

**Совет по правам человека**

Сорок пятая сессия

14 сентября — 2 октября 2020 года

Пункт 10 повестки дня

Техническая помощь и создание потенциала

Вербальная нота Постоянного представительства Южной Африки при Отделении Организации Объединенных Наций в Женеве от 2 октября 2020 года на имя Председателя Совета по правам человека и Управления Верховного комиссара Организации Объединенных Наций по правам человека

Постоянное представительство Южно-Африканской Республики при Отделении Организации Объединенных Наций в Женеве и других международных организациях в Швейцарии настоящим обращает внимание Управления Верховного комиссара Организации Объединенных Наций по правам человека на прилагаемое письмо Фронта ПОЛИСАРИО, касающееся соблюдения им международных договоров по правам человека (см. приложение).

Постоянное представительство просит опубликовать настоящую вербальную ноту и приложение к ней* в качестве документа Совета по правам человека и распространить их среди всех членов Совета по пункту 10 повестки дня.

* Воспроизводится в полученном виде только на том языке, на котором оно было представлено.



Annex to the note verbale dated 2 October 2020 from the Permanent Mission of South Africa to the United Nations Office at Geneva addressed to the President of the Human Rights Council and the Office of the United Nations High Commissioner for Human Rights

The Frente Popular de Liberación de Saguía el Hamra y Río de Oro (Frente POLISARIO), created in May 1973 as a National Liberation Movement, with the aim to achieve independence from Spanish colonial rule and recognized since 1979 by the UN General Assembly as the representative of the people of Western Sahara¹, strongly condemns the systematic and serious violations of human rights and International Humanitarian Law by the Kingdom of Morocco, the Occupying Power of the Non Self-Governing Territory of Western Sahara.

The Frente POLISARIO deeply regrets that on 29 July 2019, after the UN Secretary General's Personal Envoy, H.E. Mr. H. Köhler resigned, King Mohammed VI declared that *"Morocco is also clear in terms of its fundamental convictions: the way to achieve the desired settlement can be none other than through Moroccan full sovereignty and within the framework of the autonomy initiative."*² This kind of affirmation seriously questions the good faith of the Kingdom of Morocco in the negotiations under the auspices of the United Nations.

The Frente POLISARIO recalls that on 30 August 1988 the representatives of the Kingdom of Morocco and of the Frente POLISARIO expressed their agreement in principle to the settlement proposals presented on 11 August 1988 by the Secretary-General of the United Nations and the Special Envoy of the then Chairman of the Assembly of Heads of State and Government of the Organization of African Unity (OAU) for a just and definitive solution of the question of Western Sahara in conformity with General Assembly resolution 1514 (XV) by means of a cease-fire and the holding of a referendum without military or administrative constraints to enable the people of Western Sahara, in the exercise of their right to self-determination, to choose between independence and integration with Morocco³.

The process led to the creation of the MINURSO in April 1991 and the implementation of the cease-fire, which has frozen the armed conflict.

Meanwhile, on 27 February 1976, the Frente POLISARIO proclaimed the creation of the Sahrawi Arab Democratic Republic, which was admitted as a member of the OAU on 22 February 1982. The Sahrawi Arab Democratic Republic is a founding-member of the African Union, which was founded on 26 May 2001 in Addis Ababa, Ethiopia.

On 2 May 1986, the Sahrawi Arab Democratic Republic adhered to the African Charter on Human and Peoples' Rights and subsequently signed the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights of Women in Africa and the protocol to the OAU Convention on the Prevention and Combating of Terrorism. In October 2009, the Sahrawi Arab Democratic Republic signed the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa⁴.

In 2005, the Frente POLISARIO also signed the complementary mechanism available to non-state actors, known as the Deed of Commitment for the Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action. Subsequently, in accordance with Article 7 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, the Sahrawi Arab Democratic Republic submitted two reports: the first in 2014 in Maputo and the second in 2019 in Oslo.

¹ UNGA resolution 34/37.

