

ENGIE SA

Att: Estelle Gabillet, Ethics, Compliance & Privacy Deputy Director

1, place Samuel Champlain

Faubourg de l'Arche

92930 Paris La Défense

France

Brussels, 17.05.2021

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

Dear Ms Gabillet,

Thank you for your email of 13 April 2021, elaborating on Engie's human rights approach.

Our concerns regarding the operation you plan to undertake in the occupied territory were elaborated on in our letters to you of 9 December 2020 and 3 February 2021. As this matter continues to be of importance for the people of Western Sahara, we have today published on our website (www.wsrw.org) our letter to you of 3 February 2021 as well as your response to us of 13 April 2021 and this letter of 12 May 2021.

We deeply regret that ENGIE does not wish to answer our questions, such as those relating to the legal status of the territory, the rights of the Saharawi people, the rights of Morocco to sign contracts with ENGIE for projects outside of its internationally recognised borders and the terms and methodology of the so-called 'stakeholder engagement process' undertaken by Global Diligence on the illegally occupied territory.

Western Sahara Resource Watch still invites ENGIE to respond to the questions sent in our above-mentioned letters.

Based on the mail that you sent to us on 13 April 2021, we have the following additional questions:

1. Based on what you write, we would assume that ENGIE will proceed with its plans to construct a desalination plant near Dakhla. Is that correct?

In your email, you state that "two legal analyses have been given by major law firms" in relation to the project.

2. Which law firms have produced the two legal analyses you mention?
3. How do these legal analyses consider the legal capacity of Morocco with regard to Western Sahara?
4. How do these legal analyses consider the legal capacity of Morocco to engage in contracts with private corporate entities, like ENGIE, for projects in Western Sahara?
5. How do these legal analyses assess the rights of the people of Western Sahara with regard to the territory? Is the right to self-determination and the Saharawi people's right to consent included in these analyses?

6. Will ENGIE make these opinions publicly available, including their terms of reference, as they touch upon a matter of public interest: undertaking business activities in a territory that has not completed the process of decolonisation? If not, why?
7. Will ENGIE share these opinions, including their terms of reference, with the representative of the people of Western Sahara, as recognised by the United Nations¹? If not, why?

We understand from your email that Global Diligence has finalized its so-called ‘stakeholder consultation’, regarding your engagement which seemingly has failed to fulfil the requirement of prior consent. We are surprised to learn this. To our knowledge the representation of the people of Western Sahara have not been contacted, nor have we heard of a single Saharawi association advocating self-determination to have been contacted regarding the matter. There is no mention anywhere online of the study, along with its terms of reference and findings, including on the site of Global Diligence and ENGIE.

8. Has Global Diligence visited occupied Western Sahara to undertake interviews “on site”, as you mention in your email?
9. Will Global Diligence’s study – including its terms of reference, methodology and list of interviewees – be made publicly available?
10. Will Global Diligence’s study – including its terms of reference, methodology and list of interviewees – be made available to the representative of the people of Western Sahara?

We take note of a recent and temporary statement about the Western Sahara operation - posted on 8 May 2021 and removed shortly after - on a website article describing your company’s overall human rights approach. The statement describes the following: ““For example, ENGIE is participating in a seawater desalination project for the irrigation of Dakhla, a city located in Western Sahara, a territory disputed by Morocco and the Polisario Front (an armed political party). In this sensitive context, ENGIE had recourse to a company, an international expert recognized at the UN level (GlobalDiligence), which assessed the impact of this project with regard to respect for the rights of local communities and the human rights of all stakeholders (consultations with NGOs representing different interests, Moroccan ministries, Sahrawi representatives from the province of Dakhla-Oued Ed-Dahab, etc.)”

11. Why does ENGIE describe the Polisario Front (which is recognised as the representative body of the Saharawi people e.g. in UNGA resolution 34/37) as “an armed political party”, but not Morocco?
12. What does ENGIE mean by referring to Global Diligence as ‘recognised at the UN level’?
13. What is the relevance of consulting Moroccan ministries for a project in a territory over which Morocco has no sovereignty?
14. Which “Sahrawi representatives from the province of Dakhla-Oued Ed-Dahab” have been consulted? On what basis have these people been selected for the alleged consultation process?

Finally, regarding your statement that “it is not our role to make decisions on general political considerations, but to ensure that at the operational level our activities do not infringe on the rights of potentially affected stakeholders”.

Undertaking a business activity with the government of Morocco in Western Sahara – a territory over which Morocco, according to the International Court of Justice and the EU Court of Justice, has no legal claim or mandate - is a highly political act. Engaging in a business activity with an authority whose presence in the territory where the activity is to be implemented is illegal, lends strength to the unfounded claim of that authority. It is not a neutral position, rather the opposite.

¹ Please see UNGA Resolution 34/37, §7, which refers to the “Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro”, or POLISARIO, as “the representative of the people of Western Sahara”.

The question before ENGIE is not that it should settle the conflict in Western Sahara: that is indeed not the role of your company. But it is a matter of corporate responsibility to not strengthen the position of the party to the conflict that is considered the aggressor, thereby complicating an already difficult peace process even further.

The reference on your website of 8 May 2021 has been posted in an article on our website today.

Nevertheless, we do thank you for engaging in dialogue, and we would be grateful for your answers to the questions above and to the questions in our previous letters. We look forward to your clarifications.

Sincerely

Sara Eyckmans

Coordinator, Western Sahara Resource Watch

coordinator@wsrw.org