

ENGIE SA

Att: Jean-Yves Gouël, Deputy Head of Ethics & Compliance

1, place Samuel Champlain

Faubourg de l'Arche

92930 Paris La Défense

France

Brussels, 22.09.2023

RE. ENGIE'S HUMAN RIGHTS APPROACH IN RELATION TO WESTERN SAHARA

Dear Mr Gouël,

We are again privileged to present you with our compliments. We refer to our email of earlier this year, on 22 May 2023, which was regrettably left unanswered. In the email we referred to our letter of 17 May 2021 to your predecessor Ms Estelle Gabillet, which also did not elicit a response from your company.

We are now reaching out as we are about to publish an article on Engie's apparent disregard for the legal status of the territory of Western Sahara. The article that we are about to publish contains documents that have so far never been published, pertaining to Engie's operations in the occupied territory. The documents illustrate how Engie has not related to basic principles of international law, contrary to what the company has earlier claimed. The publications also underline how important it is that Engie responds to the questions we sent you on 17 May 2021.

On 13 April 2021, Engie wrote to us that "Since the beginning of the discussions, two legal analyses have been given by major law firms; a social and environmental impact study has been carried out, as well as the consultation of local communities for which you are calling us into question today and for which you have been asked. All of these analyses were carried out by external firms, reputed and known for their knowledge and expertise in the field of business and human rights."

Taking this into account, we were disappointed to see the following:

A)

On 11 August 2023, Engie Africa published a post on LinkedIn, stating: "Great news for our Dakhla Wind Energy Company (DAWEC) in #Morocco" and that Engie is "helping Morocco to reduce water stress and achieve carbon neutrality".

No mention is made of the fact that the Dakhla desalination programme is not being implemented in Morocco at all, but in occupied Western Sahara. The statement on LinkedIn is factually wrong and suggests that Engie has taken a political position on the conflict that is contrary to basic legal principles.

B)

Our organisation has now received a copy of what we believe is the environmental impact study that Engie referred to in defense of its operations in occupied Western Sahara. The report was completed in 2017 by the Moroccan ministry of agriculture, and carries the name "*Etude de Structuration et de Dévolution du Project de Mise en Gestion Délégée du Service de l'Eau d'Irrigation par Dessalement dans la zone de Dakhla. - R5 : Etude cadre d'impact sur l'environnement*".

The French company BRL Ingénierie was commissioned to carry out the work. It is stated that the desalination project is part of the "strategy of development of the Southern Provinces". The document applies this incorrect and deeply political terminology repeatedly.

The report is divided into 5 chapters: "- A review of the legal, administrative and regulatory framework applicable to the project; - A description of the project and an analysis of possible alternatives; - A description and characterisation of the initial state of the environment; - Identification of environmental and social impact risks; - Synthesis and conclusion on potential environmental impacts."

The entire legal chapter of the environmental impact study takes as point of departure that Western Sahara is part of Morocco. It does not address - at all - the legal nature of the land on which the project is located, nor who might be the rightful owner of the territory in general or of the specific area where the infrastructure is being built.

Simultaneously, and without making any assessment on the fact that the land is under occupation, it produces a shockingly one-sided account of what must be seen as a horrible consequence for the Saharawis. This section deserves a thorough quote (our translation):

"This still fairly untouched area of the municipality will be considerably developed and used. Such a project will therefore stimulate the region and probably attract new residents looking for work.[...] A project of this scale can therefore considerably increase the population of the municipality. It is imperative to take this point into consideration in order to plan all appropriate planning measures for such a demographic increase. [...] The impact is long-lasting and can be considered positive, to the extent that the new dynamic of the region can be encouraged by the settlement of new inhabitants. [...] In the same way that the site will generate numerous jobs, the operation of the desalination unit and the wind farm will require the employment of personnel with very diverse qualifications: operating personnel (engineers, technicians, etc...), maintenance or even site monitoring. Finally, agricultural facilities will be the main source of employment in the municipality. Monitoring measures will also call on specialized local teams (water quality monitoring, experimental fishing campaigns, etc.). The impact is positive and permanent, as long as the activity remains sustainable. The impact will have repercussions both locally and regionally."

In other words, the environmental impact study - which fails to take into account the legal nature of the territory (to the contrary of what it claims having done) - considers the influx of Moroccan settlers into the occupied territory as something beneficial.

It is baffling to note that Engie, in its letter to us, lends this - until now unpublished - document any credibility whatsoever.

