

**Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Independent expert on the promotion of a democratic and equitable international order**

Ref.: OL USA 10/2026  
(Please use this reference in your reply)

30 April 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and Independent expert on the promotion of a democratic and equitable international order, pursuant to Human Rights Council resolutions 58/14 and 57/7.

We wish to draw your attention to the bipartisan **Polisario Front Terrorist Designation Act, bill H.R. 4119 (119th Congress)**, introduced on 24 June 2025 (“Bill”).<sup>1</sup> We are concerned that the Bill could lead to inconsistencies with the United States’ international human rights law obligations, particularly in relation to respect for the right to self-determination of the Sahrawi People of the non-self-governing territory of Western Sahara.

### **The Bill**

**Section 2** of the Bill provides that Congress “finds” that the Polisario Front is a separatist group seeking independence for Western Sahara from Moroccan “sovereignty”; has ideological and operational ties with, and has received support (such as training and drones) from Iran as a “State sponsor of terrorism”; has received training from Hezbollah; and that the Syrian wing of the Kurdistan Workers’ Party (PKK) participated in one Polisario Front meeting.

**Section 3** requires the U.S. Secretary of State to report to Congressional committees within 180 days on the Polisario Front’s leadership, military operations, and foreign sponsorship; its relationships, support, funding, and associations with Iran and Russia, and with the “foreign terrorist organizations” (under U.S. law) Hezbollah, the Iranian Revolutionary Guard Corps (IRGC), and the Kurdistan Workers’ Party (PKK); and on whether the Polisario Front has “ever intentionally attacked civilian targets”.

**Section 4** requires the U.S. Secretary of State to determine, within 90 days of the Bill’s enactment, whether the Polisario Front meets the statutory criteria for (1) designation as a “foreign terrorist organization” under 8 U.S.C. 1189, and (2) imposition of sanctions under section 1263 of the Global Magnitsky Human Rights Accountability Act.

Under 8 U.S.C. 1189, a foreign organization is terrorist where it meets statutory terrorism definitions (under 8 U.S.C. 1189(a)(3)(B) and 22 U.S.C. 2656f(d)(2)) and its terrorism threatens the security of U.S. nationals or U.S. national security.

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<sup>1</sup> US Congress, <https://www.congress.gov/bill/119th-congress/house-bill/4119/text>.

Under section 1263 of the Global Magnitsky Human Rights Accountability Act, travel and property sanctions may be imposed where the U.S. President determines that there is credible evidence that a foreign person (including individuals and entities) “is responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights” against persons seeking to expose illegal activity by government officials or to defend internationally recognized human rights, or supported such violations in various ways.

Section 4 further requires the U.S. Secretary of the Treasury to determine within 90 days whether Polisario meets criteria for terrorism designation and financial sanctions under Executive Order 13224 of 2001 (pursuant to the power to address “any unusual and extraordinary threat” under 50 U.S.C. 1701).

Executive Order 13224 permits the U.S. Secretary of State to designate foreign individuals or entities that he determines “have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States”. “Terrorism” is defined as an activity that:

- (i) involves a violent act or an act dangerous to human life, property, or infrastructure; and
- (ii) appears to be intended
  - (A) to intimidate or coerce a civilian population;
  - (B) to influence the policy of a government by intimidation or coercion; or
  - (C) to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.

Under the Bill, the findings of the U.S. Secretary of State and Secretary of the Treasury must be submitted to the relevant Congressional committees.

**Section 5** provides that the designations and sanctions contemplated by the Bill “may be waived” by the U.S. President if the Polisario Front is engaged in “good faith negotiations to implement” Morocco’s autonomy plan submitted to the United Nations Security Council in 2007, “which proposes granting the Sahrawi people a high degree of self-governance within a framework of Moroccan sovereignty”.

