



PRESENTAZIONE DEL VOLUME

Informazioni generali

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Informazioni sul volume

The book investigates the approach of the European Union towards the conflict of Western Sahara, a situation that is still unresolved after decades of unsuccessful dialogue within the international Community.

Until today, the two directly involved actors – *Frente Polisario* and Morocco – have not reached any final solution on their sovereignty claims over the territory of Western Sahara. What is undisputed is that, being a former Spanish colony, Western Sahara was recognized by the United Nations as a Non-Self-Governing Territory in accordance with Article 73 of the UN Charter. Since then, its right to self-determination and the consequent necessity to transfer all powers to the Sahrawi people have been stressed in many occasions within and outside the United Nations (see, for example, General Assembly's resolution 34/37, 21 November 1979). Morocco continues nonetheless to occupy large parts of Western Sahara, leaving the remainder to the *Frente Polisario*'s control under the Sahrawi Arab Democratic Republic.

In the framework of the so-called Barcelona process, the European Union has concluded several bilateral agreements with Morocco aimed to deepen their economic integration. The 2000 Association agreement European Union-Morocco is the general legal framework for the development of relationships between the two parties. In this context, the recent Agreement on reciprocal liberalisation measures on agricultural products, processed agricultural products, fish and fishery products, entered in force in 2012, and the Fisheries Partnership Agreement, issued in 2013, were established. They reiterate and update former agreements. No one of them excludes expressly the territory of Western Sahara from their scope of application, in contrast with other similar agreements negotiated with other countries, such as the Free trade pact between Morocco and the United States of America.

The non-exclusion of the territory of Western Sahara raises several issues on the compliance of these agreements with either international law or European Union law, especially with the principles that should rule EU external policy. These principles include self-determination, sovereignty over natural resources, prohibition of exploitation of resources of a territory under occupation, the duty of non-recognition of situations arisen in an illegal way, prohibition to negotiate agreement with an occupying country once the process of decolonisation has begun, but also the respect of human rights of all people involved is at stake in such a situation.

The book begins with an historical reconstruction of the situation in the field (F. Correale). Then, the principle of self-determination is analysed in depth, in particular considering its legal consequences (C. Ruiz Miguel). E. Hagen gives a large overview of the implications in the field of the approach taken by the European Union, while H. Corell – former Under-Secretary-General for Legal Affairs and the Legal Counsel of the United Nations and author of the famous letter on the legality of the exploitation of natural resources in Non-Self-Governing Territory – reaffirms its point of view on the international legality of the above mentioned agreements. R. Passos – Director in the European Parliament Legal Service – catches the point of view of the European Union, which is further discussed by E. Milano. A section providing all relevant documents completes the book.

The solomonic recent response of the EU Court of Justice, according to which it follows from the above mentioned principles that a treaty is generally binding in respect of the geographical space over which a State “exercises the fullness of the powers granted to sovereign entities by international law, to the exclusion of any other territory, such as a territory likely to be under the sole jurisdiction or the sole international responsibility of

that State” (Court of Justice, 21 December 2016, *Council v. Front Polisario*, C-104/16 P, para. 95, which sets aside on appeal General Court, 10 December 2015, *Front Polisario v. Council*, T- 512/12), may have the effect to save the legality of EU external policy. However, at the same time, it raises several questions on the approach taken by EU Institutions in the daily management of such a policy.

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