

# GLAN files complaint against Irish oil company drilling in annexed Western Sahara

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The Global Legal Action Network has submitted a formal complaint against San Leon Energy PLC today (24/10/2018) for violating the human rights of the people of Western Sahara, two-thirds of which Morocco controls by force and has sought to annex under its domestic law. The complaint alleges that the company failed to ensure that it has the consent of the Western Saharan people before drilling for oil on their land.

San Leon Energy, which is listed on the London Stock Exchange, is an Irish based multi-national oil and gas exploration enterprise which has operations in areas of Western Sahara seized by Morocco during the mid-1970s. As the company is headquartered in Dublin, the complaint was filed before Ireland's National Contact Point (NCP) for the Organisation for Economic Cooperation and Development (OECD), which is tasked with ensuring that corporate actors domiciled and operating in Ireland respect the OECD Guidelines for Multinational Corporations by complying with human rights.

GLAN's Legal Advisor Dr. Valentina Azarova explained: "San Leon's activities in Western Sahara contribute to the maintenance of an illegal annexation and to the denial of the internationally-recognised right of the Sahrawi people to self-determination in their territory. Companies like San Leon benefit from Morocco's illicit economy in Western Sahara and contribute to the severity of ongoing human rights violations."

GLAN's complaint is supported by three non-governmental organisations from Western Sahara: the Sahrawi Campaign Against the Plunder (SCAP), the Association for the Monitoring of Resources and for the Protection of the Environment in Western Sahara (AMRPENWS) and the Sahrawi Committee for the Protection of Natural Resources (CSPRON). GLAN's complaint is also supported by the Polisario Front - the international representative of the Sahrawi people.

The complaint shows that companies like San Leon who are required to ensure that any business dealings in the Western Sahara occurs with the prior consent of the

Sahrawi people, cannot do so while operating in Western Sahara under the aegis and authority of Morocco. The requirement of consent was also applied by the Court of Justice of the EU when considering the extension of EU-Morocco relations to Western Sahara in 2016 and 2018. San Leon has, by its own admission, failed to comply with this basic legal requirement and has publicly referred to the territory as Morocco's 'Southern Provinces' (in line with its definition under Morocco's domestic law).

In addition to displacing most of the Sahrawi people from their territory Morocco has criminalised speech and actions that the Moroccan government deems to offend its permanent retention of the territory of Western Sahara, leading to the targeting of Sahrawi rights defenders. According to GLAN, this makes it impossible for any company to do business in Western Sahara in a manner that respects the business' and its home state's responsibilities under international law, including the OECD Guidelines for Multinational Corporations.

The legal complaint highlights the untenable position of the Irish government on this issue. While upholding the right of self-determination of the Sahrawi people, and maintaining that Morocco has the status of a non-sovereign in the territory, the Irish government has simultaneously tolerated Irish companies operating in breach of these positions.

Dr. Azarova explains that "Morocco's serious breaches of international law create obligations for third states like Ireland to take proactive steps to end the involvement of Irish companies in illicit transactions that give effect to and further Morocco's annexation of Western Sahara."

GLAN legal advisor Dr. Ioannis Kalpouzou added, "Ireland's OECD National Contact Point was created to ensure Irish corporations do not enable violations of fundamental rules of international law. San Leon's unlawful exploitation of Western Sahara's natural resources is exactly the sort of case that should activate its use".

The complaint is submitted in the wake of the Irish Senate's approval of the Economic Activity in Occupied Territories Bill 2018, which aims to prohibit business activities in occupied territories that benefit from and contribute to the unlawful creation and conveyance of property rights and use of natural resources for the benefit of an occupying state's nationals.

This key legislative initiative could be an important model for assigning liability for the rights and gains accrued by businesses headquartered in Ireland through such transnational activities in contexts of occupation and annexation.

Mohamed el Baikam, Vice President of AMRPENWS, said San Leon Energy should "urgently stop violating international and European law by putting an end to its operations in Western Sahara."

He added, "the people of Western Sahara suffer a deplorable reality and do not benefit from our wealth. Despite the presence of Morocco in Western Sahara for 43 years, we have no educational or cultural institutions, and all investments benefit Morocco's security, army and settlement, so they must stop immediately."

Jalihenna Mohamed, the coordinator of SCAP, said: “The Irish National Contact Point should urgently enforce San Leon Energy’s legal obligations and responsibilities by holding it accountable for conducting such activities without consent from the Sahrawi people as required by international law.”

“San Leon must immediately halt its activities in occupied Western Sahara and apologise to the Sahrawi people for ignoring them all this time and dealing with Morocco instead”, he stated

A spokesperson for CSPRON stated “The widespread exploitation of Sahrawi natural resources and its extraction by foreign multi-international companies for a long time demonstrates how these powers benefited so greatly from these resources while leaving the Sahrawi people with nothing.” Not even their consent was sought nor were they consulted about such economic activities. This is a serious breach of the international law”