

Diplomatic Manoeuvres in the Dark: How Spain changed its Position on the Western

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Abstract: This contribution addresses the context and the previous background which leads to the Spanish change of stance on Western Sahara. Starting from the original position defined in 1976, this contribution reveals how, slowly, but surely, Spain has tried to modify its supposedly neutral approach to the conflict since the presidency of J.L. Rodríguez Zapatero. This dynamic has been accelerated from 2021 with the Trump Proclamation on recognition of Morocco's annexation of Western Sahara and the aggravation of the Spanish-Moroccan diplomatic crisis, starting in April 2021 leading to the new position adopted in March 2022. However, the moving international context related to the issue and the US diplomacy shadow was by no means irrelevant to promote such a result, inducing Spanish authorities to negotiate behind the scenes its change of stance with his Moroccan counterpart, even though the events of mid March 2022 were probably unexpected.

Keywords: Foreign Policy- Spain-Western Sahara-Morocco- Self-determination

(A) THE LETTER OF THE HEAD OF GOVERNMENT, P. SÁNCHEZ, OF MARCH 14th, 2022 TO THE KING MOHAMED VI

Until last spring, the position officially backed by Spain in relation to Western Sahara was well known. The stance, formally expressed in February 1976 in the letter sent to the Secretary General of the United Nations in relation to the subject, had been successively maintained since then by all the Governments of our country. In fact, in the Declaration of February 26, 1976, it was established that:

“In accordance with the provisions of paragraph 2 of the Madrid Declaration of Principles of November 14, 1975, the Spanish Government, as of today, definitively terminates its presence in the territory of the Sahara and deems it necessary to place the following in record:

- a) Spain considers itself henceforth exempt from any responsibility of an international nature in connexion with the administration of the said Territory, in view of the cessation of its participation in the temporary administration established for the Territory.
- b) *The decolonization of Western Sahara will reach its climax when the views of the Saharan population have been validly expressed”.*¹

It is true that the text tried to fall between two stools - on the one hand, the illegal abandonment of functions as the administrative power of the territory by virtue of the

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¹ Letter dated 26 February 1976 from the Permanent Representative of Spain to the United Nations addressed to the Secretary-General, A/31/56-S/11997 (italic emphasis added).

also illegal 1975 Madrid Agreements and, on the other, the supposed respect for the unfinished process of free determination of the Saharawi people - and conformed to what over time would be described - probably in excessive terms - as “constructive neutrality” in the face of the situation.²

Instead, on March 18, the Royal Cabinet of the King of Morocco, publicized the excerpts of a letter addressed by President of the Spanish Government, P. Sánchez Castejón, to the King Mohamed VI.³ In the text, dated on March 14, among other things, it was stated:

“I recognize the relevance of the Western Sahara question for Morocco and the serious and credible efforts made by Morocco in the framework of the United Nations to search a mutually acceptable solution. In this way, Spain considers the Moroccan proposal submitted in 2007 as the most serious, credible and realist basis to solve this conflict”.⁴

On the other hand, the letter further highlighted the purpose of “guarantee the stability and territorial integrity *of our both countries*”.⁵

Undoubtedly the most surprising aspect derives from the fact that the change in the Spanish position on the question of Western Sahara is implemented through a letter from President Sánchez to the King of Morocco. In this regard, the first thing to be noted is that -as unusual as this means may be- there is no inconvenience for a state authority with competence to use this channel from an international legal perspective to carry any act of its own related to foreign policy, whatever its content and scope may be. In this order, it should be reiterated once again that international law does not impose any formality on the actions of the State, other considerations being those that can justify resorting to procedures of a more formal and solemn nature. Strictly speaking, the only thing that international law requires is that the act in question has a precise content in relation to a factual or legal situation and from which its intention is

² As is well known, the supposed Spanish neutrality in the conflict has been an imposture and, furthermore, as has been highlighted, it has not satisfied anyone (cf. J. Núñez Villaverde, ‘Sahara Occidental: fin de la ficción, ¿principio de la realidad?’, RIEE, *Boletín/Newsletter* 255-2022, March 25, 2022; accessible at <https://www.realinstitutoelcano.org/newsletters/boletin-newsletter-255-2022-latest-special-analysis-ukraine/>. On the other hand, the characterization of our position in terms of “constructive neutrality” was a fleeting name coined by Ambassador I. Arias during his performance as permanent representative of Spain at the United Nations (cf. Intervention before the Security Council of Spain’s Permanent Representative, Mr. I. Arias, 31 July 2003, S/PV.4801, p. 5).

