

Letter from H.E. Mr Brahim Ghali, President of the Sahrawi Republic and Secretary General of the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente POLISARIO), addressed to H.E. Mr António Guterres, Secretary-General of the United Nations

Bir Lehlou, 16 October 2023

Mr Secretary-General,

The Frente POLISARIO takes note of the report (S/2023/729) of the Secretary-General of the United Nations on the situation concerning Western Sahara, dated 3 October 2023, and would like to place on record its position regarding several elements contained in the report.

As we stressed emphatically in the letters (S/2021/980) and (S/2022/797) addressed to you on 18 October 2021 and 14 October 2022 respectively, which were circulated as documents of the Security Council, it was the forces of the occupying state of Morocco that violated the 1991 ceasefire and related military agreements, including Military Agreement No. 1, on 13 November 2020, by attacking Sahrawi civilians in Guerguerat in the Liberated Sahrawi Territories and illegally occupying more of the Sahrawi land.

It was the forces of the occupying state of Morocco that constructed, as you stated in your report (S/2021/843, para. 35), “an approximately 20 km long new sand wall at Guerguerat” and “consolidated its presence over some 40 km² of land in the buffer strip”. It was also the occupying state that defiantly stated that its actions at Guerguerat were “irreversible” (S/2021/843, para. 23).

This is the third report issued since the documented breach and torpedoing by the occupying state of Morocco of the 1991 ceasefire. Once again, the United Nations Secretariat has regrettably refrained from speaking out the truth and holding the occupying state accountable for the consequences of its breach and torpedoing of the ceasefire. The Frente POLISARIO once more deeply deplores this unjustifiable silence that is tantamount to condoning impunity.

There is therefore no question that the occupying state of Morocco has violated and torpedoed with complete impunity the 1991 ceasefire and related military agreements and has caused “the breakdown of the ceasefire” as recognised by the Security Council in its resolution 2602 (2021; PP 14), among others.

The occupying state of Morocco is also the only party responsible for the multiple consequences resulting from its continued breach for the presence and operation of the United Nations Mission for the Referendum in Western Sahara (MINURSO) in the Territory, including the “significant challenges to the operations of MINURSO, in particular its logistics and resupply efforts” (S/2023/729, para. 2).

As in previous reports since 2021, the report refers, *inter alia*, to “firing incidents” (S/2023/729, para. 3), “the continued hostilities and lack of a ceasefire between Morocco and Frente POLISARIO” and “aerial strikes and firing across the berm” (S/2023/729, para. 90) as well as MINURSO observing “traces of exploded mortar ammunition” (S/2023/729, para. 4), “charred remains of five individuals” and “destroyed vehicles” (S/2023/729, para. 7).

These references, among other things, expose the lies and mendacious propaganda of the occupying state of Morocco, which is still in a constant state of denial about the bitter reality of the new war of aggression that it has triggered. However, the failure to establish the facts and call a spade a spade leads not only to ambiguity but also to encouraging impunity.

The justifiable insistence by the Frente POLISARIO that the UN Secretariat and the Security Council establish the facts regarding the party responsible for breaching the ceasefire is therefore fundamental to comprehending what is really happening on the ground and the ensuing serious consequences not only for the operations of MINURSO but also for the peace process in Western Sahara, because the situation on the ground and the peace process are inextricably linked.

The Frente POLISARIO calls upon the members of the Security Council to bear in mind the foregoing when they convene to deliberate on the renewal of MINURSO mandate in the coming days.

Mr Secretary-General,

Indeed, as we have indicated on several occasions, the Moroccan occupying forces have been using all types of weapons, including unmanned aerial vehicles (UAVs), to callously kill, not only dozens of Sahrawi civilians, but also civilians of neighbouring countries in transit through the Liberated Sahrawi Territories (S/2023/729, para. 11).

However, the aerial strikes referred to in the report (S/2023/729, paras. 7-9 and para. 47) are but a few of the repeated strikes launched by the Moroccan occupying forces against Sahrawi civilians and others from neighbouring countries. Moreover, the report again fails to identify the occupying state of Morocco as the sole party responsible for the aerial strikes and other criminal attacks on civilians and others, and one is left with a series of “anonymous” aerial strikes that just happened like that.

The Frente POLISARIO stresses once again that the deliberate targeting of civilians and civilian objects constitutes a war crime in line with the Statute of the International Criminal Court. It is also a violation of the rules of international humanitarian law applicable in international armed conflicts, including the principle of distinction and the prohibition of indiscriminate attacks and acts or threats of violence the primary purpose of which is to spread terror among the civilian population. The occupying state of Morocco should be held accountable for its continued war crimes in Western Sahara.

