

Enel Green Power

Att Salvatore Bernabei, Chief Executive Officer

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REGARDING ENEL GREEN POWER'S OPERATIONS IN WESTERN SAHARA

Dear Mr. Bernabei,

Western Sahara Resource Watch (WSRW) wishes to extend its compliments. We are writing to inquire about Enel Green Power's operations in Western Sahara, in view of a report that we are drafting on renewable projects in the territory. We would appreciate your input. A set of questions is included below, and we would be grateful to receive your responses by 30 September 2025 so that we can accurately reflect the company's position.

To our knowledge, Enel Green Power has two assets in occupied Western Sahara, both obtained through winning the tender for the Moroccan government's 850 MW Integrated Wind Energy Programme: the operational 300 MW Boujdour Wind Farm, and the still-to-be-constructed 100 MW Tiskrad Wind Farm. It is our understanding that both farms are held by Enel's 100% subsidiary Enel Green Power Morocco, through its joint-venture with the Moroccan king's energy firm Nareva, called "Nareva Enel Green Power Morocco" (NEGPM).

For context, we refer to our previous correspondence, which covers the legal, ethical and political problems that come with doing business in occupied Western Sahara. We will here suffice with outlining the legal developments that have occurred since, as they will be of relevance to an EU-based corporation. In October 2024, the EU Court of Justice issued rulings annulling the application of the EU-Morocco preferential trade and fisheries agreements in Western Sahara as the people of Western Sahara had not consented thereto, which constitutes a violation of the Saharawi people's right to self-determination. To the EU Court, the following points are now considered settled:

- The territory of Western Sahara constitutes a territory distinct from that of the Kingdom of Morocco.¹
- Morocco has no sovereignty² or administering mandate³ over Western Sahara.
- Consequently, the waters adjacent to Western Sahara cannot be regarded as part of the Moroccan fishing zone, territorial waters, exclusive economic zone, or any other notion used to describe Morocco's role vis-à-vis the waters off Western Sahara.⁴
- The people of Western Sahara are to be regarded as a third party to the EU's agreements with Morocco, and that as such, no agreement can affect their territory without their consent, as a corollary of the right to self-determination.⁵

¹ Judgment of 21 December 2016, EU:C:2016:973, §92, and reiterated in the Judgment of 27 February 2018, EU:C:2018:118, §62, Judgment of 4 October 2024,

EU:C:2024:833, §163, Judgment of 4 October 2024, EU:C:2024:839, §85 and Judgment of 4 October, EU:C:2024:835, §134

² Judgment of 10 December 2015, EU:T:2015:953, §241. Considered a settled matter in subsequent rulings.

³ "Account must also be taken of the fact that the Kingdom of Morocco does not have any mandate granted by the UN or by another international body for the administration of that territory, and it is common ground that it does not transmit to the UN information relating to that territory, such as those provided for by Article 73(e) of the UN Charter." Judgment of 10 December 2015, EU:T:2015:953, §233. Considered a settled matter in subsequent rulings.

⁴ Judgment of 27 February 2018, EU:C:2018:118, §67-85. Considered settled in subsequent rulings.

⁵ Judgment of 21 December 2016, EU:C:2016:973, §104. Reiterated and refined in subsequent rulings.

- The Court is clear that the right to consent resides with the people of Western Sahara, and not with the population of the territory.⁶ The Court stipulates that “a majority of the population of Western Sahara is not part of the people holding the right to self-determination, namely the people of Western Sahara. That people, which for the most part has been displaced, is the sole holder of the right to self-determination with regard to the territory of Western Sahara.”⁷ The Court adds that “there is a difference in that regard between the concept of the ‘population’ of a non-self-governing territory and of the ‘people’ of that territory. The latter refers to a political unit which holds the right to self-determination, whereas the concept of ‘population’ refers to the inhabitants of a territory.”⁸
- The Court has firmly established the position of Front Polisario, the UN-recognised representation of the people of Western Sahara to be able to bring cases before EU Courts on behalf of the Saharawi people, and that it has access to the Court to defend their right to self-determination.⁹
- In Case C-399/22, which specifically dealt with the labelling of products from Western Sahara, the Court again emphasised the separate and distinct status of the territory in relation to Morocco, and concluded that at the stages of import and sale to the consumer, the labelling of the goods from Western Sahara must indicate Western Sahara alone as the country of origin of those goods.¹⁰

We note that the 2024 Integrated Annual Report, published in April 2025, Enel Group dedicates a page and a half to the Boujdour Wind Farm as part of its Sustainability Statement. It reads that “through the Boujdour project, Enel also contributed to the sustainable and socioeconomic development of the area, with specific, concrete, substantial and verifiable benefits for, in particular, the Saharawis, who are the direct beneficiaries of the following initiatives”, followed by bullet-points on training and hiring; hiring local businesses; creating ad hoc infrastructure; water tanks for Saharawi nomadic camel drivers; food supply to the most vulnerable families; education and training programs for local schools; one annual scholarship for a local student; and a health facility for neighbouring schools.

