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SPAIN AND THE RESPONSIBILITY TO PROTECT: AN ACTIVE COM- MITMENT

Abstract

Spain showed its commitment to the idea of the responsibility to protect from the very start of discussions at the United Nations, and has since proven it in statements on the subject, at both the General Assembly and the Security Council, in interactive dialogues on thematic resolutions and situations of armed conflict that have given rise to the notion being invoked. One of Spain's priorities as a non-permanent member of the Security Council for the biennium 2015-2016 is to push for the effective implementation of the responsibility to protect and for the introduction of limits on the use of veto in situations of serious and massive violations of human rights.

Spain has also participated very actively in specific initiatives for the promotion of the concept as a member of the Group of Friends of the Responsibility to Protect and as a member state of the Global Network of Responsibility to Protect Focal Points. Its commitment to the responsibility to protect at the domestic level can also be seen in the inclusion of this concept in Spain's external action strategy documents.

Keywords:

Security Council, right of veto, Spain, Security Strategy, Group of Friends, Global Network of Focal Points, Responsibility to Protect.

INTRODUCTION

The emergence of the concept of the responsibility to protect and the subsequent situations of armed conflict needing its implementation have led to states maintaining different, and not always favourable, positions. Nonetheless, there exists a large number of states that unconditionally support the responsibility to protect and have shown this from three angles. Firstly, the states that support the concept have upheld a very proactive attitude in interactive dialogues on the responsibility to protect, defending the need to give substance to the notion. Secondly, they have spoken in favour of the concept in non-United Nations fora, creating associations of groups of friends of the concept, with the aim of continuing work on the responsibility to protect, reinforcing cooperation outside the United Nations, and establishing real alliances to try to bring common positions to official discussions on the subject. Finally, many states have included dimensions of the responsibility to protect in their internal documents, such as their security strategies, demonstrating a high level of commitment to the concept and including it in their national legislation.

As we will see, Spain forms part of this group by showing commitment to the concept from its very beginnings. This commitment has been demonstrated in Spain's interventions in interactive dialogues on the responsibility to protect as well as in interventions at the Security Council on specific conflict situations, during which it has recalled the responsibility to protect peoples in situations of massive violations of human rights. It has also included the concept in its security strategies, making numerous references to the responsibility to protect. In addition, one of Spain's priorities in the Security Council for the biennium 2015-2016 is the defence of and the push for the effective implementation of the responsibility to protect as a collective responsibility, as well as for a limit on the use of veto in situations of serious and massive violations of human rights.

1 In accordance with resolution 60/286, of the 8 September 2006 on the revitalisation of the General Assembly, this United Nations body approved an annex to the resolution with the aim of further strengthening the role and authority of the General Assembly, in which it encouraged the holding of «thematic interactive debates on current issues of critical importance to the international community in the General Assembly, and invite[d] the President of the Assembly to propose themes for such interactive debates, in consultation with Member States», (A/RES/60/286, of the 8 September 2006. Revitalisation of the General Assembly), <http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/60/286&Lang=S>, [Consulted: 4 December 2015]. The aim of these debates was to give Member States the opportunity to establish a dialogue and to exchange views with other Member States, civil society, the private sector and other interested parties so as to address current issues of critical importance and of universal relevance for the international community, (A/64/903, of the 8 September 2010. Report of the Ad Hoc Working Group on the Revitalization of the General Assembly), <<http://www.un.org/es/comun/docs/?symbol=A/64/903>>, [Consulted: 4 December 2015].

SPAIN'S POSITION IN THE GENERAL ASSEMBLY AS REGARDS THE RESPONSIBILITY TO PROTECT

Spain has upheld its position of commitment to the responsibility to protect since the enshrinement of the concept in 2005; thus, during the high-level plenary meeting convened on the occasion of the celebration of the 60th anniversary of the United Nations, our state recognised that serious violations of human rights and of international humanitarian law require a decisive, collective and solidary response, which would also necessitate a reform of the United Nations bodies to adapt them to their new missions².

It should therefore come as no surprise that, when the interactive dialogues began in 2009 as a result of the presentation of the Secretary General's first report on the subject, the Spanish delegation showed its full commitment to the concept, as was reflected in paragraphs 138 and 139 of the Outcome Document of the World Summit, calling upon other delegations to:

« (...) codify the manner of applying the concept through the length and breadth of the three pillars that the Outcome Document itself identifies»³.

On the occasion of the 2011 dialogue on «the role of regional and sub-regional arrangements in implementing the Responsibility to Protect», Spain demonstrated due diligence as regards the application of the concept in the internal arena by informing other states of the actions that Spain has implemented to make the principle operative. Among these actions are the inclusion of the responsibility to protect in the principles of Spain's international operations, mainly through its inclusion in the Spanish Security Strategy. The Spanish representative spoke of the «drafting of a national report on our activities in the area of the responsibility to protect, legislative developments and the competencies of the different government bodies»⁴. This report has, unfortunately, still not seen the light of day.

In the debates that took place over the following two years, the Spanish delegation reiterated its commitment to the responsibility to protect and referred to different national legal texts to demonstrate said commitment to the concept. In particular, on the occasion of the 2013 interactive dialogue, entitled «Responsibility to Protect: State Responsibility and Prevention», Spain referred to the reform of the Spanish Criminal Code as an example of best practice as it contains new provisions that punish those who publicly incite hate as well as criminalising those who publicly deny or praise

2 A/60/PV.4, General Assembly, 14 September 2005, p. 15.

3 A/63/PV.97, General Assembly, 23 July 2009, p. 16.

4 Intervention by the Spanish representative in the informal interactive dialogue of the General Assembly on «the role of regional and sub-regional arrangements in implementing the Responsibility to Protect», 12 July 2011, <<http://responsibilitytoprotect.org/Spain.pdf>> [Consulted: 4 December 2015].

genocide, crimes against humanity or crimes against protected persons or property protected in the event of armed conflict. Another reference text on the responsibility to protect is, according to the Spanish delegate, the Spanish Constitution which sets out legal and political mechanisms to respond democratically to different situations of tension that may develop within a state. Equally, the Spanish delegate regretted the absence of commitment from the side of some states to implement the concept in the case of Syria and, in particular, following the use of chemical weapons in the conduct of the conflict. The Spanish delegate also called for referral to the International Criminal Court and called upon the Security Council to meet its responsibility in Syria.

It was from 2014, however, that Spain began to speak out more forcefully in different international fora on its commitment to the concept. The first occasion was during the debate on resolution S/RES/2171 (2014), during which it included the element of conflict prevention in its foreign policy. Spain also stated that:

«Spain is a strong supporter of the responsibility to protect and participates actively and constructively in the efforts made to advance its effective implementation. Particularly important is its second pillar, namely, the commitment from the side of the international community to provide assistance to countries in order to enable them to effectively prevent atrocities»⁶.

