

Presentations by Hassana Aalia, Nayua Jatri Aduh and Jesús Garay at Siemens Gamesa AGM, 24 March 2022

Hassana Aalia

My name is Hassana Aalia. I come from the occupied part of Western Sahara. In 2010, I took part in a mass protest over Morocco's continued denial of basic human rights of our people: the Gdeim Izik protest. As Morocco arrested hundreds of Saharawis in the aftermath, Together with a group of 25 known human rights activists, I was sentenced *in absentia* to lifetime in jail by a Moroccan military court in 2013, for having taken part in that peaceful protest at the beginning of the Arab Spring in 2010. After that, I obtained political asylum in Spain. My fellow activists remain imprisoned to this very day. Their circumstances are dire: they are exposed to torture, inhumane and degrading treatment. Their predicament has been covered by many human rights NGOs, including Amnesty International, Human Rights Watch and Frontline Defenders, but also by the United Nations Working Group on Arbitrary Detention, Special Rapporteur on Freedom of Expression, Special Rapporteur on the Independence of Judges and Lawyers and the Special Rapporteur on Torture, and recently by the Special Rapporteur on the situation of human rights defenders.

To me, it is incomprehensible how a company like Siemens Gamesa, can take part in Morocco's attempts to cement its occupation of my homeland, and even claim that your projects are somehow to our benefit - that is not for Siemens Gamesa to decide. Siemens Gamesa has just as little right as Morocco has to speak in the name of Saharawis, of what we need and want. Our people has time and again explained that we oppose Morocco's energy projects in our land - in which you knowingly participate. When we protest, we get harassed, arrested, tortured, thrown in jail for years. You look the other way. You do business with an occupying regime at our expense. The projects you are supporting, are making it harder and harder for Morocco to finally drop its unfounded claim on our land. If anything, Morocco feels emboldened to continue brutally oppressing our legitimate and peaceful struggle for our right to self-determination and freedom.

In 2021, Siemens Gamesa Renewable Energy (SGRE) will supplied windmills for the 300 MW Boujdour Wind Park in the part of Western Sahara that is occupied by Marruecos. An area that, in addition, is currently at war.

This is a flagrant violation of international law. In parallel, the General Court of the European Union, in its judgment of 29 September 2021 regarding trade agreements between the EU and Morocco, considered that without the express consent of the people of Western Sahara, such agreement are in violation of self-determination.

In the initiative "Westernn Sahara not for sale" (WSNS) was luanchd by more than 120 Saharawi civil society organizations, from the occupied territories, the refugee camps and the diaspora and supported by more than 150 International organizations, to demand foreign companies to stop exploiting our resources and contributing to the colonial occupation of Morocco in our country. Taking into account that none of these organizations have been contacted by Siemens Gamesa Renewable Energy to obtain their permit, or simply their

opinion on SGRE projects in the Western Sahara, did Siemens Gamesa obtain the consent of the people of Western Sahara via its representative – recognised as such by the ECJ and the UN – Frente Polisario, for the supply, the installation, the start-up and maintenance of the mentioned wind park? And if not, why do you continue your activities in contravention of international law and the rulings of the European Court of Justice?

Thank you very much.

Nayua Jatri Aduh

My name is Nayua Jatri Aduh. I am a Saharawi who was born in Basque Country due to the exile that my people has been suffering for 46 years. Like myself, more than half of the original people of Western Sahara live in refugee camps or in exile. We have been residing there since Morocco invaded our country. It angers us to see Siemens Gamesa operating in our homeland. We have not granted any permission to Siemens Gamesa to be there. Maybe you present here today have seen pictures of the times we have demonstrated against the company, or even a protest today at the doors of this same AGM. So far both Siemens Gamesa and Siemens Energy's only response has been silence.