In relation to the operational developments, the report points out that “between April and June, MINURSO subsequently conducted five separate resupply ground convoy movements to its team sites east of the berm” (S/2023/729, para. 17).

Despite the collapse of the ceasefire, as part of its full commitment to the mandate for which implementation MINURSO was established by the Security Council and deployed in the Territory in 1991, the Frente POLISARIO continues to do its utmost, under the most difficult circumstances, with a view to mitigating the effects on the Mission in line with the rules of international humanitarian law applicable in international armed conflicts.

In this context, the Frente POLISARIO continues to give the utmost priority to the safety and security of MINURSO military observers, personnel, assets, and resources at the five Team Sites of the Mission in the Liberated Sahrawi Territories (S/2023/729, para. 57). It provides regular safe

passage to MINURSO flights (currently once a week, besides additional flights when necessary) to do troop rotations, deliver essential supplies to the Mission Team Sites, among other things.

It also continues to provide safe passage for MINURSO linkup ground patrols between the Mission Team Sites in the Liberated Sahrawi Territories for rotation operations, logistics and maintenance services. In addition, the Frente POLISARIO has provided bulk water and diesel fuel to MINURSO Team Sites on several occasions. It has repeatedly expressed its readiness to provide the Mission with all possible material, logistical and other assistance.

As a gesture of goodwill to help MINURSO overcome some of the logistical challenges that it is facing, the Frente POLISARIO has provided safe passage to the Mission to conduct logistical ground convoys to resupply its Team Sites in the Liberated Sahrawi Territories. Thanks to this gesture, several resupply ground convoys have been conducted by MINURSO in April, May, June, and September 2023, and another ground convoy has the approval to move on 17 October 2023. Nevertheless, the UN Secretariat and MINURSO continue to ignore the enormous efforts made by the Frente POLISARIO to facilitate the operation of MINURSO and ensure its sustainability.

By contrast, the occupying state of Morocco continues to endanger the security and safety of MINURSO military observers, and it has even threatened to target all Sahrawi civilians and assets providing services to MINURSO even if they were escorted by the Mission patrols (S/2022/733, para. 63). Unfortunately, MINURSO seems to have succumbed to the pressure exerted by the occupying state, which puts into question the impartiality and credibility of the Mission.

Moreover, the occupying state of Morocco has been doing everything in its power, with complete impunity, to impede the full implementation of MINURSO mandate after expressing unwillingness to go forward with the Settlement Plan, which it had already accepted, as confirmed by the Secretary-General (S/2002/178, para. 48) in February 2002. Ever since, the occupying state has been trying to empty the mandate of MINURSO of its substance and transform the Mission into a “guardian” of the forcibly imposed *fait accompli* in Occupied Western Sahara.

It even went as far as expelling the civilian personnel of the Mission, including the observers of the African Union, in March 2016. In contravention of the status-of-mission agreement concluded with the United Nations, the occupying state of Morocco continues to impose several restrictions on MINURSO that undermine the international character of the Mission and affect its impartiality, as the Secretary-General has repeatedly pointed out in his reports, including the latest report (S/2023/729, para. 67).

The High-level Panel on United Nations Peace Operations, which was convened in 2000 by the former Secretary-General, highlighted that “where one party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the United Nations can in the best case result in ineffectiveness and in the worst may amount to complicity with evil” (A/55/305, S/2000/809, page ix).

MINURSO’s impartiality lies in strict adherence to the objectives of its mandate, but not that “impartiality” that equates two parties that are not originally equal because there is a clear aggressor, the occupying state of Morocco, and a victim, the Sahrawi people. Therefore, the gradual undermining of the credibility and impartiality of MINURSO and its drift from its core mandate are totally unacceptable.

Mr Secretary-General,

The Frente POLISARIO notes the parts of the report (S/2023/729, paras. 34-36) referring to the visit conducted by the Personal Envoy of the Secretary-General for Western Sahara to El Aaiún and Dajla in Occupied Western Sahara after the occupying state of Morocco was compelled to accept the conditions of the United Nations and its insistence on the need for the visit to take place in line with the same criteria that governed the visits of previous UN envoys to the Territory.

Although the occupying state of Morocco tried to inundate his visit programme with meetings with “a large number of Moroccan officials and locally “elected officials”” and visiting “several Moroccan-funded infrastructure projects” (S/2023/729, para. 34), the Personal Envoy was able to meet with few Sahrawi human rights activists and former detainees who informed him of the real situation in Occupied Western Sahara.

