

Windvision Belgium NV

Att: Simon Neerinckx, Chief Executive Officer

Interleuvenlaan 15/D

3001 Leuven

Belgium

Brussels, 18.10.2021

## RE. WINDVISION'S INVOLVEMENT IN OCCUPIED WESTERN SAHARA

Geachte meneer Neerinckx,

Western Sahara Resource Watch is privileged to present you with our compliments.

We are writing in relation to an article by Africa Intelligence of 12 October 2021, detailing Windvision's plans to develop a 200 MW wind farm in Dakhla.<sup>1</sup>

As you will know, Dakhla is not located in Morocco, but in Western Sahara - a Non-Self-Governing Territory that is yet to complete 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.<sup>2</sup> Nevertheless, Morocco invaded and went on to annex three quarters of the territory, in blatant disrespect of the ICJ and of the UN General Assembly and Security Council. Though the UN was able to broker a ceasefire arrangement in 1991 - foreseeing an independence-referendum that both warring parties agreed to - Morocco has continued to obstruct the process to this very day. Morocco's violation of the ceasefire arrangement in November 2020 led to resumed armed conflict in the territory.

The right of the Saharawi people to self-determination is backed internationally. Nevertheless, they 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, any economic activity 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.<sup>3</sup> Of greater relevance to an EU-based company are the five recent consecutive rulings of the Court of Justice of the European Union, all concluding 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 - through their UN-recognised representative, the Polisario Front.<sup>4</sup> The UN Treaty Body on Economic, Social and

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<sup>1</sup> Africa Intelligence, 12.10.2021, In Dakhla, Akhannouch, Benjelloun and Windvision are powering a secret wind turbine project, [https://www.africaintelligence.com/north-africa\\_business/2021/10/12/in-dakhla-akhannouch-benjelloun-and-windvision-are-powering-a-secret-wind-turbine-project,109697991-art](https://www.africaintelligence.com/north-africa_business/2021/10/12/in-dakhla-akhannouch-benjelloun-and-windvision-are-powering-a-secret-wind-turbine-project,109697991-art)

<sup>2</sup> International Court of Justice, Advisory Opinion of 16 October 1975, Western Sahara, <https://www.icj-cij.org/files/case-related/61/6197.pdf>

<sup>3</sup> 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>

<sup>4</sup> The Rulings for cases T-512/12, T-180/14, C-266/16, T-275/18 and combined cases T-344/19, T-356/19 and T-279/19 can be accessed at the site of the EU Court of Justice, <http://curia.europa.eu>.

Cultural Rights<sup>5</sup> and the UN Human Rights Committee<sup>6</sup> have both emphasized the need of obtaining the Saharawi people's "prior, free and informed consent to the realization of developmental projects and [resource] extraction operations".

Morocco's renewable plans in the territory it holds under occupation also constitute a violation of International Humanitarian Law (IHL) 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 problematic aspects of Morocco's renewable projects in occupied Western Sahara are summarised in report 'Greenwashing Occupation', published on 6 October 2021.<sup>7</sup>

We are convinced that this is not something any company would want to be associated with.

We would be grateful for your response to the following questions:

1. Is the news of Windvision's involvement in the 200 MW wind farm in Dakhla, as reported by Africa Intelligence, correct?
2. If so, what steps has Windvision taken to ensure that it has the consent of the people of Western Sahara through their UN-recognised representation, the Frente Polisario, for its participation in the construction of renewable energy infrastructure on the Saharawi people's land?

Since we plan to publish an article about your company's reported plans in occupied Western Sahara, we would be grateful for your response by 30 October, allowing us to correctly reflect your views on the matter. Please don't hesitate to contact us should you require any further information on any of the above-mentioned elements – we will gladly oblige.

We thank you for your consideration and look forward to your reply.

Sincerely

Sara Eyckmans

Coordinator

Western Sahara Resource Watch

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<sup>5</sup> 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](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fMAR%2fCO%2f4&Lang=en)

<sup>6</sup> 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](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MAR/CO/6&Lang=en)

<sup>7</sup> WSRW.org, 6 October 2021, Greenwashing Occupation, [https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/405/616014d0c1f1d\\_Greenwashing-occupation\\_web.pdf](https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/405/616014d0c1f1d_Greenwashing-occupation_web.pdf)