

Unofficial translation from German by Western Sahara Resource Watch.

Questions to executive board at the AGM of Siemens Energy on 24 February 2022

- 1) Last year, Siemens Gamesa Renewable Energy (SGRE) – majority-owned by Siemens Energy – supplied wind turbines for the Boujdour wind farm in the war zone of Western Sahara, which has been occupied by Morocco in violation of international law. At the same time, the European General Court (EGC) annulled trade agreements between the EU and Morocco in its ruling of 29 September 2021, on the grounds that without the consent of the people of Western Sahara, they violate their right to self-determination. According to Siemens Energy, what relevance do the following key statements of the ruling have for its activities and those of its subsidiaries in Western Sahara, and how do you justify this?
 - a) Western Sahara has a status that is separate and distinct from Morocco, and the people of Western Sahara are granted the right to self-determination [T-279/19, ECLI:EU:T:2021:639, Rn. 301 bzw. Rn. 92]
 - b) The inclusion of Western Sahara in economic agreements requires the consent of the people of Western Sahara [T-279/19, ECLI:EU:T:2021:639, Rn. 194]
 - c) The consent of the people of Western Sahara cannot be replaced by that of the local (mostly Moroccan) population [T-279/19, ECLI:EU:T:2021:639, Rn. 337 und 371]
 - d) The Polisario Front is the recognised representative of the people of Western Sahara in the context of the trade and fisheries agreements [T-279/19, ECLI:EU:T:2021:639, Rn. 108]
 - 2) Have Siemens Energy or its subsidiaries obtained the consent of the people of Western Sahara through its ECJ- and UN-recognised representative Polisario Front for the supply, installation, commissioning and maintenance of the aforementioned wind farm?
- Furthermore, we would like to request clarification on issues arising in relation to statements made by Siemens Energy at the 2021 AGM:
- 3) “SGRE engaged with Sahrawi representatives present in the region. Siemens Gamesa Renewable Energy has not held talks with political representatives outside the government. It is not SGRE's role to engage in political debates and seek political approval for the wind farm project”
 - a) Which Sahrawi representatives does the above statement refer to?
 - b) Even in the context of the abovementioned ECJ ruling, is Siemens Energy, or SGRE, of the opinion that it needs to contact only the authorities of the Moroccan occupying power with regard to its activities, and that there is no need to obtain the consent of the people of Western Sahara?
 - 4) “We are determined to continue and monitor developments in the field of human rights”
 - a) On the basis of which sources, apart from Moroccan authorities, does Siemens Energy monitor human rights in Western Sahara?
 - b) To what extent does Siemens Energy consider statements made by state authorities of the occupying power Morocco to be credible and neutral?

- 5) "In terms of the peoples' right to self-determination, the installation and operation of a wind farm does not prevent the local population from enjoying this right (...)".
 - a) The ECJ emphasised the need for the agreements to be approved by the people of Western Sahara, not the "local population," most of whom do not belong to the people of Western Sahara. Why does Siemens Energy refer to the local population?
 - b) According to the aforementioned ECJ ruling, "the agreement at issue raises not only trade or customs questions but also a specific territorial question" and states that for these agreements the representation of the Sahrawi people by the Polisario Front is necessary in order to safeguard that people's right to self-determination [T-279/19, ECLI:EU:T:2021:639, Rn. 207]. According to Siemens Energy, why is this not necessary for a wind farm project?
- 6) "The external legal opinion reviewed in February 2020, in line with Siemens Gamesa Renewable Energy's commitment to the UN Guiding Principles on Business and Human Rights and the OECD Guiding Principles, reaffirmed SGRE's position on the compliance of its activities in Western Sahara with applicable law".
 - a) Will Siemens Energy make this legal assessment available to its shareholders? If not, why?
 - b) Who prepared this legal assessment?
 - c) What does Siemens Energy consider to be the "applicable law"?

Answers of the executive board at the AGM of Siemens Energy on 24 February 2022

We are aware that the territory of Western Sahara is disputed. Siemens Energy and SGRE have no mandate to take a political position on such issues or to confirm any territorial status. These matters are the responsibility of governments and international organizations. SGRE's participation in the construction of a wind farm project does not constitute an act of recognition of the Western Sahara region as part of Moroccan territory. This situation requires a political solution, involving governments and not companies. For the private companies involved, valid contracts must always be complied with, especially since the contracts were concluded by SGRE with legal effect. An external report has confirmed the legality of SGRE's activities in Western Sahara.

As a matter of principle, Siemens Energy conducts human rights due diligence on its projects. This is mandatory in the sales phase for projects that meet defined risk criteria. For this purpose, Siemens Energy relies on external ESG databases. The results of the due diligence are also essential for the decision-making processes in the individual projects.

Siemens Energy and SGRE have taken note of the ruling of the General Court of the European Union of 29 September 2021. This ruling does not directly concern the question of the legality of contracts under private law. Irrespective of this, the final outcome of the proceedings must be awaited in order to derive any conclusions for future actions of private companies. In addition, SGRE strives to make a local contribution and follows the premise for its projects of hiring local workers, whenever possible. For example, for the construction of Tarfaya north of Western Sahara, 30% of workers were Saharawis; likewise, at Aftissat, 40% of the total workforce were Saharawis. SGRE has partnered with the NGOs High Atlas Foundation and Santé Sud on local programmes focused on water access, local health and education projects.