However, the Frente POLISARIO reiterates its strong condemnation of the “anomalous” situation in which UN envoys need to “obtain the consent” of the occupying state of Morocco to visit Occupied Western Sahara that is subject to a decolonisation process under the auspices of the United Nations. In this regard, the Frente POLISARIO stresses again that the Personal Envoy should have regular and unfettered access to the Territory and urges the Security Council to include a strong request to this effect in its forthcoming resolution on the renewal of MINURSO mandate.

The report notes that “The Mission’s lack of access to local interlocutors west of the berm continued to severely limit its ability to collect reliable situational awareness information, and to assess and report on developments across its area of responsibility” (S/2023/729, para. 66). It is also imperative that, in its forthcoming resolution on the renewal of MINURSO mandate, the Security Council call for full and unrestricted access by the Mission to local interlocutors in the Territory.

Regarding “confidence-building measures”, the report points out that the Personal Envoy “continued to take note that neither Morocco nor Frente POLISARIO have expressed immediate interest in further work on these issues” (S/2023/729, para. 75). The fact remains that the Frente POLISARIO explained to the Personal Envoy its understanding of the notion of the confidence-building measures and expressed its willingness to engage on this basis. It is the other party that has officially declared on many occasions that it is unwilling to discuss any confidence-building measures. Therefore, the truth should be stated without sweeping generalisations and ambiguity.

Regarding human rights, the report points out that “The Office of the United Nations High Commissioner for Human Rights (OHCHR) was unable to conduct any visits to Western Sahara for the eighth consecutive year, despite multiple requests, and despite the Security Council in its resolution 2654 (2022) urging enhanced cooperation, including through facilitating such visits” (S/2023/729, para. 76).

Once again, the occupying state of Morocco is not held responsible for obstructing the work of the United Nations bodies and for repeatedly denying them access to the Territory. It is therefore imperative that, in its forthcoming resolution on the renewal of MINURSO mandate, the Security Council demand that the OHCHR have full and unfettered access to Occupied Western Sahara.

The report refers to “an increased shrinking of civic space, including through obstruction, intimidation and restrictions against Sahrawi activists, human rights defenders and student movements”, preventing and quelling by Moroccan authorities of “gatherings in support of the

right to self-determination and Saharawi commemoration events”, and denying entry into or expelling “international observers, researchers and lawyers engaging in advocacy on Western Sahara” (S/2023/729, para. 77).

The report also points out “that Sahrawi prisoners, including the Gdeim Izik group, continued to be held outside of Western Sahara in harsh conditions of detention, including isolation, and subjected to restrictions on contact with their families and lawyers” (S/2023/729, para. 79). We call upon the Secretary-General to ensure the immediate and unconditional release of all Sahrawi political prisoners so that they could rejoin their homeland and be reunited with their families.

The few abuses outlined in the report do not do justice to the systematic human rights violations perpetrated with complete impunity by the Moroccan occupying authorities against Sahrawi civilians and human rights defenders away from international scrutiny because of the continued military blockade and media blackout imposed on Occupied Western Sahara.

The Frente POLISARIO shares with the Secretary-General the concern expressed in his recommendations and observations “about the continued lack of access of OHCHR to the Territory” as well as his call for the need to respect, protect, and promote human rights in Western Sahara, including by addressing outstanding human rights issues and enhancing cooperation with OHCHR and the United Nations human rights mechanisms, and to facilitate their monitoring missions (S/2023/729, para. 101).

Mr Secretary-General,

We demand to see a robust MINURSO that is fully empowered not only to accomplish its mandate but also to operate as a modern peace operation that monitors, protects, and reports on human rights in its area of responsibility, among other things. In view of the deteriorating situation of human rights in Occupied Western Sahara, it is unacceptable ethically and politically that MINURSO remains an exception at a time when the promotion and protection of human rights is becoming a priority in all United Nations peace operations.

Likewise, the Frente POLISARIO strongly supports the Secretary-General’s observation that “independent, impartial, comprehensive and sustained monitoring of the human rights situation is necessary to ensure the protection of all people in Western Sahara” (S/2023/729, para. 101). In this context, the Frente POLISARIO once again calls for operationalising the legal and moral responsibility of the United Nations towards the Sahrawi people, particularly Sahrawi civilians living in the Territories under the illegal Moroccan occupation.

The responsibility entails the establishment of an independent, and permanent UN mechanism for the protection of the political, economic, social, and cultural rights of the Sahrawi people, including their right to permanent sovereignty over their natural resources, and in-situ and regular reporting on the situation in the Territory to relevant United Nations bodies.

