

UPF Progressive Association of Prosecutors

**OPEN LETTER BY THE PROGRESSIVE ASSOCIATION OF PROSECUTORS TO
THE PRESIDENT OF THE GOVERNMENT OF THE KINGDOM OF SPAIN
REGARDING THE LATTER'S POLITICAL POSITION ON THE TERRITORY OF
WESTERN SAHARA**

Mr President of the Government of Spain,

The Progressive Association of Prosecutors (“Union Progresista de Fiscales”) regrets the change of course in your international policy regarding the unfinished Western Sahara’s decolonisation process.

We consider that your backing to the self-rule proposal for a Western Sahara within Morocco - which this Kingdom has advanced since 2007 - flagrantly fails to fulfil, *inter alia*, the Peace Plan of 1991 which the Kingdom of Morocco, itself, signed with the Polisario Front, and was subsequently approved by the UN Security Council.

This new political stance worsens the positions held by previous Spanish Governments and, what is even more worrying, it infringes on the International law in force.

In light of this new situation, the Progressive Association of Prosecutors resolved to send a delegation of prosecutors and lawyers to the Saharawi Refugee Camps on the outskirts of Tindouf from the 2nd to the 9th April 2023. This trip allowed us to integrate with the Saharawi People and acted as a forum to further the study and legal analysis of the current situation of the Saharawi People and of current law.

Pursuant to the provisions in Article 96 of the Spanish Constitution, International Treaties validly signed and published officially in Spain are part of our domestic law and are, therefore, mandatory. It is from this constitutional framework and recalling the obligations undertaken by our country, that we therefore **request that, as President of the Government of Spain, you adopt the necessary measures so that the fulfilment of all the international obligations which are applicable to Spain, in order to secure a referendum of self-determination for the People of the Western Sahara, are effective.** Obligations undertaken, not only as a member of the European Union and of the International Community, but, fundamentally, as a colonial power.

In compliance with **Spain’s democratic history**, it is vital to remember that since 1963 - when the United Nations deemed Western Sahara as a Non-Autonomous Territory and declared that this Territory was to be decolonised through a self-determination referendum - Spain did not effectively comply with its obligations as Administering Power of the Territory.

Pursuant to the provisions in the United Nations Charter, it is Spain’s duty to promote the interests of the Saharawi People, in pursuit of their social, economic, political and educational progress, as well as promoting aid to these people, to establish appropriate forms of self-governance in accordance with their political aspirations and to

communicate periodic information to the United Nations about the situation of the Saharawi People.

Failure to comply with these obligations is a long-standing legacy since the times of Franco's dictatorship. However, the new position that, as President of the Government you hold, not only perpetuates this historical inaction, but seems to line up with the shameful and unlawful agreement signed in 1975 by Spain (the Madrid Pacts) in which Spain ceded part of the territory of the Western Sahara to Morocco and another part to Mauritania, an agreement which was never recognised as valid by the UN.

This situation greatly concerns us, as your decision on the Western Sahara, far from contributing to the completion of the decolonisation process, constitutes an alliance with the Kingdom of Morocco, which has been responsible for blocking this process for almost 50 years.

In this regard, we must recall that the International Court of Justice of the Hague, ruled in 1975 that there is no legal bond of sovereignty between the Kingdom of Morocco and the Western Sahara, and that therefore these people had to be decolonised through the exercise of self-determination.

Our democratic heritage and consolidation oblige us as Spaniards to take on Spain's responsibility to the Saharawi people.

Any solution outside the framework of international legality and without fulfilling Spain's obligations will mean a loss of an historical opportunity to consolidate Spain's leadership in the conquest of democracy and liberties, and to return a stolen future to the People of Western Sahara.

The Secretary of the Progressive Association of Prosecutors.

At Las Palmas de Gran Canaria, this 8th April 2023.

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