

ENGIE SA

Att: Anaïs Suso, Head of Human rights, Duty of vigilance

1, place Samuel Champlain

Faubourg de l'Arche

92930 Paris La Défense

France

Brussels, 13.10.2023

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

Dear Ms Suso,

Thank you for your response on 28 September to our letter of 22 September, inquiring about Engie's desalination project in occupied Western Sahara.

We regret to note that our questions remain unanswered.

In addition, one particular paragraph in your response is of concern to us: "Also, as mentioned previously, ENGIE takes very seriously its role to ensure that at the operational level our activities do not infringe on the rights of the local stakeholders, it is not ENGIE's role to take political position. We remind you that for the considered project all relevant stakeholders, including of course local populations, have been consulted."

There are four elements in this short paragraph that are alarming:

1. In the particular case of Western Sahara, the primary concern is not so much about not infringing on the rights of "local stakeholders", but rather not infringing on the rights of the people of the territory. Western Sahara remains a territory that is largely under illegal, military occupation. The people of the territory have an internationally recognised right to self-determination, which includes the right to the resources of the territory. As pointed out by the EU Court of Justice and UN Treaty Bodies, their consent is thus required for any project to lawfully affect the territory. Their rights take precedence over those of "local stakeholders", which are overwhelmingly Moroccan settlers, and not people of the territory.
2. It is strange that Engie opines that it is not its role "to take a political position", when it is in fact doing exactly that: it knowingly enters into a contract with the Moroccan government for a project in a territory over which Morocco has no sovereignty or administering mandate - a project that is geared towards boosting the same agricultural sector in Dakhla that has been barred from exports to the EU by the EU Court of Justice (CJEU) because Morocco has no legal tie to the territory. Engie specifically refers to the territory as "Morocco", which is contrary to the position of the UN, the African Union, the International Court of Justice, the CJEU and the African Court of Peoples' and Human Rights. It is a highly political statement to claim to be operating in Morocco, when in fact you are not. Would Engie operate in Donetsk, refer to it as part of Russia, and qualify its involvement and position as non-political? The allegation that you are not a political player in the conflict, through your public statements and actions, is baffling.
3. "We remind you that for the considered project all relevant stakeholders, including of course local populations, have been consulted", your response reads. It follows from the Saharawi people's right to self-determination that they have the right to *consent*, which is a radically different concept than consulting. One can consult and take note of opinions, but proceed without taking them into consideration. That would not be possible if consent is to be required.
4. In the above quoted sentence, the reference to "local populations" is disquieting. The local population in Western Sahara today consists of a majority of Moroccan settlers who have permanently or temporarily relocated to the territory. However, they have no sovereign rights to the territory and its resources: that is the prerogative of the people of the territory, now a minority in their own land, with many living abroad (including in refugee camps) as a consequence of

Morocco's brutal invasion and occupation. A consultation of "local populations" in a case where the consent of the people is legally required, points to a fundamental misinterpretation of the situation in which Engie has decided to become involved.

We presume that these troublesome statements find their root in the studies that Engie has cited to us since April 2021, namely two legal analyses, a social and environmental impact study and a consultation "of local communities", all "carried out by external firms, reputed and known for their knowledge and expertise in the field of business and human rights." We have learned that the environmental impact assessment is written by BRL Ingenierie and that the social impact assessment is made by Global Diligence. Neither of these companies respond to key questions regarding the studies they have undertaken. The study of BRL Ingenierie, which we've published on our website, does not give the impression of even the smallest understanding of geography, let alone of the legal framework governing the territory.

Given the concerning and factually erroneous statements that Engie continues to make on its involvement in Western Sahara, we call on your company to immediately share these documents so that they are open for public scrutiny, not in the least by the people of Western Sahara.

This email will be posted on our website www.wsrw.org, together with any response you will give in the future, and the response that you already sent us on 28 September 2023.

Looking forward to hearing from you.

Sincerely

Sara Eyckmans

Coordinator, Western Sahara Resource Watch

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