Morocco is the occupying power in Western Sahara in accordance with General Assembly resolutions 34/37 of 21 November 1979 and 35/19 of 11 November 1980, among other resolutions. The information submitted to the OHCHR by the occupying state of Morocco and by its “National Human Rights Council” regarding Western Sahara (S/2023/729, paras. 82-83) is unacceptable and cannot be cited in a report of the Secretary-General on Western Sahara, not only because it lacks all credibility, but also because it represents a breach of the international status of the Territory as a Non-Self-Governing Territory over which the occupying state does not exercise any sovereignty.

The report points out that “in the Territory, ongoing unilateral assertive actions and symbolic gestures continue to be a source of enduring tension and have a negative impact on the situation” (S/2023/729, para. 93). The Frente POLISARIO recalls that one consequence of Western Sahara having the status of a Non-Self-Governing Territory on the UN agenda is the proscription of any unilateral measure that might alter that status.

In this regard, the Frente POLISARIO notes the position taken by the Personal Envoy of the Secretary-General during his visit to Occupied Western Sahara when he “found himself” in the presence of several so-called “Consuls-General” (S/2023/729, para. 36) brought by the occupying state of Morocco. This position is a clear reaffirmation that the United Nations does not recognise the illegal so-called “consulates” in Occupied Western Sahara.

It is also a clear affirmation that the United Nations cannot politically and morally recognise the attempts by the occupying state of Morocco aimed at “legitimising” its illegal occupation of Western Sahara and imposing the *fait accompli* through unlawful measures such as opening of “consulates” for foreign entities, holding of “elections”, and organising cultural and sports events in Occupied Western Sahara, among others.

The report indicates that, on 29 September 2021, the General Court of the Court of Justice of the European Union had issued a judgement annulling the Fisheries Partnership Agreement concluded between the European Union and Morocco as it considered that the conclusion of the Agreement “cannot be regarded as having secured the consent of the people of Western Sahara” (S/2023/729, para. 23).

We understand that referring to the judgement of the EU General Court of September 2021 was due not only to the objection raised in our previous letter (S/2022/797) when we pointed out that “the report inexplicably remains completely silent on the judgment delivered on 29 September 2021 by the General Court of the European Union of which summary was circulated as a document of the Security Council (S/2021/979)” (page 6.).

Referring to the judgement of the EU General Court should also be seen as being consistent with the General Assembly resolution A/RES/77/130 on “Economic and other activities which affect the interests of the peoples of the Non-Self-Governing Territories”, dated 15 December 2022, in which the General Assembly requested the Secretary-General, *inter alia*, “to continue, through all means at his disposal, to inform world public opinion of any activity that affects the exercise of the right of the peoples of the Non-Self-Governing Territories to self-determination in conformity with the Charter, General Assembly resolution 1514 (XV) and the other relevant resolutions of the United Nations on decolonization” (OP 13).

When referring to the judgement issued by the African Court on Human and Peoples’ Rights on 22 September 2022 (S/2023/729, para. 85), the report fails to mention that the African Court stressed that the continued occupation of the Sahrawi Republic (SADR) by Morocco is incompatible with the right to self-determination of the people of the SADR as enshrined in Article 20 of the African Charter on Human and Peoples’ Rights (Application N° 028/2018, para. 303). The report also fails, for the seventh consecutive time, to inform the Security Council that the occupying state of Morocco still refuses to allow the African Union observer mission to return to Western Sahara and resume its collaboration with MINURSO.

Mr Secretary-General,

The Frente POLISARIO shares with you the view expressed in the observations and recommendations of the report that a solution to the question of Western Sahara is more urgent than ever (S/2023/729, para. 91). In this context, the Frente POLISARIO draws attention to the document entitled “Fundamentals for relaunching the UN peace process in Western Sahara and advancing it towards the peaceful, just and lasting solution” explaining the position of the Frente POLISARIO in this regard, which was submitted to the Secretary-General during the meeting in New York on 11 September 2023.

The report observes that “the United Nations remains available to convene all those concerned with the issue of Western Sahara in a joint effort to advance the search for a peaceful solution” (S/2023/729, para. 92). The Frente POLISARIO recalls once again that the two parties to the conflict in Western Sahara are the Frente POLISARIO and Morocco and reaffirms its readiness to cooperate with the Secretary-General and his Personal Envoy with a view to achieving a peaceful, just, and lasting solution to the decolonisation of Western Sahara.