³ See Communiqué du Cabinet Royal, March 18, 2022; accessible at <<https://www.mapnews.ma/fr/activites-royales/communiqu%C3%A9-du-cabinet-royal-79>>.

⁴ Spanish text available at ‘La carta de Pedro Sánchez a Mohamed VI: “Debemos construir una nueva relación que evite futuras crisis” | España | EL PAÍS (elpais.com). English translation by the author.

⁵ *Ibid.* Italic emphasis added. The fact that no official text of the letter is available in Spain is shocking, in spite of its public knowledge. Even, in September the Head of the Cabinet of the Foreign Affairs Minister, D. Martínez Belío, refused to provide a copy to a Spanish news agency *Servimedia* on the grounds of its “confidential nature” and as a means “to preserve the bilateral relations” between Spain and other countries. The Spanish official justified the denial according to article 14, sections c) and k) of the Law 19/2013, of 9 December, on Transparency, Access to Public Information and Good Governance, (BOE, n° 295, 10 December 2013. On this question see ‘Exteriores oculta la carta de Sánchez al rey de Marruecos “pese a que es de conocimiento público”’, *20 Minutos*, September 4, 2022; accesible at <<https://www.20minutos.es/noticia/5048719/o/exteriores-oculta-carta-sanchez-rey-marruecos-conocimiento-publico/>>).

clearly deduced. Thus, it is evident that - regardless of the greater or lesser degree in the wording of the letter - the text released clearly reveals the unequivocal intention of the Kingdom of Spain - through the voice of the head of the executive power who leads our foreign policy in compliance with art. 97 of Spanish Constitution (CE)- to establish its “new” stance in relation to the situation in Western Sahara, by firmly aligning itself with the official Moroccan position in relation to the issue.

Insofar as the new position has been adopted by the competent authority, suggested attempts to judicially control the act under the pretext of violation of existing international obligations seem doomed to failure.⁶ On the other hand, the fact that the decision distances itself from the supposed state policy observed up to now does not have -in our opinion- any legal course.⁷ And the same can be said of the fact that it does not follow the lines conforming our foreign action embodied in the February 1976 declaration and in the successive Foreign Action Strategies approved by the Government of President M. Rajoy Brey in 2015 and by the current Government in April 2021. Specifically, the policies currently in force affirming the commitment to promote “the efforts of the UN to reach political solutions in Western Sahara”, “according to international parameters”, do not seem to be coherent with the u-turn now experienced.⁸ However, from a political perspective all these factors make the decision openly questionable; to which must be added the fact of the absolute lack of transparency maintained by the Government when the “u-turn” had already been known through its diffusion from Morocco,⁹ as well as

⁶ A complaint was addressed to the State Attorney Office requesting the opening of informative proceedings based on the alleged violation of Spain’s obligations as a neutral power, apud arts. 590, 591 and concordant of the Spanish Criminal Code (CP), in the conflict between Morocco and Western Sahara, filed by the Spanish League for Human Rights on March 23, 2022 and signed by Lawyers F.J. Alonso Rodríguez and A.J. Vazquez Vaamonde; accessible at <https://ligaproderechoshumanos.org/carta-a-la-fiscalia-general-del-estado/>. In fact, previous attempts to criminally prosecute the conduct of the President of the Government abroad under the pretext of violation of international obligations were dismissed: e.g. the Supreme Court Writ (Second Chamber) of July 11, 2016 ruled it out regarding the participation of President M Rajoy in the conclusion of the EU-Turkey Declaration of March 18, 2016 (in this regard see our contribution ‘El marco jurídico internacional y europeo de acogida de los refugiados y la incidencia de la declaración UE-Turquía’, in *La crisis de personas refugiadas y su impacto sobre la UE*, Eurobask, Vitoria, 2016, pp. 182 and 186-188).

⁷ It has been sustained that the decision infringes art. 97 CE insofar as it has been adopted solely by the President of the Government, and not by the Government -the Council of Ministers- as a whole (see C. Ruiz Miguel, interview at *El Debate*, March 28, 2022; accessible at https://www.eldebate.com/espana/20220328/ruiz-miguel_27587.html). However, apparently, such opinion is not shared by the doctrine, nor followed by Spanish practice.

