

Orange S.A.

111, Quai Du President Roosevelt

Cs 70222, Issy-Les-Moulineaux,

Ile-de-France, 92449

France

Brussels, 22.05.2023

Att: CEO, Mrs. Christel Heydemann

REGARDING ORANGE S.A. AND THE OCCUPATION OF WESTERN SAHARA

Dear Mrs. Heydemann

Western Sahara Resource Watch (WSRW) is privileged to be writing to you. We are writing in relation to the operations of Orange S.A. in occupied Western Sahara.

As you perhaps know, Western Sahara is a Non-Self-Governing Territory that is yet to achieve decolonisation. The UN, which has a Mission on the ground (MINURSO), considers the territory to be a colony. In 1975, the International Court of Justice confirmed that there are no ties of sovereignty between the territory of Morocco and that of Western Sahara, and that the people of the territory – the Saharawi people – have a right to self-determination.¹ Morocco invaded the territory and went on to annex parts of, in blatant disrespect of the ICJ and of the UN General Assembly and Security Council. Though the UN was able to broker a peace arrangement in which the warring parties agreed to an independence-referendum, Morocco has continued to obstruct the process to this very day. Yet, to date, the right of the Saharawi people to self-determination is backed internationally. The people of Western Sahara continue to suffer the yoke of a brutal occupation: many of them live as refugees in the inhospitable Algerian desert, while their kin left behind are subjected to some of the most gruesome human rights violations.

The status of the territory comes with repercussions for business activities. As established in 2002 by the UN Legal Counsel at the request of the Security Council, economic activities in the territory would be in violation of international law if not undertaken in accordance with the wishes and the interests of the people of the territory.² In six consecutive rulings, the Court of Justice of the European Union has concluded that Morocco has no sovereignty over Western Sahara, nor any international mandate to administer it, as the territory is “separate and distinct” from Morocco. As a consequence, the Court ruled, EU agreements with Morocco cannot be extended to Western Sahara in a lawful manner, unless with the explicit consent of the people of the territory – the latter being the natural corollary of the people of Western Sahara’s right to self-determination.³ We also refer to the conclusions of the UN Treaty Body on Economic, Social and Cultural Rights⁴ and of the UN Human Rights Committee⁵,

¹ International Court of Justice, Advisory Opinion of 16 October 1975, Western Sahara, <https://www.icj-cij.org/files/case-related/61/6197.pdf>

² UN Security Council, 12.02.2002, Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council, S/2002/161, <https://undocs.org/S/2002/161>

³ The Rulings can be accessed at the site of the EU Court of Justice, <http://curia.europa.eu>.

⁴ UN Economic and Social Council, 22.10.2015, Concluding Observations on the fourth periodic report of Morocco, E/C.12/MAR/CO/4*, §6, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fMAR%2fCO%2f4&Lang=en

⁵ UN Human Rights Committee, 01.12.2016, Concluding Observations on the sixth periodic report of Morocco, §10, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MAR/CO/6&Lang=en

which have both emphasized the need of obtaining the Saharawi people's "consent to the realization of developmental projects and [resource] extraction operations".

We submit that the legal implications are no different when it concerns infrastructure as telecom. The construction of infrastructure for such purpose by an occupying power not only violates the right of non-self-governing peoples to self-determination, but also International Humanitarian Law, which prohibits extending an occupation - beyond security of the occupied place and the well-being of its inhabitants – through building infrastructure to secure the occupation or provide for an illegal settler (immigrant) population. The latter is clearly the case in Western Sahara.

From what can be seen online, through Orange's information channels, your company seems to take a highly political and non-neutral position in the conflict that is not based on basic principles of international law.

-On 11-12 May 2023, Orange Maroc was "gold sponsor" of the "Journée de la Promotion des Investissements de Dakhla".⁶ In relation to this event, Orange Maroc stated on LinkedIn that "Engagé à accompagner les différents chantiers initiés dans le Royaume et notamment dans les provinces du sud, nous contribuons au développement des infrastructures de la région avec le déploiement de la fibre 100% Orange pour répondre à l'intensification des usages numériques."