### **Human rights concerns**

We are concerned that the Bill may lead to violations of the U.S.’s international human rights obligations. **Firstly**, the waiver contained in section 5 of Bill H.R. 4119 appears to aim at coercing the Sahrawi people to accept Moroccan sovereignty over Western Sahara, in violation of their international legal right to *freely* and genuinely choose their political future under article 1 of the International Covenant on Civil and Political Rights (ratified by the U.S. on 8 June 1992), article 1(2) of the Charter of the

United Nations, and customary international law.<sup>2</sup> The International Court of Justice in its *Western Sahara Advisory Opinion* of 1975 recognized that Morocco does not possess sovereignty over Western Sahara and the people of Western Sahara enjoy the right to self-determination.<sup>3</sup> Such right has been universally recognized by the international community, including through the Security Council and General Assembly. The Polisario Front is further internationally recognized as the legitimate representative of the Saharawi people, evident in resolutions of the General Assembly and Security Council and in the African Union's acceptance of the Sahrawi Arab Democratic Republic as a member.

While the Polisario Front is negotiating in good faith with Morocco on its autonomy plan, it has not yet indicated its acceptance of it or of Moroccan sovereignty, and the Sahrawi people as a whole have not endorsed these proposals through any free and fair referendum. The Sahrawis' right to freely choose their political future includes freedom from the threat of a foreign State's terrorist listing aimed at coercing their acceptance of a particular outcome.

In this regard, we emphasize that the *jus cogens* and *erga omnes* status of the right to self-determination requires third States not to recognize an illegal situation arising from the denial of self-determination, or to render aid and assistance in maintaining the illegal situation.<sup>4</sup> Accordingly, we highlight that the U.S.'s recognition of Moroccan sovereignty over Western Sahara in 2020 is void and without legal effect under international law. The international community through the United Nations continues to recognize Western Sahara as a non-self-governing territory entitled to self-determination.<sup>5</sup> Further, the U.S. has a duty to cooperate with the United Nations to complete its decolonization,<sup>6</sup> and to avoid obstructing it or supporting Morocco's unlawful sovereignty claim, including through measures such as this Bill.

**Secondly**, we are concerned that there appears to be no credible evidence that the Polisario Front meets the criteria of a terrorist organization, as properly defined according to best practice international standards (see the revised model definition of terrorism of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/61/52 (2026)). The Polisario Front has never been listed under the Security Council's counter-terrorism sanctions regime or by the U.S., European Union or any country other than Morocco. To the contrary, since 1991, the Polisario Front has been part of the United Nations Settlement Plan for Western Sahara under the auspices of the Security Council, mediation through a Personal Envoy of the Secretary-General, and monitoring of the

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<sup>2</sup> As further reflected in the General Assembly resolution 1514 (XV): Declaration on the Granting of Independence to Colonial Countries and Peoples; General Assembly resolution 2625 (XXV): Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States; article 1 of the International Covenant on Economic, Social and Cultural Rights; and numerous cases of the International Court of Justice: see e.g. *Western Sahara Advisory Opinion* 1975; *East Timor (Portugal v Australia)* 1995; *Israel Wall Advisory Opinion* 2004; *Israel Occupation Advisory Opinion* 2024.

<sup>3</sup> *Western Sahara Advisory Opinion* 1975, para. 70.

<sup>4</sup> *Israel Wall Advisory Opinion* 2004, para. 159; see also *Namibia Advisory Opinion* 1971, para. 126.

<sup>5</sup> <https://www.un.org/dppa/decolonization/en/nsqt>. The present communication should not be interpreted as expressing a political opinion regarding the present or future status of the non-self-governing territory of Western Sahara. The territory is subject to the right to self-determination, in conformity with the principles set forth in General Assembly resolutions 1514(XV) and 1541(XV).

<sup>6</sup> *Chagos Archipelago Advisory Opinion* 2019, para. 180.

ceasefire and referendum process by the United Nations Mission for the Referendum in Western Sahara (MINURSO).

There is no independently verified evidence that the Polisario Front has deliberately attacked civilians in the contemporary phase of the conflict, including following the resumption of limited hostilities since 2020, as opposed to causing incidental risks to civilians in the course of attacking military objectives under international humanitarian law. As noted by the United Nations Secretary-General, the Office of the High Commissioner for Human Rights has not been granted access to Western Sahara since 2015 (A/79/229, para. 18); nor have independent human rights monitors. Additionally, MINURSO does not have a mandate to monitor attacks on civilians or violations of humanitarian law or human rights law and has limited access to the territory concerned.