⁸ *2021-2024 Foreign Action Strategy*, pp. 54-55; accessible at https://www.exteriores.gob.es/es/Comunicacion/Noticias/Paginas/Noticias/20210128_MINISTERIO13.aspx. However, it seems that this strategy has been discarded by the AAEE Minister, J.M. Albares Bueno, now in office (cf. A. Villarino, E. Andrés Pretel, I. Cembrero, ‘Un año con Albares: luces, purgas y sombras del ministro que venía a apagar un incendio’, *El Confidencial*, July 12, 2022; accessible at https://www.elconfidencial.com/espana/2022-07-12/marruecos-argelia-albares-otan-exteriores_3459279/>).

⁹ This fact would show that the secrecy of the negotiations with Morocco -probably still in progress- was the main aim of the Spanish Government and suggests that our government was not ready yet to publicize his new position on the issue. (On this secrecy see C. Ruiz Miguel, ‘Texto, contexto (y glosas delirantes) de la repetición del error de 1975’, *Fundación FAES*, March 21, 2022; accessible at <https://fundacionfaes.org/texto-contexto-y-glosas-delirantes-de-la-repeticion-del-error-de-1975/>>). In fact, the unexpected (!) lack of loyalty of Morocco would explain the humiliating “followerism” of Spanish authorities at the time, reduced to forwarding the acts successively diffused from Rabat. On these questions see our contribution

the resistance shown to justify the reasons for the decision to the representatives of national sovereignty, which almost unanimously denounced the methods followed when adopting such a drastic measure.¹⁰

(B) THE IMPLICATIONS OF THE LETTER AND SUBSEQUENT ACTS:
THE JOINT DECLARATION OF APRIL 7th 2022

Although it is not our purpose to inquire into the scope and implications that, from the perspective of international law, entails “the u-turn” printed in the Letter of March 14th on the Spanish position on the issue of Western Sahara, which other colleagues are dealing with in the framework of this agora, we can advance that in our opinion it does not imply a recognition similar to the one expressed by US President D. Trump on December, 6th 2020, no matter how much this thesis is endorsed from some unofficial positions. In fact, according to such sources the Spanish declaration is equated with the Trump proclamation¹¹.

Anyway, what is blatantly obvious is that a “u-turn” as such has occurred in spite of the position maintained by the environment of the Presidency of the Government and the Ministry of Foreign Affairs, European Union and Cooperation (hereinafter, AAEE). According to the Spanish AAEE Minister, J.M. Albares Bueno, it is not a new stance, but just a new “step” in the Spanish position because:

“The 2007 autonomy plan is included in the resolutions of the United Nations Security Council. Since 2007, all the resolutions of the United Nations Security Council (hereinafter, SC) refer to this autonomy plan. José Luis Rodríguez Zapatero during his term of office, informed the media on numerous occasions and reiterated it like this, he accepted and welcomed that position, and it appeared in all the statements of the high-level meetings (RAN) between Spain and Morocco with different governments: in 2008, with José Luis Rodríguez Zapatero; in 2012 and in 2015, with Mariano Rajoy. Therefore, there may be one more step, there may be a deepening, but we are within international legality”.¹²

‘Poor Spain!': Formal and Contextual Aspects of the Spanish Change of Stance’, 74 *REDI* (2022), n° 2, pp. 442-446 (In Spanish).

¹⁰ On the aspects related to parliamentary control and the questionable policy of communication of the Government on the issue, see our contribution ‘Poor Spain!...’, aforementioned

¹¹ “Spain is Committed to Guaranteeing ‘Sovereignty and Territorial Integrity’ of Morocco (Government Presidency)”, in the Morocco’s government sponsored blog *Sahara Question*, March 26, 2022; accessible in <<https://sahara-question.com/en/news/22148>>. A different appreciation comes from SADR/Polisario Front who “strongly criticized the new position expressed Friday by the Spanish government on the issue of Western Sahara, calling it a “dangerous drift” and contrary to the decisions of international legality (extracts from Communiqué, March 19, 2022; text accessible at <https://www.spsrasd.info/news/en/articles/2022/03/19/38688.html>. Also, such nuances are present on the statement -the author is one of his drafters- adopted by the Spanish Association of Professors of International Law and International Relations (AEPDIRI), on March 23, 2022, where just an “implicit recognition” of the Moroccan sovereignty (para. 9) is appreciated, as has been pointed out (cf. A. Sánchez Legido, ‘Los enigmas del reconocimiento en la práctica contemporánea’, 43 *REEI* (2022)). The text of the AEPDIRI statement is accessible at <https://www.aepdiri.org/index.php/actividades-aepdiri/declaracion-sahara>.