- Siemens Gamesa and Siemens Energy have always completely avoided questions about the Saharawi consent.
- Siemens Energy stated at its general assembly in 2022 that its "*participation in the construction of a wind farm project does not constitute an act of recognition of the Western Sahara region as part of the Moroccan territory*". Western Sahara is not 'a region': it is a non-self-governing territory and, according to the UN, Spain remains the administering power, even though the Spanish government refuses to fulfill its obligations. Still in 2020, Siemens Gamesa referred to the location of its projects as "*Morocco*".
- Siemens Energy, SGRE's parent company, stresses that "*this situation requires a political solution, involving governments and not companies*". The Saharawis agree. But no one has asked Siemens to solve the Western Sahara conflict, but to stop complicating things by participating in infrastructure projects with the occupying power.
- Siemens Energy refers to "*valid contracts*" that were "*concluded with legal effect*". However, neither Siemens Energy nor Siemens Gamesa have explained what legal framework in their view applies to these contracts.
- Since 2020, and again at this general meeting, Siemens refers to an "*external report*" that allegedly "*has confirmed the legality of SGRE's activities in Western Sahara*". The company does not share the name of the authors of the report, nor the document itself, even with shareholders, to allow for public scrutiny.
- Siemens Energy stresses that they provide benefits to the local population. It should be recalled that the CJEU considers this argument **irrelevant**. Siemens Energy now refers to the partnership with two Moroccan NGOs.
- As late as in 2022, a new article appeared on Siemens Gamesa's website, called Forests of Boujdour.
<https://socialcommitment.siemensgamesa.com/event/forests-boujdour> : "We

are launching the Forests of Siemens Gamesa worldwide as part of our Social Commitment efforts to support reaching the Sustainable Development Goals within the UN's Agenda 2030 for a better planet. With this Forests we planted 808 trees in Boujdour, Morocco with our partner HAF following our goal to create the Forests of Siemens Gamesa all over the world."

My people is not interested in your partnership with a Moroccan organizations to spread propaganda that my country is in fact part of Morocco.

Last year, the European General Court (CJEU) 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 Gamesa, what relevance do the following key statements of the ruling have for its activities in Western Sahara, and how do you justify this?

- a) *Western Sahara is separate and distinct from Morocco, and the people of Western Sahara are granted the right to self-determination [T-279/19, CLI: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 thee context of the trade and fisheries agreements [T-279/19, ECLI:EU:T:2021:639, Rn. 108]*

Jesús Garay

When Siemens Gamesa announced its project in Boujdour, Western Sahara, in 2020, the company called the project location "South Morocco". Already in 2022, new articles have been published on the company's website calling the location "Morocco". This is exactly the same designation that Siemens AG used when it started operations in Western Sahara in 2012. This language illustrates a totally unacceptable ignorance of the most basic international law. The territory of Western Sahara is not part of Morocco. That is what the international courts have established.

Western Sahara is a non-self-governing territory, that is, pending decolonization and whose population has a recognized right to self-determination. The principle of self-determination means that only the Saharawi people have the right to decide matters relating to the territory. This has, moreover, been clearly established by the EU Court of Justice.

What do Siemens Gamesa or Siemens Energy have to say about this? At its 2021 Annual General Meeting of Shareholders, Siemens Energy stated: "*Siemens Gamesa Renewable Energy has not held discussions with political representatives outside the Government. It is not its role to engage in political discussions and seek political approval for the wind farm project.*" <https://wsrw.org/en/news/siemens-energy-only-relates-to-morocco-in-western-sahara>.

Which government is involved? Siemens Energy does not want to clarify. But what is certain is that the only approval Siemens Gamesa has for its projects in Western Sahara is that of the Moroccan government.

Siemens Gamesa also claims that its projects benefit the local population, and that this has been verified by Moroccan associations.

Perhaps we see Siemens Gamesa's unwillingness to respect the most basic legal and ethical principles more clearly if we draw a parallel with Ukraine.