During the 2014 interactive debate on the responsibility to protect, entitled «Fulfilling our Collective Responsibility: International Assistance and the Responsibility to Protect», Spain had the opportunity to reaffirm its commitment and this was made very clear in the statement given by the representative of Spain⁷. Equally, just a few days later, at the opening of the 69th session of the United Nations General Assembly, the Spanish delegation spoke on Spain's priorities in the areas of peace and security as follows:

«We will take part in efforts aimed at furthering the effective operationalisation of the Responsibility to Protect (R2P) in its three pillars. We will pay particular attention to assisting countries to fulfil their responsibility to protect their citizens from atrocity crimes. We will take into account the recommendations set forth in the UN Secretary-General's annual report on R2P»⁸.

5 Intervention by the Spanish representative during the informal interactive dialogue of the General Assembly on «Responsibility to Protect: State Responsibility and Prevention», 11 September 2013, <<http://responsibilitytoprotect.org/Spain%2013.pdf>>, [Consulted: 4 December 2015].

6 Statement by the Ambassador Permanent Representative of Spain to the United Nations, Mr. D. R. Oyarzun, during the Security Council open debate on conflict prevention: maintenance of international peace and security, 21 August 2014.

7 See the statement made by the Spanish representative at the General Assembly informal interactive dialogue on «Fulfilling our collective responsibility: international assistance and the responsibility to protect», 8 September 2014, <<http://statements.unmeetings.org/media2/4493831/spain.pdf>>, [Consulted: 4 December 2015].

8 Spain's priorities at the United Nation's 69th session of the General Assembly, September 2014, <<http://www.exteriores.gob.es/Portal/es/PoliticaExteriorCooperacion/NacionesUnidas/Documents/Prioridades%20>

In the subsequent statement by King Felipe VI at the opening of the 69th session, while not making explicit reference to the concept, reference was made to prevention as the key element of the concept and to the adoption of other measures if this does not work:

«Our primary objective must be to prevent wars, and when we fail in this, we must protect and assist the innocent victims. We must never relent in our efforts to resolve conflicts through diplomacy and through all of the instruments bestowed by the Charter of the United Nations».

During the most recent interactive dialogue on the responsibility to protect, held in September 2015 and entitled «A vital and enduring commitment: Implementing the responsibility to protect», the Spanish delegation not only reiterated their commitment, but also joined the position of the Secretary General of the United Nations in his last report on the subject⁹ by stating that the conceptual debate on the responsibility to protect is over and that it is now necessary to focus on the practical application of the concept, as well as underlining the importance of the progressive institutionalisation of the responsibility to protect into the United Nations system. Accordingly, the Spanish delegate stated that «Spain is, once again, committed to supporting the continuity of efforts in favour of the Responsibility to Protect with a view to what should be our end goal: the effective protection of peoples against atrocity crimes»¹¹.

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[Espa%C3%BA%2069%20AGNU%20ESP.pdf](#), [Consulted: 4 December 2015].

9 General debate of the 69th session of the General Assembly of the United Nations, statement by His Majesty King Felipe VI of Spain, New York, 24 September 2014, <http://www.un.org/ga/69/meetings/gadebate/pdf/ES_es.pdf>, [Consulted: 4 December 2015].

10 A/69/981-S/2015/500, Report of the Secretary-General, «A vital and enduring commitment: implementing the responsibility to protect» 13 July 2015.

11 Spanish statement at the informal interactive dialogue on the responsibility to protect at the General Assembly of the United Nations, New York, 8 September 2015, <<http://www.responsibilitytoprotect.org/spain.pdf>>, [Consulted: 4 December 2015]. Spain spoke using almost identical language a few days later at the opening of the 70th session of the General Assembly, recalling that: «We will take part in the efforts aimed at bolstering the effective application of the Responsibility to Protect (R2P) initiative in all three of its pillars, taking into consideration the 10th anniversary of its establishment in the Outcome Document of the 2005 World Summit. We will support other countries so that they can fulfil their duty to protect their citizens from atrocity crimes. We will focus on the potential triggers of atrocity crimes (discrimination and persecution for ethnic or religious reasons, violent extremism...) and on how States may prevent and mitigate such risks through inclusive human rights and development policies. We will pay particular attention to non-State actors, vulnerable communities and the challenges that girls and women face in situations conducive to the commission of atrocity crimes. We will bear in mind the recommendations set forth in the annual report by the UN Secretary-General (UNSG) on R2P.» Spain's priorities for the 70th session of the United Nations General Assembly, 28 September 2015,

SPAIN'S PARTICIPATION IN THE GROUP OF FRIENDS OF THE RESPONSIBILITY TO PROTECT AND IN THE GLOBAL NETWORK OF RESPONSIBILITY TO PROTECT FOCAL POINTS

As was highlighted at the beginning, alongside the individual positions maintained by the states within the United Nations, the proponents of the responsibility to protect have also developed practical ways of contributing to reinforcing the concept at both the domestic, as well as the international, level. It is worth noting that Spain plays an active role in these initiatives. Indeed, there is a tendency towards creating groups of UN member states that, while not having an official mandate from the General Assembly or the Security Council, do bring together states with a specific interest in a conflict that is taking place. This is regarded as an important diplomatic instrument, of great support to the Secretary General. Sometimes, this type of group is created to show support to or interest in specific issues, such as the promotion of new principles. Indeed, in the case of the responsibility to protect, the Group of Friends of the Responsibility to Protect was created, co-chaired by Rwanda and the Netherlands and currently composed of almost 50 countries from all continents, including Spain¹². All of these countries actively participate in a variety of ways to ensure the development, political acceptance and integration of the responsibility to protect in the United Nations system.

Firstly, at the international level, they actively participate in the interactive debates on the responsibility to protect, not just individually but also jointly, as was seen during the sixth informal interactive debate. Here, the Rwandan delegation presented a declaration on behalf of the then 45 members of the Group of Friends of the Responsibility to Protect in which they reiterated their commitment to paragraphs 138 and 139 of the World Summit Outcome Document, their support for the Secretary General's reports on the subject and, in particular, for the three pillar structure put forward by the Secretary General in his 2009 report¹³.

<<http://www.exteriores.gob.es/Portal/es/PoliticaExteriorCooperacion/NacionesUnidas/Documents/Prioridades%20Espa%C3%B1a%20en%20NNUU%2070%20AGNU%20version%20ESPA%C3%91OL.pdf>>, [Consulted: 4 December 2015].