C)

Included in the same Moroccan government report series as the environmental impact assessment of the project, is a technical study that was completed in September 2017. This too is seemingly authored by the French consultancy firm BRL Ingénierie and shows the same lack of competence on geography. Its maps are not in line with the ones of the United Nations. We also have access to other reports, such as a 95-page technical report sponsored by Engie and Nareva from 30 September 2019. All these documents fail to clarify that the territory is on occupied land, outside of the international borders of Morocco.

D)

WSRW has obtained a late draft of the contract between Fisia Italimpianti S.p.a. and Engie's subsidiary Dakhla Water & Energy Company "for the construction on a full turn-key basis of the Dakhla Desalination Project carried out in Dakhla, Morocco". The draft contract states that the term "Applicable Law" means the laws "issued by any Moroccan authority having jurisdiction over the matter", that Fisia is to "make its best efforts to employ Moroccan labour and Moroccan Subcontractors for the purposes of performing that part of the Works which is performed within the Country, and to procure that its Subcontractors employ Moroccan labour...", that "the Contractor must give priority to qualified Moroccan nationals".

There is no mention of the fact that the construction is being built outside of Morocco's international borders, in occupied Western Sahara. Without a sense of irony, there is a paragraph in the Fisia draft contract on "Political Force Majeure" which states that this could include "invasion, armed conflict, or act of

foreign enemy [...] occurring in Morocco". The paradox is of course that the project is located on land that the UN General Assembly has defined as under Moroccan occupation.

We wish to underline that a series of questions from our letter of 17 May 2021 has not yet been responded to. It should be recalled that we sent the letter again to Engie on 22 May 2023, still without response.

1. We ask Engie to immediately answer the 14 questions that we sent you regarding the operation on 17 May 2021. Of those questions, the most urgent is that Engie immediately releases the controversial alleged social impact study by Global Diligence. It is still not known to the wider public and to the Saharawi people which Moroccan government bodies and "NGOs" have taken part in the study, and not a single Saharawi group advocating for self-determination, including Polisario, is known to have been in contact with the French company's study on the occupied territory in partnership with Engie.

In addition, we ask Engie to respond to the following:

2. Can you confirm that the "*Etude de Structuration et de Dévolution du Projet de Mise en Gestion Délégée du Service de l'Eau d'Irrigation par Dessalement dans la zone de Dakhla. - R5 : Etude cadre d'impact sur l'environnement*" is indeed the environmental impact assessment that you referred to in your response to us of 13 April 2021?
3. The environmental study documents that the programme will result in the "settlement of new inhabitants" to the Dakhla area. Taking into account that this is a documented and planned consequence of Engie's project, how does Engie believe to be itself contributing to the undermining the Fourth Geneva Convention that does not allow for occupiers to move civilians into the land that it holds under occupation?
4. Taking into account that Engie referred to the author of the environmental impact assessment as "reputed and known for their knowledge and expertise in the field of business and human rights"; how does Engie explain that every single reference to the geographical location is wrong (referring to it as in Morocco, and not in Western Sahara), and that the legal chapter does not include a single reference to the fact that the project is located on occupied land, outside of the international borders of Morocco?
5. Why did Engie Africa on LinkedIn on 11 August 2023 claim that the windmills are going to be established in "Morocco", considering that they are not?
6. Will Engie delete the clearly incorrect social media post of 11 August 2023, or correct it so that it reflects the position of the UN, EU, African Union, International Court of Justice, the Court of Justice of the EU and the Government of France?
7. If you do not wish to delete it, is that because your legal opinion concludes in the same manner as your environmental study, namely that the project is located within the international borders of Morocco?
8. Can Engie confirm that the quotes from the Engie-Fisia contract mentioned above are in the final version of the contract? If yes, why does the contract state that the project is to be installed in Morocco, when it is not?
9. Taking into account that the environmental impact assessment (which Engie says is a serious document), the Fisia contract, and Engie's 11 August 2023 LinkedIn post, all state that the project takes place in Morocco; is that in line with the secret legal opinion which you have not yet published? If not, why is there a discrepancy between your contract with Fisia and your public information work on the one hand, and your legal advice on the other? If yes, how could your legal assessment - according to you having been written by reputable experts - fail to find out in which country the operation is being realised?

This letter to you will be posted on our website approximately 27 September. We welcome your response to our questions and will publish any reply on our website.

Looking forward to hearing from you,

Sincerely

Sara Eyckmans

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