We note further that there is no confirmed, independent evidence of institutional links between the Polisario Front and Iran, Hezbollah or the PKK. To the contrary, in late 2025, the United Kingdom Government confirmed to the UK Parliament that “the UK has not seen evidence of Iranian support for the Polisario Front”.<sup>7</sup> We emphasize that the Polisario Front is a Sahrawi nationalist movement.

If there existed credible evidence of terrorism by the Polisario Front, the U.S. would already have listed it as a terrorist organization under domestic law. The Bill appears to politically label, stigmatize and delegitimize the Polisario Front as potentially “terrorist” when the ordinary operation of U.S. law has not found it to be so. In this respect, the Bill appears to politicize what should be the objective implementation of the existing domestic legal framework on terrorist listings.

Further, according to best practice international definition of terrorism, the activities of armed forces in armed conflict (including occupation) are excluded and are instead regulated by international humanitarian law, including war crimes law. This is the approach in six contemporary international counter-terrorism conventions since 1997, including the Terrorist Bombings Convention 1997, many of which the U.S. has ratified, as well as in many regional laws (e.g. the European Union and Council of Europe), many national laws, and the model definition of the Special Rapporteur. As such, the Polisario Front, as armed forces in armed conflict within the meaning of humanitarian law, falls outside the scope of terrorism, and any alleged violations should be properly addressed under humanitarian law. According to best practice standards, it is appropriate to regulate self-determination struggles through the paradigm of international humanitarian law (in addition to human rights law) rather than counter-terrorism law (A/HRC/61/52).

**Thirdly**, we are concerned that any unjustified terrorist listing of the Polisario Front would have serious negative effects:

- It would chill human rights advocacy for the Sahrawi right to self-determination, including by the Sahrawi diaspora and civil society organizations. This includes advocacy for the internationally recognized legal right to resist the forcible denial of self-determination by an

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<sup>7</sup> <https://www.iranintl.com/en/202510283724>.

occupying power, with respect for international humanitarian law. Stigmatization of the Polisario Front as terrorist, along with terrorist financing measures, including asset freezing and related penalties, and criminal offences of “material support” for terrorism, could have a heavy deterrent effect on the exercise of the rights to freedom of expression, association and peaceful assembly in this regard.

- Terrorist financing and material support laws would also negatively affect the provision of impartial humanitarian assistance to Sahrawi refugees in refugee camps in Tindouf, Algeria, including indirectly through de-risking by entities and financial institutions, thus impeding the rights of civilians in need of essential assistance under international humanitarian law and international human rights law. We recall that the Security Council has reaffirmed that counter-terrorism measures must fully respect international human rights, humanitarian and refugee law, including as regards humanitarian aid, and U.S. counter-terrorism law does not make adequate exemptions in this regard.
- Finally, it could impede peace-making and efforts to negotiate a resolution of the dispute through the established United Nations processes, by delegitimizing one party as “terrorist” and not similarly assessing any alleged violations by the other party.

In view of the above, we urge your Excellency’s Government to refrain from supporting the adoption of the Bill and stand ready to provide any technical advice it requires to ensure its terrorism-designation framework complies with international legal standards. We note that an unpublished Republican-sponsored bill to impose sanctions on the Polisario Front if it cooperates with an Iranian-affiliated terrorist organization (S.4063) was introduced to the Senate on 11 March 2026,<sup>8</sup> and could raise some concerns similar to those in this letter.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned analysis.
2. Please indicate any measures taken by your Excellency’s Government to refrain from supporting the adoption of a Bill which is inconsistent with international standards.
3. Please provide information on whether your Excellency’s Government intends to rescind its unlawful recognition of Moroccan sovereignty over Western Sahara, in line with the U.S.’s obligations under international law.

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<sup>8</sup> <https://www.congress.gov/bill/119th-congress/senate-bill/4063/text>. The text is yet to be published.

4. Please indicate what steps your Excellency's Government intends to take to support the free exercise of the Sahrawi right of self-determination under article 1 of the ICCPR, including by urging Morocco to cooperate in resolving voter eligibility in accordance with Security Council resolutions and holding a free referendum under United Nations auspices.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please be informed that a copy of this letter has been sent to the Government of Morocco.

Please accept, Excellency, the assurances of our highest consideration.

Ben Saul

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

George Katrougalos

Independent expert on the promotion of a democratic and equitable international order