12 The current members of the Group of Friends of the Responsibility to Protect are: Argentina, Australia, Bangladesh, Belgium, Botswana, Canada, Chile, Costa Rica, Côte d'Ivoire, Czech Republic, Denmark, the European Union, Finland, France, Germany, Ghana, Guatemala, Hungary, Italy, Liberia, Liechtenstein, Luxemburg, Mali, Mexico, Morocco, Mozambique, New Zealand, Nigeria, Norway, Panama, the Republic of Korea, Senegal, Sierra Leona, Singapore, Slovakia, Slovenia, Spain, South Sudan, Sweden, Switzerland, Tanzania, the United Kingdom, the United States and Uruguay.

13 See the complete declaration: General Assembly, Statement by Rwanda on behalf of the UN Group of Friends of Responsibility to Protect, at the General Assembly informal interactive dialogue on the Responsibility to Protect: "Fulfilling our collective responsibility: International assistance and the responsibility to protect", 8 August, 2014, *<<http://www.globalr2p.org/media/files/rwanda-gof.pdf>>*, [Consulted: 4 December 2015].

Secondly, within the member states of the group, different meetings are organised in parallel on the responsibility to protect, with the aim of continuing to discuss throughout the year the elements of the concept that present most difficulties for implementation. They have also reported on crisis situations, such as in the case of Libya, whereby they jointly called upon:

«(...) all the relevant bodies of the United Nations to take urgent and appropriate measure to put into practice the commitment of the international community to the Responsibility to Protect»¹⁴.

In this way, they provide greater visibility, proximity and knowledge of the responsibility to protect at the national and regional level.

Another important aspect of this group of friends is that it provides political and financial support to the Secretary General's special advisers for the prevention of genocide and the responsibility to protect. Accordingly, it has become an important pressure group in the debates in the Fifth Committee of the General Assembly, with the aim of introducing the concept of the responsibility to protect into the structure of the United Nations, obtaining financing for the joint office of the special advisers, fighting against the reluctance and steadfast opposition of some states that have tried to ensure that the activities of the abovementioned office are not funded by the United Nations budget.

From another angle, it is also important to mention the relevant role that the group of friends of the responsibility to protect could play in the Security Council. Bearing in mind that three of the permanent members of the Security Council are already part of the group of friends, the fact of having states that support this group in the different rotations of the non-permanent seats on the Security Council, would suggest a greater commitment to integrating the language of the responsibility to protect in Security Council resolutions. Of the non-permanent members elected for the period 2015-2015, currently only Spain and New Zealand belong to this group.

In addition to the activities of this group of friends, there exists another initiative focused on a more national perspective, but that is intricately linked to the previous initiative, as making the responsibility to protect a reality implies developing institutional capabilities at various levels, meaning that governments also need to make efforts at developing the concept at the domestic level. Accordingly, there is a push to create national focal points within states with the primary objective of promoting the responsibility to protect within the national sphere, advancing at the same time international cooperation through participation in the global network for the respon-

¹⁴ Statement by the Group of Friends on Responsibility to Protect on the situation in the Libyan Arab Jamahiriya, 1 March, 2011, <<http://fnnewyork.um.dk/en/statements/newsdisplaypage/?newsid=62b7806e-ecbd-4ca7-b326-0ee71d654108>>, [Consulted: 4 December 2015].

sibility to protect¹⁵. This initiative, co-sponsored by Denmark and Ghana, was implemented in September 2010 at a ministerial meeting on the responsibility to protect during the opening of the 65th session of the UN General Assembly. The Spanish delegation, during the debate on the role of regional and sub-regional arrangements in implementing the responsibility to protect, referred to the establishment of a focal point for the responsibility to protect under the Ministry of Foreign Affairs and Cooperation, pointing out that:

«(...) a consolidated network of effective focal points in all regions would/will doubtless be a very useful instrument for the prevention and early warning of cases of mass atrocities»¹⁶.

The first meeting on the creation of national focal points was convened in May 2011 by the ministries of foreign affairs of the sponsoring countries, together with the Minister for Foreign Affairs of Costa Rica and a civil society organisation, the «Global Centre for the Responsibility to Protect». More than 30 countries participated in this meeting in an attempt to create a national network of centres for the responsibility to protect with the aim of coordinating the issues relevant to preventing and stopping mass atrocities. At this first meeting, the idea was to focus efforts whereby each state would identify its national and regional capacities, trying to promote new strategies for the implementation of the responsibility to protect. This meant that the main functions assigned to the national focal points covered developing national plans for the responsibility to protect, gathering information on the human rights situation with states and – at a more international level – coordinating with an international network to provide support and preventive measure to possible situations of mass atrocities¹⁷.

15 Currently, 50 states are members of this global network of focal points. The member states of the Global Network of Responsibility to Protect Focal Points are: Albania, Angola, Argentina, Australia, Austria, Belgium, Bosnia-Herzegovina, Botswana, Bulgaria, Chile, Costa Rica, Côte d'Ivoire, Croatia, Denmark, Slovenia, Spain, the United States, Finland, France, Georgia, Ghana, Greece, Guatemala, Guinea, Hungary, Ireland, Italy, Jordan, Liberia, Liechtenstein, Lithuania, Luxemburg, Montenegro, Mozambique, New Zealand, the Netherlands, Paraguay, Poland, Portugal, Qatar, the United Kingdom, the Czech Republic, the Democratic Republic of the Congo, the Republic of Korea, Rwanda, Sierra Leona, Sweden, Switzerland and Uruguay.

16 UN General Assembly informal interactive dialogue on the role of regional and sub-regional arrangements in implementing the responsibility to protect, Spanish delegation, 12 July 2011.

17 In short, this first meeting on the creation of focal points covered the setting of various fundamental aims: «In their respective states, focal points should follow-up on and develop alert mechanisms for conflicts in their own country, especially in states with chronic divisions; develop a domestic network for early warning that covers as many regions within the country as possible; and hold training activities on R2P to spread understanding of the basic concepts behind the norm. Within the network, focal points should establish and maintain a communication system with other network members and share information with members of the network when situations of mass atrocity may arise», Meeting of National Focal Points on R2P convened by Costa Rica, Denmark and Ghana, New York, 17 and 18 May 2011, <<http://www.globalr2p.org/media/files/meeting-of-national-focal-points-of-r2p-convened-by.pdf>>, [Consulted: 4 December 2015].