¹² Response from the Minister to the question from Deputy Pedro Quevedo Iturbe, from the mixed parliamentary group, who asked the Minister of Foreign Affairs, the European Union and Cooperation: “Why does the Spanish government consider that its change of position regarding the Sahara does not violate

However, some remarks must be made concerning the AAEE Minister's response insofar as although the references to the Moroccan autonomy plan have been present since Resolution 1754 (2007) of the SC of April 30, 2007, they are always accompanied by the contemporary reference to "the proposal presented to the Secretary General by the Polisario Front on April 10, 2007", which the Minister overlooks¹³. In addition, contrary to what Mr. Albares Bueno maintains, in the previous Spanish-Moroccan summits (RAN) statements were made through the formula "Spain welcomes the serious and credible efforts of Morocco",¹⁴ but does not expressly allude at any time to the Moroccan autonomy plan.

In fact, there has been a new development as the Spokesperson for the Secretary-General of the United Nations, S. Dujarric, revealed at his press briefing of March 21, 2022, when he recalled:

"the importance of maintaining full commitment to the UN-facilitated political process in line with Security Council resolution 2602 (2021) and other relevant Security Council resolutions... We feel it's very important for all the stakeholders in this to continue to support his work and our approach based on these resolutions".¹⁵

Clearly there is a sharp contrast between the actual Spanish position and the statements made by other States on Western Sahara lying in the fact that the necessary involvement of the United Nations is totally eluded in the Spanish stance. In this sense, it is important to point out that in recent times some states have made declarations with regard to the issue but with important nuances absent in the Spanish declaration. Thus, in January the German president considered the Moroccan autonomy initiative as "a serious and credible effort" and a "good basis" for the resolution of the Sahara question", albeit underlining the German support for the UN efforts to reach "a just, lasting and mutually acceptable solution" for all the parties involved,¹⁶ in March the French Ministry of Foreign Affairs reiterated its support "in favor of a just, lasting and mutually acceptable political solution, in accordance with United Nations resolutions" and in which it saw "the Moroccan autonomy plan" as "a basis for serious and credible discussion",¹⁷ and, finally, in May in a joint communiqué by the Dutch and Moroccan

the international legality?" (File number 180/000872, Cortes Generales, *Diario de Sesiones del Congreso de los Diputados, Pleno y Diputación Permanente*, XIV Legislatura, n° 177, April 6, 2022, p. 22). Certainly, as has been said, a new step was taken by Spain in his historical alignment with Morocco, but now Spain was sided explicitly and unequivocally with them (Cf. I. Barreñada, *Breve historia del Sáhara Occidental*, Libros de la Catarata, Madrid, 2022, p. 12).

¹³ In fact, even the recently adopted SC Resolution 2654 (2022) of October 27, 2022 adopts the same formula.

¹⁴ Cf. XI High Level Meeting (RAN) Spain-Morocco, Joint Declaration, Madrid, June 5, 2015; accessible at <<https://www.exteriores.gob.es/Embajadas/rabat/es/Comunicacion/Noticias/Paginas/Articulos/20150615.aspx>>.

¹⁵ Cf. Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, March, 21, 2022; accessible at <<https://www.un.org/press/en/2022/db220321.doc.htm>>

¹⁶ See <https://www.moroccoworldnews.com/2022/01/346367/german-president-extends-invitation-to-king-mohammed-vi-to-visit-germany>

¹⁷ Sahara occidental - Q&R - Extrait du point de presse, March 21, 2022; accessible at <<https://www.diplomatie.gouv.fr/fr/dossiers-pays/maroc/evenements/article/sahara-occidental-q-r-extrait-du-point-de-presse-21-03-22>>. Translation by the author. In fact, surprisingly, the French position on the issue remains more nuanced than Spanish one, as recent tensions with Morocco showed (See I. Cembrero, 'La posición de España en el Sáhara agrava la larga crisis entre Francia y Marruecos', *El Confidencial*, November 6,