The language used in this segments suggest that Enel is considering the principle of presumed consent in relation to its corporate involvement in Western Sahara, but is focusing only on the final step of that process. We wish to submit that the issue at stake in the EU Court of Justice rulings on Western Sahara is not about redistributing benefits - it is about first and foremost respecting the right to self-determination.

As such, in the current context of occupation, the application of presumed consent requires that the Moroccan government recognises the separate and distinct status of Western Sahara and the right of its people to self-determination – including their very right to exist as a people. Additionally, Morocco would need to accept that it can only have a limited administrative role in relation to projects in Western Sahara to safeguard the Saharawi people's rights, but cannot act in its sovereign capacity – which it does not have in relation to the territory.

This is not the current reality. Morocco does not recognise Western Sahara as a distinct territory and claims it as its “southern provinces.” Furthermore, it does not acknowledge the Saharawi people’s right to self-determination. Morocco will not assume a purely administrative role in line with the law of occupation. In this context, the idea that providing certain benefits to locals (noting that the Saharawis are a minority in Western Sahara today) somehow grants them rights or implies their consent as a third party is far from reality.

To date, Enel Green Power has operated in occupied Western Sahara through contracts with the Moroccan government, which has neither sovereignty nor an administering mandate over the territory. Enel Green Power co-owns the wind farms with the energy company that is owned by the Moroccan monarchy.

These projects risk reinforcing Morocco’s illegal occupation and exploitation of Western Sahara. In this context, the assertion that some initiatives have been set up to the benefit of, primarily, the Saharawis, is wholly inadequate. The people of Western Sahara have consistently opposed the participation of Enel Green Power in Morocco’s renewable energy projects on their occupied land.

We urge Enel Green Power to directly engage with the Saharawi people regarding any current and planned operations in Western Sahara, ensuring they do consent to projects and that these projects provide them specific, tangible, substantial and verifiable benefits, amounting to qualified advantages.

⁶ Judgment of 4 October 2024, EU:C:2024:833, §180-181. Judgment of 4 October 2024, EU:C:2024:835, §152-153.

⁷ Judgment of 4 October 2024, EU:C:2024:833, §157. Judgment of 4 October 2024, EU:C:2024:835, §128.

⁸ Judgment of 4 October 2024, EU:C:2024:833, §158. Judgment of 4 October 2024, EU:C:2024:835, §129.

⁹ Judgment of 4 October 2024, EU:C:2024:833, §96-138, Judgment of 4 October 2024, EU:C:2024:835, §70-109.

¹⁰ Judgment of 4 October 2024, EU:C:2024:839, §89.

In light of responsible business practices and adherence to international law, we request you to clarify how the company intends to ensure that its future decisions regarding Western Sahara comply with the legal requirement of obtaining the consent of the Saharawi people. Specifically, we would appreciate your response to the following questions:

1. Will Enel Green Power reconsider its involvement in projects that fail to meet the standards set by international law?
2. How does Enel Green Power plan to engage with the Polisario Front to secure the necessary consent for its operations in Western Sahara?
3. What is the current status of the Tiskrad wind farm? The project is rumoured to be shelved.¹¹ The wind farm is also not mentioned among the listed assets in Enel's most recent half-year financial report.¹² Can Enel confirm that the Tiskrad wind farm has been cancelled?

We remain hopeful that Enel Green Power will align its operations with international legal standards and ethical responsibilities. Thank you in advance for your consideration of our questions. We look forward to hearing from you.

Sincerely,

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¹¹ See e.g. <https://wattsupafrica.org/renewable-projects/tiskrad-wind-farm/> and [https://www.gem.wiki/Tiskrad_wind_farm#:~:text=Tiskrad%20wind%20farm%20\(Projet%20De%20Parc%20Eolien,wind%20farm%20in%20La%C3%A2youne%2C%20Tiskrad%2C%20Western%20Sahara.](https://www.gem.wiki/Tiskrad_wind_farm#:~:text=Tiskrad%20wind%20farm%20(Projet%20De%20Parc%20Eolien,wind%20farm%20in%20La%C3%A2youne%2C%20Tiskrad%2C%20Western%20Sahara.)

¹² Enel, 30.06.2025, Half-year financial report, https://www.enel.com/content/dam/enel-com/documenti/investitori/informazioni-finanziarie/2025/interim/en/half-year-financial-report_30june2025.pdf