Following on from the commitment taken at the first meeting to hold annual sessions on the subject, four further meetings have taken place since then. The second meeting was held on the 29 September 2012 to give participating states the opportunity to discuss the role of regional organisations in the implementation of the concept of the responsibility to protect. During this meeting, the representatives of the 36 states defended their recognition of the concept of the responsibility to protect and justified the creation of national focal points within states in response to the wish of various states to include this national vision concerning the content of the responsibility to protect in order to turn the concept into reality¹⁸.

The third meeting of the global network of focal points took place in Ghana in June 2013¹⁹. The main issues discussed during this meeting centred on strengthening the responsibility to protect focal points with the aim of creating a global network that would entail the structural cooperation between states to respond to specific crisis situations, becoming an essential tool for the prevention of mass atrocities. The fourth meeting took place in June 2014 in Botswana with around thirty countries from all geographic zones of the continent, as well as the Special Adviser on the responsibility to protect, taking part. The main objective here was to encourage states to debate on how to effectively implement the responsibility to protect through the creation of national capacities²⁰.

18 In this respect, it was stated that: «The network of national R2P Focal Points is conceived as a support system for states committed to preventing mass atrocity crimes. The core objective is to help create a «community of commitment» that increases capacity to implement R2P's three-pillar framework to protect populations from mass atrocities. The community is conceived as a network rather than a coalition and therefore members remain free to determine their approach to specific situations and policy applications», Second Annual Meeting of the Network of National R2P Focal Points, 29 September, 2012, <<http://www.globalr2p.org/media/files/national-focal-point-meeting-summary-september-2012.pdf>>, [Consulted: 4 December 2015].

19 More than 35 states and three regional organisations participated: the European Union, the African Union and the Economic Community of West African States, and the Special Advisers to the Secretary General on the Prevention of Genocide and on the Responsibility to Protect. See: Third Meeting of the Global Network of R2P Focal Points Preventing Atrocities: Capacity Building, Networks and Regional Organizations, June 2013, <<http://www.globalr2p.org/media/files/3rd-r2p-focal-points-meeting-summary.pdf>>, [Consulted: 4 December 2015].

20 See Fourth Meeting of the Global Network of R2P Focal Points Gaborone, Botswana, June 2014, <<http://www.globalr2p.org/media/files/r2p-focal-points-2014-meeting-summary-1.pdf>>, [Consulted: 4 December 2015]. In parallel, at the most recent interactive dialogue on the responsibility to protect in September 2014, nine, mainly European, states like Albania, Belgium, Botswana, Costa Rica, Côte d'Ivoire, Denmark, Slovenia, Spain and the Republic of Korea, reiterated the need to create focal points in each member state of the United Nations dedicated to the responsibility to protect, establishing reference frameworks and objectives for each year with the priority objective of establishing an important global network of national focal points for the promotion of the concept and the adoption of specific measures on the territory. Summary of the Sixth Informal Interactive Dialogue of the UN General Assembly on the Responsibility to Protect, held on 8 September 2014, Global Centre for Responsibility to Protect, <<http://www.globalr2p.org/media/files/summary-of-the-r2p-dialogue-2014.pdf>>, [Consulted: 4 December 2015].

In June 2015, the fifth meeting of the Global Network of Responsibility to Protect Focal Points took place in Spain. At this meeting, an even greater number of states took part. Entitled «10 years of Responsibility to Protect: how to respond to the new challenges and threats affecting vulnerable communities», the participating states and groups of experts analysed the triggers of atrocity crimes and the way in which they can be prevented through social inclusion, human rights and development priorities. The priority themes to be analysed at the meeting were:

«The emergence of non-state actors, including terrorist groups such as DAESH and Boko Haram, who perpetrate hideous crimes as a hallmark of their activity; the challenge of protecting vulnerable communities and groups, which suffer the consequences of conflicts in a disproportionate manner and are the victims of deliberate attacks, sieges, internal displacement; particular challenges faced by women subject to mass atrocities»²¹.

THE RESPONSIBILITY TO PROTECT IN SPANISH EXTERNAL ACTION STRATEGIES

In addition to these important initiatives that our country shares with other states, there are also other purely domestic initiatives, such as the inclusion of the responsibility to protect in states' national security plans or strategies. The 2011 «Spanish Security Strategy, Everyone's Responsibility», under the heading «Principles of international action» states that:

«Spain also supports the principle of the Responsibility to Protect, approved at the UN World Summit in 2005, which establishes the collective responsibility of the international community to protect populations whose own States fail to do so in extreme cases of genocide, war crimes, ethnic cleansing or crimes against humanity. The military response of the international community must always be the last resort, and the importance of conflict prevention should always be emphasised, as well as the prior use of negotiation or other pressure tactics such as political or economic sanctions»²².

21 Fifth meeting of the Global Network of Responsibility to Protect Focal Points in Madrid, press statement n° 156, Ministry of Foreign Affairs and Cooperation,

http://www.exteriores.gob.es/Portal/es/SalaDePrensa/NotasDePrensa/Paginas/2015_NOTAS_P/20150624_NOTA156.aspx, [Consulted: 8 January 2016]. The summary and conclusions of the fifth meeting of the Global Network of Responsibility to Protect Focal Points were distributed to the other members of the Security Council on the 22 October 2015, S/2015/815, Letter dated 22 October 2015 addressed to the President of the Security Council from the Permanent Representatives of Chile and Spain to the United Nations, 26 October 2015. On the relationship between the emergence of terrorist groups and the responsibility to protect see PALACIÁN DE INZA, B., «Los cachorros del DAESH», *IEEE Analysis Document*, n° 26, 6 May 2015.

22 Spanish Security Strategy, Everyone's responsibility, Government of Spain, Madrid, 2011, pp. 22-23 (Spanish version), <http://www.defensa.gob.es/Galerias/politica/seguridad-defensa/ficheros/DGL-2011-Estrate>

As highlighted by C. Gutiérrez Espada, the above-mentioned strategy contains interesting points on the possible scenarios for armed intervention for Spanish participation in military operations in the case of the four crimes recognised by the responsibility to protect. The point made is that any action taken should respond to the need to protect own interests and shared values, and that it should be undertaken with the appropriate parliamentary supervision and in accordance with the principles of the Charter of the United Nations, as stipulated in the Organic National Defence Act LO 5/2005²³.

However, the 2013 strategy document, entitled «Spanish Security Strategy, A shared project» only refers to Spain's capacity to take part in «crises or conflicts as a supportive partner of the international organisations to which it belongs, as well as in peacekeeping, civilian protection or other operations that affect our shared values and stem from commitments to international organisations such as the UN»²⁴. The explicit reference to the commitment to the responsibility to protect disappears here, although a broad interpretation of this paragraph could lead to the conclusion that Spain continues to uphold its commitment to the responsibility to protect as it is covered by one of the UN commitments.