Ministers of Foreign Affairs the Morocco's plan of autonomy was considered as "a serious and credible solution", insisting however on the "support for the personal envoy of the United Nations Secretary General for Western Sahara and his efforts to continue a political process aimed at reaching a just solution lasting and mutually acceptable in accordance with UN resolutions".¹⁸

Nevertheless, the new Spanish position was reinforced on April 7th, during the meeting in Rabat between the Spanish president P. Sánchez Castejón and King Mohamed VI, when a Joint Declaration was adopted. According to the text "a new roadmap" governing the relations between the two countries is drafted. Amongst the points agreed the most sensitive concerns Western Sahara, where it is again stated that:

"Spain recognizes the importance of the Sahara issue for Morocco, as well as Morocco's serious and credible efforts in the framework of the United Nations to find a mutually acceptable solution. As such, Spain considers the Moroccan autonomy initiative, presented in 2007, as the most serious, realistic and credible basis for the resolution of this dispute".¹⁹

The Declaration also deals with an improvement of the mutual confidence between both countries, through consultation and abstaining from unilateral measures and *faits accomplis*. Other subjects envisaged in the text concern full normalization of movement of persons and goods, restoration of passenger shipping between the two countries, reactivation of common working related to delimitation of marine spaces in the Atlantic, initiation of discussions on the management of airspace, reactivation of cooperation on migratory issues on a more comprehensive and balanced basis, enhancement of economic exchanges, cultural and educative cooperation, reactivation of bilateral meetings and working groups -including the successively postponed RAN- and, last but not least, the announced revision of the Treaty on Friendship.²⁰ Nevertheless, in spite of the continuous statements by the Spanish authorities, the aimed reciprocal guarantee with regard to the territorial integrity of both States is absent in the text of the Joint Declaration.²¹

2022; accessible at <https://www.elconfidencial.com/mundo/2022-11-06/argel-rabat-espana-puesto-zanquilla-francia-marruecos_3517488/>).

¹⁸ See <https://www.diplomatie.ma/index.php/en/moroccan-sahara-netherlands-joins-international-momentum-support-autonomy-plan>. Obviously, the subtle change in the Dutch position was rewarded by Morocco: last October deportation of Moroccan irregulars from Netherlands, previously blocked, started. See 'Marruecos acepta repatriar migrantes de Holanda a cambio de mutismo sobre el Sáhara', *El Confidencial*, October 5, 2022; accessible at https://www.elconfidencial.com/mundo/2022-10-05/marruecos-paises-bajos-sahara-occidental_3500479/.

¹⁹ English text accessible at <https://www.diplomatie.ma/en/joint-statement-adopted-end-talks-between-hm-king-mohammed-vi-president-spanish-government-pedro-sanchez>.

²⁰ Treaty of Friendship, Good Neighborhood and Cooperation between the Kingdom of Spain and the Kingdom of Morocco, done in Rabat on July 4th, 1991, *BOE*, n°. 49, 26 February 1993.

²¹ This question is illuminating about the limited outcome of the Spanish initiative. Prompted by the over-exaggerated (the Canary Islands), and partially real territorial threats (Ceuta, Melilla and the Northafrican islets) to the Spanish territorial integrity, the issue was permanently present in all the statements by the Spanish Government in the Spring 2022 concerning its new stance on Western Sahara. However, if the Moroccan refusal to join it is understandable, it is hard to conceive why the Spanish authorities did not confer any attention to the aforementioned Treaty on Friendship -yet in force- were the respect of the territorial integrity of both States is proclaimed. On this issue see our contribution '*Poor Spain!...*', previously cited.

(C) *DIPLOMATIC MANOEUVRES IN THE DARK: THE PATH TO THE ACTUAL SPANISH POSITION*

The affirmation of the new Spanish position in relation to the question of Western Sahara caught many by surprise, but it cannot be described as an absolutely unexpected occurrence. In fact, as we will try to demonstrate, it is the result of a reviewing of Spanish foreign policy in relation to the issue, which had been brewing for more than 15 years, although until now the right moment had not been found to manifest itself. And it comes as an attempt to solve the deep crisis experienced in Spanish-Moroccan relations over the last year that has been influenced to a large extent -undoubtedly, it has been the “precipitant” of the change- by the new position adopted by the USA when recognizing the annexation by Morocco of Western Sahara in December 2020.²²