The report further notes that “MINURSO represents the commitment of the United Nations and the international community towards achieving a just, lasting and mutually acceptable political solution to the conflict in Western Sahara in accordance with Security Council resolutions 2440 (2018), 2468 (2019), 2494 (2019), 2548 (2020), 2602 (2021) and 2654 (2022)” (S/2023/729, para. 102). Moreover, the Secretary-General points out that he continues to “believe that it is possible to find a just, lasting and mutually acceptable political solution that will provide for the self-determination of the people of Western Sahara in accordance with Security Council resolutions 2440 (2018), 2468 (2019), 2494 (2019), 2548 (2020), 2602 (2021) and 2654 (2022)” (S/2023/729, para. 91).

As we stressed in the letters (S/2021/980) and (S/2022/797), the guidelines provided by the Security Council as to the nature of the solution to the conflict in Western Sahara for which MINURSO was established in 1991 are not contained only in the Security Council resolutions cited above. Moreover, the Security Council is the organ that established, under its authority, MINURSO and its mandate by virtue of its resolution 690 (1991), and since then the Council has consistently recalled and reaffirmed all its previous resolutions on Western Sahara, including its latest resolution, 2654 (2022).

The Frente POLISARIO affirms in this regard that the resolutions of the General Assembly on Western Sahara as an issue of decolonisation on UN agenda since 1963 can never be sidelined because they continue to constitute the framework for the peaceful, just, and lasting solution.

The Frente POLISARIO further strongly affirms once again that it will not engage in any peace process based exclusively on the Security Council resolutions cited above or on any selective and reductive interpretation of those resolutions that is supported neither by the Security Council resolutions as an integrated whole nor by the letter and spirit of the General Assembly resolutions and the provisions of the Settlement Plan that underlies MINURSO mandate and its *raison d’être*.

In the observations and recommendations, the Secretary-General notes “Morocco’s stated intention to remain respectful of the ceasefire and the provisions of the Military Agreements and to maintain a close cooperation with MINURSO at all levels” (S/2023/729, para. 96). The stating by the occupying state of Morocco of its “intention to remain respectful of the ceasefire”, which it has breached and torpedoed with complete impunity on 13 November 2020, is a mockery of the

Security Council and its resolutions and an insult to the intelligence of Member States and the international community.

What is this “ceasefire” that the occupying state of Morocco is talking about and “intends” to respect? The Security Council has already acknowledged and noted with deep concern the “breakdown of the ceasefire”, in its resolutions 2602 (2021) and 2654 (2022). The Secretary-General equally has referred in his latest reports, including the most recent one (S/2023/729), to the “continued hostilities and lack of a ceasefire between Morocco and Frente POLISARIO”. He also refers to “aerial strikes” causing the death of dozens of Sahrawi civilians and others from the neighbouring countries, who have been callously killed by the forces of the occupying state using all types of weapons, including unmanned aerial vehicles (UAVs).

The occupying state of Morocco may spread whatever lies it wants about itself and its “intentions”, but the destructive consequences of its serious and continued breach of the ceasefire and the new war of aggression that it has unleashed against the Sahrawi people since 13 November 2020 are undeniable and are there for all to see.

In this regard, reiterating its categorical rejection of the continued illegal military occupation of parts of Western Sahara by the Moroccan state since 31 October 1975, the Frente POLISARIO reaffirms that it will not accept, under any circumstances, the *fait accompli* in the Liberated Sahrawi Territories, which have been illegally occupied by the forces of the occupying state since 13 November 2020, and that it will continue to use all legitimate means to resist Moroccan illegal occupation and defend the sacred rights of the Sahrawi people.

Mr Secretary-General,

In concluding, the Frente POLISARIO reiterates its commitment to contributing to the achievement of a peaceful, just, and lasting solution to the decolonisation of Western Sahara in accordance with the principles of international legality and relevant resolutions of the United Nations and the African Union and based on the mandate for which the United Nations Mission for the Referendum in Western Sahara (MINURSO) was established.

However, as we have reiterated on several occasions, no one should have any illusions that a genuine and credible peace process could start and advance in Western Sahara without ending the impunity with which the occupying state of Morocco has been allowed to obstruct the self-determination referendum, which is the core mandate of MINURSO, and eventually breach and torpedo the 1991 ceasefire and plunge the region into yet another spiral of violence and instability.

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

Please accept, Mr Secretary-General, the assurances of my highest consideration.

(signed)

Brahim Ghali

President of the Sahrawi Arab Democratic Republic

Secretary-General of the Frente POLISARIO

H.E. Mr António Guterres

Secretary-General of the United Nations

United Nations, New York