The Spanish government later decided to request a document from the Elcano Royal Institute (Real Instituto Elcano RIE) on the Spanish external action strategy in the face of the changing international situation. Thus, in February 2014, the RIE wrote a report entitled «Towards a strategic renewal of Spain's foreign policy»²⁵, in which express mention was made of the responsibility to protect in the context of Spain's external action and, in particular, in relation to possible military interventions including those that do not have the authorisation of the Security Council:

«(...) the possible participation in multilateral international military interventions or missions in cases of humanitarian crisis or conflicts (without national security necessarily being at stake) that haven't been requested by the

giaEspanolaSeguridad.pdf>, [Consulted: 8 January 2016]. For a general analysis of the Spanish Security Strategy as regards the responsibility to protect, see DE LUENGO ZARZOSO, M., «La responsabilidad de proteger como paradigma de la seguridad humana. Posición española y tipología militar», *IEEE Research Document*, nº 03, 2016, pp. 73-78.

23 GUTIÉRREZ ESPADA, C., CERVELL HORTAL, M. J., *Nacimiento, Auge y Decadencia de la Responsabilidad de Proteger*, Comares, Granada, 2014, pp. 159-160.

24 Spanish Security Strategy, A shared project, Government of Spain, Presidency of the Government, Madrid, 2013 p. 25 (Spanish version), <http://www.lamoncloa.gob.es/documents/seguridad_1406connavegacionfinalaccesiblebpdf.pdf>, [Consulted: 8 January 2016].

25 «Hacia una renovación estratégica de la política exterior española. Elementos para conectar mejor el proyecto colectivo de país con el mundo globalizado», coord. MOLINA, I., Report 15, February 2014, <http://www.realinstitutoelcano.org/wps/wcm/connect/ec53e280430c03c1a760afc959dd21c2/InformeElcano15_PolExtEspana.pdf?MOD=AJPERES&CACHEID=ec53e280430c03c1a760afc959dd21c2>, [Consulted: 8 January 2016].

government of the state in which they will take place, nor authorised by the Security Council given the opposition thereto by a permanent member. This conflict in values, linked to the so-called responsibility to protect, can only be resolved politically and on a case-by-case basis, bearing in mind the open regulation created by the 2005 Organic National Defence Act on authorisation for missions by the Cortes Generales»²⁶.

Based on the above-mentioned RIE report, the Ministry of Foreign Affairs and Cooperation presented the Spanish External Action Strategy in February 2015 that had been approved by the Council of Ministers at their meeting on the 26 December 2014 in accordance with the State External Action and Service Act. Under the title of «United Nations», this new document makes direct reference to the responsibility to protect in considering that the reform of the instruments of preventive diplomacy involve the development of this concept. A second issue to which the document refers is the reform of the Security Council in order to achieve better balance and representativeness. While Spain's proposals for reform do not include an increase in the number of permanent members or the possibility of extending the right of veto to other members, they do include the possibility of limiting the use of this right:

«(...) in certain situations such as atrocity crimes, promoting the obligation to justify motives and increasing the number of vetoes necessary to block a decision»²⁷.

THE RESPONSIBILITY TO PROTECT, ONE OF SPAIN'S PRIORITIES AS A NON-PERMANENT MEMBER OF THE SECURITY COUNCIL

As a result of the 2014 presentation of Spain's candidacy to serve as a non-permanent member of the Security Council for the 2015-2016 period, the Spanish government presented a programme of the action lines that the Spanish delegation would follow as a member of this body. Among the thematic action lines suggested in the document, in addition to strengthening preventive diplomacy in the Security Council to deal with crises through early warning systems and mediation, the following was also clearly stated:

«We will defend and promote the effective implementation of the Responsibility to Protect, fulfilling the collective responsibility, as stated in the 2005 World

26 «Hacia una renovación estratégica de la política exterior española. Elementos para conectar mejor el proyecto colectivo de país con el mundo globalizado», *op. cit.*, p. 64.

27 External Action Strategy of February 2015, approved by the Council of Ministers at their meeting on the 26 December 2014, in accordance with the State External Action and Service Act, <<http://www.exteriores.gob.es/Portal/es/SalaDePrensa/Multimedia/Publicaciones/Documents/ESTRATEGIA%20DE%20ACCION%20EXTERIOR%20castellano.pdf>>, [Consulted: 8 January 2016].

Summit Outcome Document, to encourage and help States to protect their populations from atrocity crimes. We will, similarly, support the introduction of limits to the use of veto, particularly in the case of mass atrocities»²⁸.

Following Spain's election as a non-permanent member of the Security Council with a mandate starting on the 1 January 2015, the Minister of Foreign Affairs and Cooperation appeared before the Foreign Affairs Committee of the Spanish Chamber of Deputies in February to present Spain's priorities and lines of action as a member of the Security Council during that period. Among them, the minister referred to crisis prevention, highlighting that Spain's efforts would involve:

«(...) helping member states to protect their populations from so-called atrocity crimes: genocide, war crimes, crimes against humanity and ethnic cleansing»²⁹.

This being the case, it is worth looking at whether our country has taken advantage of its presence on the Security Council to put its principles into practice. A study of the practice shows the existence of some highs but also some lows. Indeed, an analysis of Spain's interventions during Council sessions in 2015, both during debates on thematic resolutions as well as on resolutions on specific armed conflicts, shows few but relevant references to the responsibility to protect. These interventions took place, for example, within the framework of the debates in the Security Council on the situation in the Middle East, including the Palestinian question, in which Spain stated that:

«The Security Council should not lower its guard. It has a responsibility to protect the Syrian population and can continue to play a positive role. Spain is prepared to make a considerable contribution towards this»³⁰.

In the later debate on a draft resolution on the same subject, the Spanish representative recognised that: «Spain has set the protection and promotion of human rights, the responsibility to protect and the fight against terrorism as the essential axes of its foreign policy»³¹.

In addition, reference should be made to Spain's position during the debate on inclusive development for the maintenance of international peace and security in Ja-

28 Programme, Spain's candidacy as a non-permanent member of the UN Security Council, 2015-2016, p. 6. <http://www.mpr.gob.es/otai/Documents/Espana_miembroCSNU_2015-2016.pdf>, [Consulted: 8 January 2016].

29 Appearance of the Minister of Foreign Affairs and Cooperation (García-Margallo Marfil) to inform on Spain's priorities, general lines of action and expectations as a non-permanent member of the UN Security Council, session nº 38, Wednesday 11 February 2015, Diario de Sesiones del Congreso de los Diputados, X Legislature, nº 744, year 2015, p. 2.