In fact, it is well-known that the endeavors to change the Spanish position in relation to Western Sahara date back to the presidency of J.L. Rodríguez Zapatero. At that time, when he came to office in 2004, the new President of the Government proposed a strategy of “active involvement in the solution of the conflict”. This initially led to taking a series of steps that did not clearly prejudice the position to be adopted: in fact, the first move taken by the new socialist government included a trip to Tindouf in June 2004 by Mr. B. León -at the time, Secretary of State of AAEE- that caused serious concern in the Moroccan Government,²³ propitiating a change of course that would lead to a gradual alignment with the Moroccan theses. In fact, the subsequent involvement of Spanish authorities in the drafting of the Moroccan autonomy proposal has always been suspect and was further revealed by *Wikileaks*.²⁴ And it must be remembered that this affinity has led to an authentic collusion in recent times with Morocco when it comes to concluding and defending in the EU judicial instances the controversial trade and fisheries agreements successively signed between EU and Morocco in which Western Sahara is included.²⁵

Even previously to 2022, there were attempts to review the official Spanish position on Western Sahara question. Consequently, the *travaux préparatoires* of the 2015 Spanish Foreign Action Strategy are illuminating. In fact, the working document prepared by the public sponsored think-tank RI Elcano alluded to supporting “a genuine and guaranteed self-government solution that allows the wishes of Morocco and the Polisario Front to be satisfied”.²⁶ However, the document finally adopted by the Spanish government does

²² On this question see our contribution ‘El reconocimiento por EEUU de la anexión por Marruecos del Sáhara occidental en perspectiva: Aspectos jurídicos y políticos’, 44 *REEI* (2021).

²³ M. Larbi Messari, M., *Las relaciones difíciles. Marruecos y España*, Almuzara, Córdoba, 2009, p. 133.

²⁴ Although the same sources showed that Spain considered the final proposal as insufficient and frustrating (cf. I. Barreñada, *Breve historia...*, previously quoted).

²⁵ On these questions see our contribution ‘¿Retorno a la historia?’ El Tribunal General de la UE ante el Acuerdo de Pesca UE-Marruecos de 2019. Consideraciones en torno a la Sentencia TG (Sala 9ª) de 29 de septiembre de 2021, ‘Frente Polisario C. Consejo de la Unión Europea’, asuntos acumulados T-344/2019 y T-356/19’, 38 *AEDI* (2022), pp. 9-61.

²⁶ Cf. *Hacia una renovación estratégica de la política exterior española Elementos para conectar mejor el proyecto colectivo de país con el mundo globalizado*, (I. Molina, ed.), Real Instituto Elcano, Informe n° 15, Madrid, 2014, p. 77; accessible at <https://media.realinstitutoelcano.org/wp-content/uploads/2021/10/informeelcano15-polextespana.pdf>. Translation by the author.

not reflect such a conclusion,²⁷ nor the further revision of the Strategy adopted in 2021 previously cited – and, seemingly, yet in force.²⁸

However, the efforts by Spain to maintain its historical position on Western Sahara have been progressively eroded by its internal contradictions, and were finally weakened by the US decision to recognize the Moroccan annexation of the territory. The initial Spanish reaction to the American move was certainly in line with the, then, official policy on the issue²⁹, but the strong pressure exerted thenceforth by Morocco through different means led to the claudication symbolized by the letter of March 14, 2022.

In fact, the El-Ghali affair was the pretext to the diplomatic crisis that erupted between the two countries in the Spring of 2021,³⁰ and came to a head with the withdrawal of the Moroccan ambassador in Madrid in April. But at the same time, in the last years Moroccan authorities did not spare any unfriendly gesture towards Spain (*e.g.* closure of borders in 2019, relaxation of migratory controls between 2020 and 2022 –including the “invasion” of the Spanish enclave of Ceuta in May 2021–,³¹ judicial actions by proxy before Spain’s courts,³² spying on high ranking Spanish officials, etc.). So, as a way to curb such a dynamics, in July 2021 the Spanish president, P. Sánchez Castejón, decided to cease his AAEE Minister, A. González Laya, and replace her with a diplomat close to the Government and the Socialist Party, J.M. Albares Bueno, whose role has been decisive in the solution of the crisis through the letter sent to Rabat in March 14th, 2022.