-In relation to the same event as above, the secretary general of Orange Maroc stated on her own LinkedIn that "*Nous sommes fiers de participer à la 2eme édition de la "Journée de la Promotion des Investissements de Dakhla" les 11 et 12 Mai 2023 organisée par l'APDAK sous le haut patronnage de Sa Majesté le Roi Mohammed VI que Dieu l'assiste. Lors de cet événement, nous participerons aux panels organisés aux côtés de parties prenantes politiques et économiques. Engagé à accompagner les différents chantiers initiés dans le Royaume et notamment dans les provinces du sud, nous sommes très fiers de contribuer au développement des infrastructures de la région avec notamment le déploiement de la fibre 100% Orange pour répondre à l'intensification des usages numériques. Nous sommes fiers de participer à la 2eme édition de la "Journée de la Promotion des Investissements de Dakhla" les 11 et 12 Mai 2023 organisée par l'APDAK sous le haut patronnage de Sa Majesté le Roi Mohammed VI que Dieu l'assiste. Lors de cet événement, nous participerons aux panels organisés aux côtés de parties prenantes politiques et économiques. Engagé à accompagner les différents chantiers initiés dans le Royaume et notamment dans les provinces du sud, nous sommes très fiers de contribuer au développement des infrastructures de la région avec notamment le déploiement de la fibre 100% Orange pour répondre à l'intensification des usages numériques..*"⁷

-On its website⁸, Orange SA's Moroccan subsidiary Orange Maroc states having 7 offices in El Aaiún (or Laayoune, Western Sahara's occupied capital), 1 office in Boujdour, 1 office in Smara (or Essmara on its website) and 2 offices in Dakhla. They are all presented as being located in Morocco.

-The website of Orange Maroc presents Western Sahara as an integral part of Morocco, both the parts of Western Sahara that are under occupation, and those parts that are not.⁹

-In 2017, Orange promoted events and cultural activities that legitimize the military Moroccan occupation of Western Sahara, and uses Moroccan colonial maps that merged Western Sahara's occupied territories with Morocco.¹⁰

Western Sahara is not part of the kingdom of Morocco. Referring to the occupied territory as "provinces du sud" is a highly unfortunate language. To compare, we take note of the fact that Orange correctly calls Russia's brutal occupation of Ukraine an "invasion". Orange does not refer to Ukraine as 'Western provinces of Russia' and should not refer to Western Sahara as part of Morocco. Nor should Orange operate in the territory as if it were.

We would be grateful if you could respond to the following questions:

1 .Has Orange obtained the consent of the people of Western Sahara, through their internationally recognised representative body, the Frente Polisario, for operating on the Saharawi people's land?

⁶ https://www.linkedin.com/posts/orange-maroc_orange-maroc-sponsor-gold-et-partenaire-de-activity-7062540182679375872-wv71/?utm_source=share&utm_medium=member_desktop

⁷ https://www.linkedin.com/posts/lfal-hind_dakhla-numerique-developpement-activity-7062563529672798208-mYS-?utm_source=share&utm_medium=member_desktop

⁸ <https://www.orange.ma/Agences-Orange>

⁹ <https://www.orange.ma/Wholesale/Our-Network/Subsea-cables-and-POPs>

¹⁰ <https://www.youtube.com/watch?v=bXYwkvyK478>

2. How does Orange assess the legal status of Morocco vis-à-vis Western Sahara?
3. Will Orange rectify all published maps and references to the territory that are not in line with the position of the UN, the EU, the CJEU, the ICJ, the AU?
4. Considering that Orange was sponsoring the *Journée de la Promotion des Investissements de Dakhla*, how does Orange consider the risk that it could be facilitating new business operations in the territory that constitute violations of the Saharawi people's right to self-determination?
5. Will Orange abstain from sponsoring these investment days in the future?

Western Sahara Resource Watch is convinced that it is not in the interest of Orange to become associated with the continued colonization and occupation of Western Sahara. Aiding in the construction of infrastructure in Western Sahara on behalf of the Government of Morocco risks to help legitimize the Moroccan military occupation of the territory, and will thus hinder the UN-mediated peace process.

To be transparent, we wish to inform you that we will publish an article about Orange's deeply political approach to the illegal occupation through an article on our website. This letter, and its answer, will be reflected in that article.

Please do not hesitate to contact us should you require any further information on the above-raised issue. We thank you in advance for your consideration and look forward to your response.

Looking forward to hearing from you,

Kind regards

Erik Hagen
Western Sahara Resource Watch
erik@wsrw.org

B. Deglet
Amis du Peuple du Sahara Occidental (APSO)
apsolument@yahoo.fr