30 S/PV.7360, 15 January 2015, The situation in the Middle East, including the Palestinian question.

31 S/PV.7419, 27 March 2015, The situation in the Middle East. Similarly, S/PV.7540, 22 October 2015, The situation in the Middle East, including the Palestinian question, «The Security Council should assume its responsibility and offer measures that guarantee international peace and security. Its credibility is at stake».

bruary 2015. On this occasion, the Spanish delegate spoke about the first pillar of the responsibility to protect and the importance of early action for the prevention of armed conflicts³². Another example was on the 20th anniversary of the Srebrenica genocide. Following the Russian veto on a motion for resolution on the Srebrenica massacre, Spain reiterated the importance of prevention and the responsible use of the veto in the Security Council, affirming that:

«(...) one of the main responsibilities of the United Nations and of this Security Council is the prevention of atrocity crimes such as those committed in Srebrenica two decades ago. Vetoing this type of initiative implies a major setback to the efforts made by this organisation to advance the Responsibility to Protect our citizens, as well as the efforts made in advancing the limitation on the use of veto in the case of atrocity crimes»³³.

More recently, on the 10 December 2015, an important debate took place in the Security Council on the situation in the Democratic People's Republic of Korea. Despite China's opposition to this body analysing the human rights situation in North Korea, the president of the Security Council put the holding of this debate to a procedural vote. With the support of nine members of the Security Council, the debate was able to be held. The Human Rights Council, in its report of February 2014, had determined that the government of the DPRK was committing crimes against humanity and called upon the international community to shoulder its responsibility to protect the people of Korea against these crimes³⁴. In addition, on the 8 September, the report of the Special Rapporteur was transmitted to the General Assembly, and the Special Rapporteur called upon the plenary body to:

a) Reiterate its condemnation of the [...] systematic, widespread and gross violations of human rights committed by the Government of the Democratic People's Republic of Korea;

b) Reaffirm the responsibility of the international community to protect the people of the Democratic People's Republic of Korea and people abroad from crimes against humanity, in view of the manifest failure of the Democratic People's Republic of Korea to protect its own population from such crimes»³⁵.

32 The Spanish representative stated that «(...) further evidence that the maintenance of international peace and security requires inclusive instruments that contribute to preventing the outbreak of conflicts is the responsibility that all governments have to protect their citizens to the degree that such a safeguard, in the face of potential mass crimes, means taking early action measures, of which inclusive development is a very important one», S/PV.7540, 19 January 2015, Maintenance of International Peace and Security. Inclusive Development for the Maintenance of International Peace and Security.

33 Intervention of the representative of Spain at the Security Council on the occasion of the 20th anniversary of the Srebrenica genocide, 7 July 2015,

<http://www.exteriores.gob.es/Portal/es/PoliticaExteriorCooperacion/CSNU2015-2016/Actualidad/Documents/150707%20Elementos%20de%20intervencion%20BiH.pdf>, [Consulted: 8 January 2016].

34 A/HRC/25/63, 7 February 2014, Human Rights Council, Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea.

35 A/70/362, 8 September 2015, Situation of human rights in the Democratic People's Republic of Korea.

It is worth underlining that given the fact that the actions of North Korea's government were classified as crimes against humanity, our delegation made reference to the responsibility to protect in the debate on the issue; the Spanish representative recalled that the above-mentioned government:

« [...] is the first responsible for ensuring and protecting the human rights of its own people. Faced by the unresponsiveness of that government, it falls to the international community to assume that responsibility and take the necessary measures to protect a population that has suffered far too long. [...] the time has come for the Security Council to also provide a response to the systematic violations of human rights that the people of the Democratic People's Republic of Korea are suffering. [...] Inaction would in fact be tantamount to taking sides and turning our back on international law»³⁶.

Some other states also focused on the subject from the perspective of the responsibility to protect³⁷, however the great majority made no reference at all to the notion in their interventions. This, together with the earlier opposition by some permanent members to the discussion of human rights in the DPRK, as well as the increasingly frequent use of the veto in the Security Council, led one author to declare that the principle of the responsibility to protect:

«Est aujourd'hui vidé de sa substance. Désigner le Conseil de Sécurité comme organe de la Communauté internationale pour agir en cas de défaillance de l'Etat principalement responsable de la protection internationale de la population n'a de sens que s'il est apte à adopter des mesures dans tous les cas qui correspondent à une telle situation. En réalité il est généralement paralysé. Le consensus de 2005 est donc brisé»³⁸.

Alongside what has already been mentioned, one further action undertaken by our country in the Security Council should be highlighted that we feel further reflects the fact that the principle of the responsibility to protect is a priority for Spain. On the 14 December last year, an informal and open «Arria-formula» meeting was held in

36 S/PV.7575, 10 December 2015, The situation in the Democratic People's Republic of Korea, Intervention by the Spanish representative, p. 15.

37 This is the case for Lithuania: «[...] the government of the Democratic People's Republic of Korea has manifestly failed to comply with the responsibility to protect its own people, and international action is required. The Democratic People's Republic of Korea, a State Member of the United Nations, has for decades pursued policies involving crimes that shock the conscience of humankind. The international community must accept its responsibility to protect the people of the Democratic People's Republic of Korea», S/PV.7575, 10 December 2015, The situation in the Democratic People's Republic of Korea, Intervention by the Lithuanian representative, p. 13.

38 WECKEL, P., «Corée du Nord, la responsabilité de protéger est un fiasco», *Sentinelle*, Bulletin n° 456, 13.12.2015, <<http://www.sentinelles-droit-international.fr/?q=content/cor%C3%A9-du-nord-la-responsabilite%C3%A9-de-prot%C3%A9ger-est-un-fiasco>>, [Consulted: 8 January 2016].

the Security Council upon the initiative of Spain and Chile on «the Responsibility to Protect: Non-State Actors»³⁹ with the aim of following up on the fifth meeting of the Global Network of Responsibility to Protect Focal Points that took place in Madrid on the 23 and 24 June, also on the initiative of Spain and Chile. This is a highly relevant point as this meeting was the first debate in the history of the Security Council that focused exclusively on the discussion of aspects of the responsibility to protect and it took place during the same year as the 10th anniversary of the 2005 World Summit during which the principle of the responsibility to protect was enshrined.