But, in his work the Minister J.M. Albares Bueno was not alone. In fact, it has been argued that the letter sent to the King of Morocco was “dictated almost verbatim by the US deputy secretary of State W. Sherman”.³³ All in all, it is true that the presence of

²⁷ On such issue see our contributions ‘*A Bridge over Troubled Waters (and Sands)? A Critical Sight on Spain’s Role in Western Sahara Issue 40 Years Later*’, 20 *SYbIL* (2016), pp. 255-277, and ‘*La España imposible: una aproximación crítica a nuestra política exterior en relación con el Sahara Occidental*’, in Observatorio aragonés para el Sahara Occidental (ed.), *Sahara Occidental. Del abandono colonial a la construcción de un Estado*, Pregunta Ediciones, Zaragoza, 2019, pp. 57-90.

²⁸ See above, footnote 6.

²⁹ See our contribution ‘*El reconocimiento por EEUU de la anexión por Marruecos del Sáhara occidental...*’, previously quoted.

³⁰ The affair concerns the health care treatment from COVID-19 in a Spanish public hospital of the leader of the Polisario Front (and president of the SADR), transferred from Algeria under a disguised identity. Its presumed illegal entry into Spain is yet under judicial investigation. Nevertheless, the charges against the former AAEE Minister, Gonzalez Laya, were dismissed by the Writ 301/2022 of the 3rd Section of the Provincial High Court (*Audiencia Provincial*) of Zaragoza, May 26, 2022, as covered as “acts of government”, exempt of judicial control, according to Spanish Law.

³¹ On these issues see M.A. Acosta Sánchez, ‘*La crisis migratoria de 2020 en las Islas Canarias: algunas opciones de solidaridad europea*’, 38 *AEDI* (2022), pp. 455-485; I. González García, ‘*La ruta migratoria de África occidental hacia Canarias. De la crisis de los cayucos de 2006 a la crisis migratoria 2020-2021. Análisis y valoraciones*’, 9 *Ordine internazionale e Diritti Umani* (2022), pp. 373-398, and C. Soler García, ‘*La protección de los menores extranjeros no acompañados en la crisis de Ceuta de 2021: un análisis a la luz del derecho internacional y del derecho de la Unión Europea*’, 58 *RGDE* (2022).

³² Judicial proceedings were open against El-Ghali during his stay in Spain in 2021 by the National High Court (*Audiencia Nacional*), on charges of illegal detention, torture and crimes against humanity; however, the claims were dismissed by the Writ of the National High Court (Criminal Chamber, 1st Section), on February 10, 2022, although an appeal is pending before the Supreme Court.

³³ Cf. Interview with D. Garí, in *Eldiario.es*, May 15, 2022; accessible at https://www.eldiario.es/canariasahora/internacional/entrega-sahara-marruecos-pretendia-frenar-influencia-argelina-independientismo-canario_128_8991690.html. Those affirmations come from a deep connoisseur of the American influence in

high-ranking US officials in Madrid shortly afterwards was revealed, and the interview last January between Minister J.M. Albares Bueno in Washington with the US Secretary of State, A. Blinken -in which the subject was addressed³⁴- allow us to suspect a certain influence of the Department of State on the decision adopted, and there are many who see the influence of the “Abraham agreements” -on the normalization of relations between Israel and the Arab countries, and where Morocco’s stance is a central piece-on the whole matter.³⁵ In fact, the shadow of US diplomacy on the developments leading to the March move seems undisputed insofar as the presumed reversal of the Trump proclamation by the Biden presidency was never adopted, despite the pressure by some significant personalities of the American political arena, including members of the US Congress.³⁶ On the contrary, the new democrat administration has enhanced its cooperation with Morocco, just by eluding the most controversial issues deriving from his new approach to the question: e.g. the announced opening of a US consular office in Dakhla has been postponed *sine die*³⁷, periodic joint military manoeuvres were conducted outside the Western Sahara territory, and current official contacts merely address markedly the continuous support to Morocco’s autonomy plan “as serious, credible, and realistic, and a potential approach to satisfy the aspirations of the people of Western Sahara”.³⁸

the development of the conflict, as shown in his recent book *Estados Unidos en la Guerra del Sáhara Occidental*, Libros de la Catarata, Madrid, 2022, although we do not know the sources on which he bases his opinion. Instead, recently, the Moroccan authorship of the letter has been sustained by another Spanish expert on the Western Sahara issue (see C. Ruiz Miguel, interview in *Diario de Fuerteventura*, December 8, 2022; accessible at <<https://www.diariodefuerteventura.com/noticia/%E2%80%99Cno-hay-que-rendirse-ante-marruecos-para-negociar-la-delimitaci%C3%B3n-de-las-aguas%E2%80%99D>>).

