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Sendt: 11. maj 2017 00:06

Emne: Letter from POLISARIO Front to the Danish members of European Affairs Committee related to the meeting about EU-Morocco trade agreement

Letter from POLISARIO Front to the Danish members of European Affairs Committee

Dear members of Danish Parliament European Affairs Committee,

I have the privilege to write to you in my official capacity as POLISARIO Front representative in Denmark.

As you may know, on 19 April 2017, the European Commission has proposed to the Council to adopt a decision authorizing the EC to negotiate adaptations of the 2000 EU-Morocco Association Agreement. The objective of this proposition is to include products originating illegally in Western Sahara in the trade preferences under the EU-Morocco Association Agreement.

In this respect, on 21 December 2016, the Court of Justice of the European has delivered an important judgment for the people of Western Sahara, by ruling that, according to the principle of self-determination, the EU and the Kingdom of Morocco can include, either *de jure* or *de facto*, Western Sahara in their trade relations without the prior consent of the Sahrawi people [1].

As the UN-recognized representative of the people of Western Sahara [2], the POLISARIO Front strongly opposes this initiative by the European Commission that grossly violates their right to self-determination and the ruling of the CJEU.

Whereas the Court has explicitly ruled that the *de jure* inclusion of Western Sahara in the EU-Morocco Association Agreement would be contrary to international law, the European Commission continues to pretend that the Kingdom of Morocco can negotiate and conclude international agreements applicable to Western Sahara.

However, as recalled by the Court [3], the Kingdom of Morocco has no sovereignty over the Sahrawi territory and it occupies illegally Western Sahara. In particular, given the “separate and distinct status” of Western Sahara under international law [4], legal acts adopted by the Kingdom of Morocco, in its sovereign capacity, in relation to Western Sahara, are null and void according to EU law.

Therefore, the Kingdom of Morocco cannot express the consent of the people of Western Sahara to be bound by the proposed adaptation of the EU-Morocco Association Agreement. By the same token, no decentralized or regional Moroccan authority, as set up by Morocco according to its domestic law, is qualified to express such consent.

According to the ruling of the Court [5], the prior consent of the people of Western Sahara can only be expressed by their UN-recognized representative, the POLISARIO Front.

Considering the lack of treaty-making capacity of Morocco in Western Sahara under international law, the Council has no legal basis, under EU law, to authorize the Commission to negotiate adaptations to the 2000 Association Agreement and its protocols.

In this regard, during the proceedings before the Court, the European Commission rightfully submitted that the *de jure* inclusion of Western Sahara in the EU-Morocco Association Agreement, without the consent of the Sahrawi people, would violate international law, especially the principle of self-determination [6].

Therefore, with this proposition, the European Commission is not only failing its obligations to implement in good faith the ruling of the Court; it is encouraging the Council to endorse a solution that it claimed illegal before EU Courts.

Overall, besides violating the right to self-determination of the Sahrawi people, the adaptation of the EU-Morocco Association Agreement will also harm the interests of EU farms suffering unfair competition from Moroccan products originating from a territory illegally occupied under international law.

After living under foreign occupation for 41 years, the people of Western Sahara know more than anyone else the great value of peaceful relations amongst nations. Therefore, the POLISARIO Front, as their UN-recognized representative, hopes for stable relations between the Kingdom of Morocco and the European Union.

However, the European Commission and the EU governments must understand that the EU-Moroccan relations can be prosperous in the long-term, only if they are based on the rule of law and respect the sovereign equality between peoples.

For all the above-mentioned reasons, the POLISARIO Front invites you to oppose tomorrow, during the debates at the Danish Parliament, to the adoption by your government of the Council decision authorizing the European Commission to renegotiate the EU-Morocco Association Agreement.

In any event, I would like to emphasize that, according to its mandate under international law, the POLISARIO Front is determined to pursue, on behalf of the people of Western Sahara, all legal venues, under EU law, to secure their right to self-determination in all its aspects, including the permanent sovereignty of the Sahrawi people over their natural resources and the territorial integrity of Western Sahara.

Please accept, dear Members, the assurances of my highest consideration.

Sincerely,

Abba Malainin,

POLISARIO Front Representative in Denmark

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Western Sahara (VESTSAHARA)

Africa's last colony

In 1963, the United Nations (UN) included Western Sahara in the list of countries to be decolonized and asserted the right of the Saharawi people to self-determination. In 1966 the UN, for the first time, passed a resolution calling for this self-determination to be exercised by a referendum. On 31 October 1975, Morocco and Mauritania invaded Western Sahara as Spain (the former colonial power) looked on. The Saharawi people were expelled from their homes by force, including the use of napalm. In 1991 the United Nations brokered a ceasefire and agreed to organize a referendum in which the Saharawi people could vote on the future of Western Sahara. Morocco still refuses to allow UN sponsored referendum to take place.