It should, however, be highlighted that Spain has also missed some opportunities to defend the implementation of this principle in debates on draft resolutions giving rise to its invocation. A first missed opportunity was on the 30 January 2015 during a debate on the protection of civilians in armed conflicts⁴⁰ in which the Permanent Representative of Chile drafted a concept paper⁴¹ calling upon the members of the Security Council to reflect on the measures adopted to promote the protection of civilians from genocide and other mass crimes based on the existing institutional and operational ties between the issue in question and the responsibility to protect populations from crimes of genocide, crimes against humanity, war crimes and ethnic cleansing. As was to be expected, several delegations made reference to some of the elements of the responsibility to protect: some called upon the permanent members of the Security Council to limit the use of the veto when faced with situations of mass crimes, bearing in mind the code of conduct proposed by France⁴²; others recalled that determined military action to end a conflict situation have their place within the concept of the responsibility to protect if they are in keeping with the principles established in the United Nations Charter⁴³. There is, however, no reference made to these questions in the statement by the Spanish delegate.

39 S/2015/815, Letter dated 22 October 2015 from the Permanent Representatives of Chile and Spain to the United Nations addressed to the President of the Security Council, 26 October 2015.

40 S/PV.7374, Security Council, Protection of civilians in armed conflict, 30 January 2015.

41 S/2015/32, Security Council, Letter dated 16 January 2015 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General, 19 January 2015.

42 The Belgian delegation reiterated its support «for France's initiative in favour of a voluntary limitation on the use of the veto in cases of mass crimes and on the implementation of the concept of responsibility to protect», (S/PV.7374, Security Council, Protection of civilians in armed conflict, Belgian delegation, 30 January 2015, p. 37); The Dutch delegation made a similar remark: «We support the French initiative aimed at voluntary restraint in the use of veto by permanent members of the Security Council in situations where mass atrocities are imminent or deemed to be occurring. And we believe that the principle of responsibility to protect should be increasingly applied and further operationalized», (S/PV.7374, Security Council, Protection of civilians in armed conflict, Dutch delegation, 30 January 2015, p. 62).

43 The delegation from Thailand stated that: «When civilians are at risk, the Security Council must act decisively and in a timely manner, in accordance with the Charter of the United Nations and international law», (S/PV.7374, Security Council, Protection of civilians in armed conflict, delegation of Thailand, 30 January 2015, p. 40); The delegation of Burundi referred to the question three times

Another case is the debate on small arms during which the Security Council adopted resolution S/RES/2220 (2015)⁴⁴ including the language of the responsibility to protect in the text of the resolution and stressing the close connection between the two questions. Furthermore, the resolution underscores several times the primary responsibility of states as regards the protection of their populations and reaffirms «(...) the relevant provisions of the 2005 World Summit Outcome Document regarding the protection of civilians in armed conflict, including paragraphs 138 and 139 thereof regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity»⁴⁵. Once again, there is no mention of the responsibility to protect in the statement made by Spain. Finally, it is also important to highlight the debate on the adoption of a new resolution on women and peace and security that also took place in October, the month in which Spain held the presidency of the Security Council. Just as in the other cases, and despite the fact that the resolution referred to the role of women in armed conflicts, the importance of prevention and the fight against sexual violence in conflicts, no elements relating to the responsibility to protect were mentioned in the statement by the Spanish Prime Minister.

SPAIN'S SUPPORT FOR THE LIMITATION OF THE USE OF THE VETO IN THE SECURITY COUNCIL

Closely linked to the effective implementation of the responsibility to protect is the issue of the need to limit the use of the right of veto by the permanent members of the Security Council to ensure that the adoption of resolutions necessary for the implementation of said responsibility is not hindered. It is, therefore, important to highlight Spain's position on this subject.

During the round of statements by the members of the Foreign Affairs Committee in the previously-mentioned session, three spokesmen made specific references to the question of limiting the use of veto⁴⁶. When faced with the question as to whether

in their statement: «If a State fails to do so, then the international community must take its place. Obviously, any intervention of that kind must take place in strict respect for the principles enshrined in the Charter of the United Nations». Towards the end of their statement, they reiterated that: «[...] any use of force to defend civilians must take place with total respect for the Charter of the United Nations. Any unilateral action [...] should be discouraged», «(...) the Security Council must exercise leadership for a response at the international level, while respecting the standards of the Charter of the United Nations», (S/PV.7374, Security Council, Protection of civilians in armed conflict, delegation of Burundi, 30 January 2015, pp. 48-49).

44 S/RES/2220, 22 May 2015, Small arms.

45 S/RES/2220, 22 May 2015, Small arms, pp. 2.

46 The members of the Committee who referred to the question of the veto in their statements were: T. Jiménez, who said that «The fact that the reform is blocked does not mean that the criticisms as regards the under representation of the veto of the five permanent member states has disappeared. Consequently, as a non-permanent member, I know that there will be constant pressure from many

«countries who have the use of veto abstaining from its use in the case of war crimes, crimes against humanity or the risk of said situations»⁴⁷ was one of Spain's priorities, the Minister of Foreign Affairs stated that:

«We welcome the French proposal on limiting the use of the veto in the areas of crimes against humanity, genocide, etcetera, as well requiring – to be looked at for certain cases – the requirement for two vetoes»⁴⁸.

The Spanish delegation referred to the question of limiting the use of the veto during the interactive dialogue on the responsibility to protect in 2015. During their intervention, they stated that as a current member of the Security Council they would continue to work to avoid its failure in situations of atrocity crimes, which also translated into their support for the ACT Group's code of conduct⁴⁹.

In connection with the above, it is important to underline that at the end of October 2015 and just a few days after the above-mentioned interactive dialogue, the ACT Group officially presented the initiative for the establishment of a code of conduct for the Security Council when dealing with genocide, crimes against humanity and war crimes. The code of conduct would mean on the one hand a general commitment from all the members of the Security Council to support the actions of the Security Council to prevent or end situations involving massive and serious violations of human rights and, on the other, a specific commitment from the members not to use their right of veto to veto draft resolutions dealing with these situations⁵⁰. Following the launch of the initiative, the code of conduct was supported by 104 states, including Spain⁵¹.

other countries highlighting the need for the non-permanent members to try to remedy this gap in representation and to find other solutions» J. M., Beneyto, who spoke of «placing limits on the veto» and I. Lozano (Appearance of the Minister of Foreign Affairs and Cooperation, *op. cit.*, pp. 9, 15 and 19).

47 Statement by I. Lozano, Appearance of the Minister of Foreign Affairs and Cooperation, *op. cit.*, p. 9.

48 Appearance of the Minister of Foreign Affairs and Cooperation *op. cit.*, p. 22.

49 ACT Group (Accountability, Coherence and Transparency).

50 This proposal was defended by the 24 member states of the ACT Group and has the backing of 104 states, including Spain

<http://www.exteriores.gob.es/Portal/es/SalaDePrensa/ElMinisterioInformal/Paginas/Noticias/20151102_MINISTERIO3.aspx>, [Consulted: 8 January 2016].