³⁴ See A. Mars, “Spain and the US agree to “join forces” to resolve the Western Sahara conflict”, *El País*, January 18, 2022; accessible at <https://elpais.com/espana/2022-01-18/spain-and-the-usa-agree-to-join-forces-to-resolve-the-conflict-of-western-sahara.html>. However, the US Ambassador at Madrid, J. Reynoso, denied in an interview that US “pushed” Spain to change its position on the issue. See *La Vanguardia*, April 4, 2022; accessible at <https://www.lavanguardia.com/politica/20220404/8174183/julissa-reynoso-embajadora-eeuu-no-empujamos-espana-marruecos.html>.

³⁵ Concerning those agreements and its impact see I. Vázquez Serrano, ‘El último capítulo del conflicto israelí-palestino: el Acuerdo del Siglo y la reciente cooperación árabe-israelí con los Acuerdos de Abraham’, 38 *AEDI* (2022), pp. 387-422, and our contribution ‘El reconocimiento por EEUU de la anexión por Marruecos del Sáhara occidental...’, previously quoted.

³⁶ *Ibid.*

³⁷ However, a “virtual presence post in Western Sahara” is referred to amongst the information provided to US consulates in Morocco. See <https://ma.usembassy.gov/embassy-consulate/vpp-western-sahara/>.

³⁸ cf. US Department of State, Office of the Spokesperson, Deputy Secretary Sherman’s Meeting with Foreign Minister Bourita of Morocco, March 8, 2022; accessible at <<https://ma.usembassy.gov/deputy-secretary-shermans-meeting-with-foreign-minister-bourita-of-morocco/>>. Certainly, those gestures are not so satisfactory for Moroccan authorities. In fact, during the aforesaid visit of the US deputy secretary of State, media -probably based on Morocco’s biased sources- spoke about the confirmation of the US stance on the issue (E. Vasquez, ‘US open to Western Sahara options as Morocco steps up lobbying effort’, *Euractiv*, April 22, 2022; accessible at <https://www.euractiv.com/section/global-europe/news/us-open-to-western-sahara-options-as-morocco-steps-up-lobbying-effort/>). Also, in a Moroccan public sponsored blog mentions “Biden’s timid but not insignificant embrace of his predecessor’s policy on the Sahara”, insisting that “the Biden administration’s often evasive rhetoric on the Sahara is not exactly the blunt support that many in Rabat expected from Washington in the light of the December 10, 2020 statement”, however the same source recalls that “the calculated hesitation and diplomatic sensitivity in which the Biden administration temporarily indulges should not be confused with a total repudiation or an unequivocal rejection of the recognition by the Trump administration of Morocco’s sovereignty over its southern provinces”, which is reflected in the Budget Law passed by the US Congress on March 15, 2022,

Finally, we must not forget that the change of the Spanish position was also guided by the behavior of other prominent states. In this sense, the recent attempts by German diplomacy to cope with its own particular crisis with Morocco -also based on the Western Sahara issue- paved the way for Spanish diplomacy. The gestures from Berlin -started in November 2021- were certainly more subtle than the Spanish ones, and the position finally expressed by German authorities more nuanced, but finally led to a rapprochement consummated in April 2022 with the admission of a new German Ambassador to Rabat.³⁹ Certainly, taking into account this moving -and near- international context, the change of stance of Spain was not so unanticipated, although such a surrender will be a cause of regret...in sieve and in substance.

as an example of the American support (see S. Bennis, 'La nouvelle loi de finances américaine consacre la souveraineté marocaine sur le Sahara Occidental', *Sahara Question*, March 23, 2022; accessible at <<https://sahara-question.com/fr/opinion/22146>>. Translation by the author).

³⁹ A careful analysis of the Moroccan-German crisis can be seen in our contributions 'El reconocimiento por EEUU de la anexión por Marruecos del Sáhara occidental...', and '*Poor Spain!*', above.