembly), therefore suggested to Marcelino Oreja that Spanish parliamentarians should speed up the process by adopting a written agreement to the effect that these principles would be respected in the text that was ultimately adopted. Thus, on 8 October 1977, representatives of the parliamentary groups within the Congress of Deputies (Leopoldo Calvo-Sotelo for the UCD, Felipe González for the Spanish Socialist Workers' Party (PSOE), Manuel Fraga for the Popular Alliance (AP), Francisco Ramos Molins for the Catalan Socialists, Miquel Roca for the Basque-Catalan Minority, Santiago Carrillo for the PCE and Raúl Morodo for the Mixed Group) issued a formal declaration indicating to the Council of Europe its 'firm decision to provide constitutional guarantees of the rule of law, adherence to the ideals enshrined in the Statute of the Council of Europe and, in particular, the human rights and fundamental freedoms laid down in the European Convention signed in Rome on 4 November 1950'. With this decision, it was hoped that 'any formal issues regarding Spain's immediate accession to the Statute of the Council of Europe could be resolved as soon as possible'.

In response to this declaration, on 12 October 1977 the Parliamentary Assembly adopted a final resolution

on Spain, presented by Walther Hofer and Paul Channon, which ended Spain's transition period by warmly welcoming the declaration of 8 October and voicing the hope that accession would soon take place. Indeed, on this occasion the resolution took the weightier form of a recommendation (820), in which the Assembly urged the Committee of Ministers to invite Spain to join the Council without delay. Attending this session as guests was a delegation of Spanish parliamentarians composed of Fernando Álvarez de Miranda (President of the Congress of Deputies), Antonio Fontán (President of the Senate), Felipe González, Santiago Carrillo, José Pedro Pérez Llorca, Federico Silva Muñoz, Juan Carlos Guerra Zunzunegui, Joaquín Satrustegui, Antón Canyellas, Miguel Unzueta, Josep Benet Morell, José Federico de Carvajal, Joaquín Muñoz Peirats and José María Suárez Núñez.

On the following day, 13 October 1977, the Spanish Government, acting through its observer Ambassador in Strasbourg, José Luis Messía, presented the Secretary General of the Council of Europe, Georg Kahn-Ackermann, with a formal membership application. On 18 October 1977, the Committee of Ministers adopted Resolution (77) 32 noting the Spanish Government's intention to sign the European Convention on Human Rights and the favourable opinion of the Parliamentary Assembly, and inviting Spain to join the Council of Europe. On 30 October 1977, Kahn-Ackermann made an official visit to Spain to finalise the preparations.

On 16 and 18 November 1977, the Spanish Congress and Senate respectively unanimously adopted the law ratifying the instrument of accession to the Statute of the Council of Europe. Spain officially joined the Council of Europe on 24 November 1977; that day, Marcelino Oreja deposited with the Secretary General its instrument of accession. Immediately afterwards, Oreja signed the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and, in the afternoon, attended his first session of the Committee of Ministers (its 61st session), which, in addition to discussing Spain's accession, also dealt with matters relating to European cooperation, the Final Act of Helsinki and the use of torture in the world.

In the following months, Spain completed the necessary formalities to confirm its status as 20th member of the Council of Europe. Thereupon, the official delegation of the Spanish *Cortes* to the Assembly in Strasbourg was appointed, consisting of 10 full members and 10 substitutes (rising to 12 from 1978) taken from both the Congress and the Senate, with José Manuel Otero Madrigal (UCD) serving as chairman and Gregorio Peces Barba (PSOE) as vice-chairman. The other Spanish Assembly members were: José Pedro Pérez Llorca (UCD), Luis Yáñez Barnuevo (PSOE), Gregorio López Bravo (AP), Fernando Baeza (PSOE), Donato Fuejo Lago (Mixed Group), Joaquín Satrustegui (PSI), José Luis López Henares (UCD), Alexandre Cirici Pellicer (Entesa), Ricardo León Herrero (UCD), Javier Arzallus (Minoría Vasca), Joaquín Muñoz Peirats (UCD), Manuel Marín (PSOE), José Federico de Carvajal (PSOE), Baldomero Fernández Calviño (UCD), Carlos Calatayud Maldonado (UCD), Gregorio López Raimundo (Unified Socialist Party of Catalonia (PSUC)) and Antón Canyellas (Catalan Minority). On 25 April 1978, Eduardo García de Enterría was elected the first Spanish judge at the European Court of Human Rights, a position he would hold until 1986. Spain was also party to the various conventions and treaties adopted by the Council of Europe, such as the European Convention on the Legal Status of Migrant Workers, the European Convention on the Suppression of Terrorism and the European Social Charter. On 8 October 1979, King Juan Carlos I was invited to address the Assembly in Strasbourg and used the opportunity to praise the institution's values and voice his gratitude for the fact that Spain had been allowed to join before its Constitution had been adopted (this finally took place in December 1978).

Since its accession, Spain has shown itself to be an active and effective member of the Council of Europe. By the end of 2009, it had signed and ratified 111 conventions, while a further 18 were in the process of being ratified. It has also provided leadership for the Strasbourg institutions, such as the Presidents of the Parliamentary Assembly José María de Areilza (1981–1983) and Miguel Ángel Martínez (1992–1996), the Secretary General Marcelino Oreja (1984–1989) and the first Commissioner for Human Rights, Álvaro Gil-Robles. At present, Spain contributes 6.5 % of the Council of Europe's budget.