Let's imagine that Siemens Gamesa had called the Ukrainian region of Donbass "Western Russia". Let's imagine that the company had referred to all of Ukraine as a "region." Let's imagine that the company had signed an agreement with the Russian government on occupied Ukrainian land, to carry out projects with a company owned by President Putin's energy company. Imagine that Siemens Gamesa claimed that Russian groups that openly claim to support the Russian government were consulted to clarify how the local population benefits. Imagine if Siemens Gamesa proudly announced on its website that it was fighting climate change by planting trees in Russia, when in fact the projects were not in Russia. Imagine Siemens Gamesa claiming to have consulted on the legality of these operations, but refusing to share them and clarify what legality it is referring to. Imagine Siemens Gamesa ignoring all the appeals from imprisoned human rights defenders and the thousands of people forced to flee their homes.

Unfortunately, this is not a hypothetical parallel. Siemens Gamesa's approach to Western Sahara is deeply provocative, humiliating, aggressive, to the victims of the conflict. In Siemens Gamesa's writings and reports the very existence of the territory is erased. Yet today we will have the opportunity to listen to two young people from Western Sahara accompanying us.

While the Court of Justice of the European Union annulled, in a judgment of 29 September 2021, the trade agreements between the EU and Morocco on the grounds that the lack of express consent of the people of Western Sahara to the realization of these agreements violates their right to self-determination, Siemens Gamesa (SGRE) continued to provide turbines for the 300 MW wind farm in the Boujdour region, Western Sahara, a declared war zone, after the breakdown of the ceasefire in November 2020.

Western Sahara Resource Watch is deeply concerned about the way Siemens Gamesa is breaching international law in Western Sahara.

Western Sahara Resource Watch calls on Siemens Gamesa management to clarify the laws of which country the company claims it is complying with when operating in the occupied part of the Non-Self-Governing Territory of Western Sahara, and to explain why it is applying the laws of that country.

In addition,

- 1) Siemens Gamesa has referred on several occasions to a "*revised external legal opinion in February 2020*" that would have "*reaffirmed SGRE's position on the compliance of its activities in Western Sahara with the applicable law*".
 - a) Will Siemens Gamesa make this legal opinion available to the public, including the people of Western Sahara? If not, why no
 - b) Can Siemens Gamesa explain what legal framework it refers to by "applicable law"?
 - c) Who is the author of the legal opinion?

2) Siemens Gamesa informed WSRW in September 2021 that "*we closely follow the progress and development of the region together with our customers and key stakeholders*".

- a) Who are "key stakeholders"?
- b) What credibility do customers and those stakeholders have to report on the situation?

3) Siemens Gamesa informed WSRW that "*As regards the right of self-determination of peoples, the installation and operation of a wind farm does not prevent the local population from enjoying this right (...)*".

- a) The CJEU has stressed the need for commercial agreements to be approved by the people of Western Sahara, not by the "local population", most of whom do not belong to the people of Western Sahara. Why does Siemens Gamesa refer to the local population?
- b) According to the above-mentioned ECJ judgment, "*the agreement in question raises not only trade or customs issues, but also a specific territorial issue*" and states that representation of the Saharawi people by the Polisario Front is necessary for such agreements in order to safeguard that people's right to self-determination [T-279/19, ECLI:EU:T:2021:639, Rn. 207]. why, for Siemens Gamesa, is this not necessary for a wind farm project?

c) Which body of law, according to SGRE, establishes that it is the "*population*" of a non-self-governing territory that holds the right of self-determination of the people of that same territory?

d) If SGRE agrees that it is the people of the non-self-governing territory who have the right to self-determination, why does it argue by referring to the population of a non-self-governing territory who are mainly Moroccan settlers?

4) Siemens Gamesa states that it supports the position of the UN "*which has consistently called on the parties involved to reach a mutually acceptable political solution*". Can SGRE explain how entering into commercial agreements with a company owned by one of the parties to the conflict - for the development of infrastructure in the conflict zone - helps to encourage that party to find a solution?