² <http://www.maroc.ma/en/royal-speeches/hm-king-delivers-speech-nation-occasion-throne-day-full-text>.

³ S/21360 (p. 4).

⁴ Bella Holt – Western Sahara, Sahrawi Arab Democratic Republic : Protracted Sahrawi Displacement and Camping – Dany Beck Paper Shop, 2017.

In January 2019, the Frente POLISARIO completed the destruction of its Anti-Personnel Mines.

Furthermore, on 23 June 2015, the Frente POLISARIO deposited with the Swiss Federal Council the following unilateral declaration (original French version):

«Conformément à l'article 96.3 du Protocole additionnel aux Conventions de Genève du 12 août 1949 relatif à la protection des victimes des conflits armés internationaux (Protocole I) du 8 juin 1977, le Front POLISARIO, en tant qu'autorité représentant le peuple du Sahara Occidental luttant pour son droit à disposer de lui-même, déclare s'engager à appliquer les Conventions de Genève de 1949 et le Protocole I dans le conflit l'opposant au Royaume du Maroc.»

This declaration has, as of 23 June 2015, the effects mentioned in Article 96, paragraph 3, of Protocol I⁵.

The Polisario Front highlights here the following abstracts of the Sahrawi Arab Democratic Republic's Constitution:

Preamble

"The Sahrawi people...proclaim:

...

Their attachment to the principles of justice and democracy as enshrined in the Universal Declaration of Human Rights (of 10 December 1948), in the African Charter on Human and Peoples Rights (of 26 June 1981) and in International Agreements to which the SADR is party.

Their determination to create democratic institutions that guarantee freedoms and fundamental human rights, economic and social rights and rights of the family, the basic unit of society;

...

ART. 11

The people shall choose their institutions with the aim of:

...

-Ensuring respect for fundamental human freedoms as defined by the Constitution.

Today, I have the honour to announce that I have been instructed by my Authorities to declare the following:

The Frente Popular de Liberación de Saguía el Hamra y Río de Oro (Frente POLISARIO), reaffirming its attachment to the principles of justice and democracy as enshrined in the Universal Declaration of Human Rights (of 10 December 1948) and in the African Charter on Human and Peoples Rights (of 26 June 1981), commits itself to abide by standards of:

- *The International Covenant on Economic, Social and Cultural Rights (16 December 1966);*
- *The International Covenant on Civil and Political Rights (16 December 1966);*
- *The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (10 December 1984);*
- *The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (18 December 2002);*
- *The International Convention for the Protection of All Persons from Enforced Disappearance (20 December 2006);*
- *The Convention on the Rights of the Child (20 November 1989);*

⁵ https://www.dfae.admin.ch/dam/eda/fr/documents/aussenpolitik/voelkerrecht/geneve/150626-GENEVE_en.pdf.

- *The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict* (25 May 2000);
- *The International Convention on the Elimination of All Forms of Racial Discrimination* (21 December 1965);
- *The Convention on the Elimination of All Forms of Discrimination against Women* (18 December 1979);
- *The Convention on the Rights of Persons with Disabilities* (13 December 2006)

The Sahrawi National Commission for Human Rights, created in January 2014 in conformity with the Paris Principles, will continue to play a key role in educating the Sahrawi people (both parts of the Berm) and in monitoring the respect and the implementation of the above mentioned treaties' provisions.

The Frente POLISARIO, while denouncing the illegality of the presence of the Moroccan National Council on Human Rights Commissions operating in Dakhla and Laayoune (outside the internationally recognized boundaries of the Kingdom of Morocco) calls upon the Office of the United Nations High Commissioner for Human Rights to enhance cooperation with the Frente POLISARIO, which is ready to facilitate visits to the region.

I would be most grateful if you would bring the present letter to the attention of the members of the Human Rights Council.

Geneva, 30 September 2020

Ms. Omeima Abdeslam

Representative of the Frente POLISARIO to the United Nations
and other international organisations in Geneva