51 The other states that joined the proposal are: Albania, Germany, Andorra, Australia, Bahrain, Belgium, Benin, Botswana, Bulgaria, Cape Verde, the Central African Republic, Chad, Chile, Colombia, Costa Rica, Croatia, Cyprus, the Czech Republic, the Democratic Republic of the Congo, Denmark, El Salvador, Estonia, Finland, France, Gabon, Georgia, Ghana, Greece, Granada, Guatemala, Guinea-Bissau, Honduras, Hungary, Iceland, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kuwait, Latvia, Lebanon, Lesotho, Libya, Lichtenstein, Lithuania, Luxemburg, Madagascar, Malaysia, Maldives, Malta, Mexico, Monaco, Mongolia, Montenegro, Morocco, the Netherlands, New Zealand, Niger, Norway, Oman, Palau, Panama, Papua New Guinea, Paraguay, Peru, the Philippines, Poland, Portugal, Qatar, the Republic of Korea, the Republic of Moldova, Romania, Samoa, Saint Kitts and Nevis, San Marino, Saudi Arabia, the Seychelles, Singapore, Slovakia, Slovenia, Somalia, the State of Palestine, Sweden,

All of this is strengthened by the membership of Spain, and eleven other states⁵³, to the Uniting for Consensus group, that, while mainly advocating for the enlargement of the non-permanent members of the Security Council, also considers it necessary to remove the right of veto or, where appropriate, implement a legislative restriction on its use so that the Security Council can work in a more effective way and so that its decisions are more representative⁵⁴.

SPAIN, AN ACTIVE COMMITMENT TO THE RESPONSIBILITY TO PROTECT

Up until now, we have highlighted the various contributions Spain has made to the responsibility to protect. There is, however, a negative dimension that shouldn't be overlooked. Here we are referring to the amendment to the principle of universal jurisdiction carried out through the adoption of Organic Law of the Judiciary 1/2014, of the 13 March, amending Organic Law of the Judiciary 6/1985, of 1 July on universal justice. In our opinion, this reform has been a step backwards in the implementation of the first pillar of the responsibility to protect in our country by limiting the prosecution of those committing acts of genocide or crimes against humanity to criteria of nationality or territoriality by affirming that Spanish jurisdiction would be competent for these crimes if they have been committed outside Spain:

«(...) whenever proceedings are brought against a Spanish citizen or a foreign citizen with habitual residence in Spain, or against a foreigner who is in Spain and whose extradition has been denied by the Spanish authorities»⁵⁴.

Switzerland, Thailand, Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Tuvalu, Ukraine, the United Arab Emirates, the United Kingdom, Uruguay, Vanuatu, Yemen.

52 The other members of the UfC Group are: Argentina, Canada, Colombia, South Korea, Costa Rica, Italy, Malta, Mexico, Pakistan, San Marino and Turkey.

53 GA/10371, «Uniting for Consensus» Group of States introduces text on Security Council reform to General Assembly, 26 July 2005, <<http://www.un.org/press/en/2005/ga10371.doc.htm>>, [Consulted: 8 January 2016]. See GUTIÉRREZ ESPADA, C., «Responsabilidad de proteger y el derecho de veto en el consejo de seguridad: algunos ejemplos recientes», *Revista del Instituto Español de Estudios Estratégicos*, nº 3, 2014; ANDRÉS SÁENZ DE SANTA MARÍA, P., «¿La imposible reforma del Consejo de Seguridad de las Naciones Unidas?: Necesidad real “versus” dificultad política», *Temas para el debate*, nº 134, 2006, pp. 37-40; RIQUELME CORTADO, R. M., «El “mantra” de la reforma del Consejo de Seguridad», *El proceso de reforma de las Naciones Unidas: la dimensión institucional y el mantenimiento de la paz y la seguridad internacionales*, Blanc Altemir, A., coord., Tecnos, 2009, 71-100.

54 Organic Law of the Judiciary 1/2014, of the 13 March, amending Organic Law of the Judiciary 6/1985, of 1 July on universal justice, BOE nº 63, Sec. I, p. 23027, 14 March 2014. See also DE LUENGO ZARZOSO, M., «Los retos jurídicos de la responsabilidad de proteger desde la perspectiva de la seguridad y defensa», *Revista electrónica del Instituto Español de Estudios Estratégicos*, nº 3, 2014, pp. 1-34.

Therefore, if, as the report by the RIE advises, «Spain should maintain its reputation as a country committed to paying special attention to crises, with the capacity for an operational presence in all contexts, with active participation in decisive international fora, and with respect for international law (Geneva Conventions and Additional Protocols)», we can confirm that Spain does indeed show a true commitment to attention to crises and to active participation in international fora to implement the responsibility to protect; however, as regards respect for international law, we can say that the amendment of Organic Law on Universal Justice does not show this respect for the Geneva Conventions, as indicated in the decision of Judge S. J. Pedraz, of 17 March 2014, that stated that «the new article 23.4 a) of the Organic Law of the Judiciary (...) contradicts the IV Geneva Convention that carries the obligation to prosecute these crime with no restrictions whatsoever»⁵⁶.

Despite this, this study of the different aspects of the Spanish position allows us to affirm that our country is actively committed to the responsibility to protect. Moreover, both the organisation of the fifth meeting of the Global Network of Focal Points as well as the co-presidency of the first informal meeting in the Security Council last December would appear to confirm that our country has taken on the commitment of “promoting, both inside and outside the Security Council, the effective implementation of the Responsibility to Protect, fulfilling the collective responsibility, as stated in the 2005 World Summit Outcome document”⁵⁷. It remains to be seen whether our country will continue to show an effective level of attention and active commitment to the concept over the remainder of its term as a non-permanent member of the Security Council.

55 «Hacia una renovación estratégica de la política exterior española. Elementos para conectar mejor el proyecto colectivo de país con el mundo globalizado», *op. cit.*, p. 64.

56 National High Court Decision, Central Court of Instruction nº 1, Summary 27/2007, Madrid, 17 March 2014. See ABAD CASTELLOS, M., «The End of Universal Jurisdiction in Spain?» *The Spanish Yearbook of International Law*, vol. 18, 2013-2014, pp. 226-227. As regards this question, it is important to point out that Judge S. J. Pedraz's opinion is not shared by other doctrinal sectors.

57 Programme, Spain's candidacy as a non-permanent member of the UN Security Council, 2015-2016, p. 6. <http://www.mpr.gob.es/otail/Documents/Espana_miembroCSNU_2015-2016.pdf>, [Consulted: 8 January 2016].

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