

Support of the implementation of the CJEU's judgments concerning the non-self-governing territory of Western Sahara

The Internationale Liga für Menschenrechte (ILMR) has been monitoring the grave human rights situation in the occupied Western Sahara for years, which results from the Kingdom of Morocco's practices of repression, settlement activity, and resource extraction in the territory it occupies.

The alarming situation is highlighted by the Secretary-General of the United Nations, who once again, in his report dated 1 October 2024, refers to the "obstruction, intimidation, and harassment"¹ of Sahrawi human rights defenders and denounces the restrictions imposed on Sahrawi civil society advocating for the independence of Western Sahara. A striking example of this is the systematic targeting of the Collective of Sahrawi Human Rights Defenders in Western Sahara (CODESA), a case that has also been addressed by the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT).² The situation of Sahrawi political prisoners held in Moroccan prisons is equally concerning, marked by inhumane conditions of detention and torture, as documented by the FIDH in several urgent appeals on the situation.³

Reliable figures on human rights violations remain difficult to obtain, as the documentation of such cases entails significant risks, and independent international journalists and human rights observers are routinely denied entry. This also applies to the OHCHR which has been denied access to the occupied territories for the ninth consecutive year despite repeated requests.⁴

Not to be forgotten are the refugee camps in Algeria, which are home to approximately 170,000 Sahrawis for over 50 years and have been their only place of refuge for more than 50 years.⁵ Water shortages, precarious living conditions, and few opportunities for economic self-sufficiency are omnipresent there and continue to deteriorate significantly.

This reality stands in direct contradiction to the right to self-determination of the Sahrawi people, as established by the International Court of Justice in 1975.⁶ This right was further emphasised in 1991 by the ceasefire agreement between Morocco and the Frente Polisario, which included a commitment to hold a referendum allowing the Sahrawi population to decide on the question of independence.⁷ However, this referendum has yet to take place and continues to be circumvented by the Moroccan government, with the support of many other countries.

One of the main underlying reasons is the existence of resource agreements—particularly those concluded by the European Union with Morocco—which are also applied to exports originating from Western Sahara even though established case law of the European courts grants Western Sahara the status of a "separate and distinct" territory with the legal status of a non-self-governing territory and defines the population of Western Sahara as a third party whose consent must be obtained for agreements between Morocco and the EU that also affect the occupied territory.

1 United Nations: Situation concerning Western Sahara - Report of the Secretary-General, 2024

2 FIDH: Maroc / Sahara occidental : harcèlement, surveillance et restrictions continues à l'encontre des membres du Codesa, 2025

3 FIDH: Maroc / Sahara occidental : dégradation de l'état de santé du journaliste sahraoui Mohamed Lamin Haddi, en détention arbitraire depuis 15 ans, 2025

4 United Nations: Situation concerning Western Sahara - Report of the Secretary-General, 2024

5 United Nations: Far from the headlines: After 50 years refugees from Western-Sahara are still in camps, 2024

6 ICRC: The Conflict in Western Sahara

7 DGVN: Der Westsahara-Konflikt und die UN

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Since 2015, both the CJEU and the General Court of the European Union have issued rulings against such agreements, culminating in the most recent judgment of 4 October 2024, which declares the fisheries and agriculture agreements between Morocco and the EU invalid because the legitimate political representation of the Sahrawi people was not consulted. The ruling also underscores the fact that Western Sahara does not belong to Morocco under international law. At the same time, the court set a 12-month deadline for the implementation of the ruling.⁸ In response, the European Commission attempted once again to circumvent the ruling, arguing that the majority of the Sahrawi population does not live in the occupied territories and therefore does not need to be consulted. The CJEU responded unequivocally: in its decision of 6 February 2025, it once again emphasised that the Sahrawi people's right to self-determination is inviolable regardless of whether they live inside or outside the occupied territory.⁹

Despite the clear and increasingly precise rulings of the highest European courts, political reactions give rise to concerns that these decisions are deliberately disregarded. The clear positioning of EU member states such as Spain and France in favour of Morocco's so-called autonomy plan for the occupied Western Sahara illustrates this.¹⁰ At the same time, there is justified concern that the European Commission is attempting to circumvent the rulings by not renegotiating the treaties, but only adapting individual protocols, such as those on designation of origin.¹¹ Moreover, there are ongoing efforts to bypass the requirement to obtain the consent of the Sahrawi people or their legitimate representatives by simply assuming that the Sahrawi population consents, based on negotiations with locals Moroccan administrative structures.¹²

The agreements concerning resource extraction and economic development in the occupied territories are an economic lifeline that enables the Kingdom of Morocco to maintain its occupation of Western Sahara. At the same time, the occupation denies the Sahrawi people their fundamental right to self-determination and the return from decades of exile.

For these reasons, we call upon:

- **The European Union and its Member States to:**
 - i. Respect the rulings of the Court of Justice of the European Union (CJEU) and the General Court (EGC).
 - ii. Respect the internationally recognized right to self-determination of the Sahrawi people and support their legally guaranteed right to a referendum, including the participation of displaced persons and excluding Moroccan settlers.
 - iii. Fulfil their obligations under the Lisbon Treaty and act to prevent human rights violations committed by Morocco.
- **The Government of Morocco to:**
 - i. Respect human rights and immediately end all repression against the Sahrawi civilian population and human rights defenders.
 - ii. Immediately release all Sahrawi political prisoners.
 - iii. Cease all settlement activities without delay.
 - iv. Grant unrestricted access to independent organizations for the documentation and monitoring of the human rights situation in the occupied territories.

8 European Union: [Judgment of the Court \(Grand Chamber\) of 4 October 2024, 2024](#)

9 WSRW: [EuGH lehnt von Kommission beantragte Neufassung der Urteile zur Westsahara ab, 2025](#)

10 AP News: [Morocco's King lauds new allies in Western Sahara dispute after European court ruling, 2024](#)

11 Horticaily: [European Commission continues to analyze the CJEU Sahara ruling, 2024](#)

12 WSRW: [EU Commission still scratching heads over ECJ rulings, 2025](#)

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- **All member organizations of the International Federation for Human Rights (FIDH) to:**
 - i. Contribute to raising awareness and understanding of the situation in Western Sahara.
 - ii. Identify the contribution of the respective national governments of their countries of operation and of the members of the European Parliament elected from the respective nation states in circumventing the rulings of the CJEU an to oppose them decisively.