

Western Sahara Resource Watch Germany

Dr. Frank Appel
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Western Sahara Resource Watch
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Re: DHL Branch in occupied Western Sahara

Dear Mr. Appel,

I am writing to you on behalf of the international network *Western Sahara Resource Watch (WSRW)* to enquire about *Deutsche Post AG*'s corporate activities in Western Sahara. *WSRW* investigates and documents corporate activities in occupied Western Sahara as we strongly believe that the occupation of Western Sahara will not stop as long as Morocco profits from it directly or indirectly. According to your website, your subsidiary *DHL* has been operating an Express branch in El Aaiún (Laâyoune), the capital of Western Sahara, since 2016. We therefore kindly ask you to clarify the involvement of *Deutsche Post AG* and its subsidiaries in Western Sahara.

As early as the 1960s, the *United Nations* called for the independence and the right to self-determination of the people of Western Sahara. At the time still under Spanish colonial rule, the *UN* declared Western Sahara a "non-selfgoverning territory to be decolonised". In 1975, Western Sahara was forcefully invaded by Morocco and Mauretania, with the latter still considering Western Sahara as an integral part of its national territory. A 2019 study of the Research Service of the German Bundestag demonstrates why Morocco cannot be considered administering power of Western Sahara, but is rather considered an occupying power in line with Art. 42 of the Hague Conventions; a position that is largely supported by international scholarship. The fact that Western Sahara and Morocco are two distinct territories has been reiterated in numerous *UN* resolutions and cases at the Court of Justice of the European Union in recent years.

Your company, being based in Europe, is entirely subject to European law and is therefore required to respect the principles laid down by the *Court of Justice of the European Union* in its judgment of December 21, 2016. According to which Morocco and Western Sahara are two distinct and separate territories and Morocco has no sovereignty over Western Sahara. Consequently, economic activities in occupied Western Sahara would only be in line with international law if *Polisario Front*, sole UN recognized representative of the Saharawi people, gave its explicit consent.

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Moreover, the German government regularly emphasizes the “unclarified status” of Western Sahara under international law in its contacts with German companies. The German government (Federal Ministry of Economic Affairs and Energy, 18.12.2017) does not support any economic activities of German enterprises in Western Sahara and does not provide cover for business via export credits or investment guarantees. In a recent communication, the Federal Ministry for Economic Cooperation and Development stated that a development credit of KfW to Morocco’s state-owned phosphate company OCP SA explicitly exclude the financing of activities in Western Sahara.

Against this background, *WSRW* would like to ask you to fully answer the following questions:

1. With whom has *DHL* entered in negotiations and who are the contracting parties for the establishment of the branch in El Aaiún?
2. On which basis are you referring to Western Sahara’s capital, El Aaiún, as a city in Morocco? And when are you planning on rectifying this error?
3. What have you done in order to obtain the consent of Polisario Front for your activities in Western Sahara, as stipulated by current caselaw?
4. As a global company, *DHL* has allegedly “integrated corporate responsibility into [its] corporate strategy”. Does your understanding of “corporate responsibility” include condoning violations of international public law?
5. Since 2016, how many annual deliveries has *DHL* been carrying out within Western Sahara, between Western Sahara and Morocco and between Western Sahara and all other countries, respectively?
6. Do deliveries between Western Sahara and Morocco benefit from a national rate or does *DHL* charge the price of an international delivery?

We look forward to your prompt and conclusive response.

Yours sincerely,

Florence Peschke

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