



Dear Business and Human Rights Resource Centre,

thank you for having reached out to us on the subject matter of your publication, on August 16, in your newsletter of the report *'Por el mar y la tierra guajiros vuela el viento Wayuu: En alerta la Püloui y Waneetu'unai, por el asedio de las multinacionales eólicas en territorio Wayuu'* that includes mentions of Enel and its renewable projects development activities in the region of *'La Guajira'*.

The most relevant mention is in correlation to the *Windpeshi wind farm project*" (hereinafter "**Windpeshi**"), even though the report also names other four projects (Tumawind, Chemesky, Castilletes and Florguajira).

The latter, jointly with another project named by other media sources (i.e., Topia), were included in the so-called 'pipeline' of development, a list of potential projects which never made it to the formal allocation of capital and which were not therefore developed.

In the first place, we'd like to point out that – as you may be aware – on May 24, 2023 Enel has announced the suspension, for an indefinite period of time, of the construction of Windpeshi. This circumstance mainly implies the interruption of all the construction works other than those that are strictly necessary for the fulfillment of the project's social and environmental commitments.

The decision was taken by the Board of Directors of Enel Colombia given the impossibility of guaranteeing the construction pace of the project. Despite the constant dialogue and consultation with the local communities, the works were indeed halted for about 50% of working days during 2021 and 2022, and 60% in 2023 (up to the date of announcement of the suspension).

The decision, as mentioned in the dedicated press release of Enel Colombia, of May 24<sup>th</sup>, 2023, *"was taken after rigorous analysis and feasibility studies which led to the conclusion that it is not possible for the Company to continue with the construction of Windpeshi"* since *"projects need to be sustainable not only socially but also economically, and their success depends on businesses, institutions and communities working together"*. We also stated that *"we will continue to engage with communities and stakeholders to address the implications of this decision"*.

To get more in detail, in addition to the resources associated with prior consultation commitments, more than \$7.1 billion pesos have been invested in projects related to quality education, access to water and economic development.

Enel will evaluate the sale of the project and is open to cooperate with the National Government or any interested companies for the purpose of facilitating them in continuing with the construction of Windpeshi.

With respect to a few key points of the broader allegations, we believe it is important to highlight what follows:

### **Alleged cause of events - Local communities' consultation process**



The events illustrated, though regretful, are not the result of a lack of implementation of the requirements defined by the main international reference standards. Indeed, in line with the United Nations Guiding Principles on Business and human rights and by the OECD Due Diligence Guidance for Responsible Business Conduct, Enel runs context analysis and engages stakeholders in the area of influence with the aim of:

- identifying stakeholders within the area of influence;
- verifying that the stakeholders identified ensure representation of all groups potentially affected;
- providing common guidelines for those responsible for managing stakeholder consultation processes to achieve and implement a robust engagement procedure;
- guaranteeing that the consultation process satisfies specific conditions of quality, such as being free, preventive, inclusive, adapted to the local context, bidirectional and well documented, in line with international reference standards;
- share all the information about the project that is relevant for the concerned stakeholders in order to promote transparent and collaborative relationships so as to feed the views of affected stakeholders in the identification, prevention and mitigation of potential impacts;
- facilitate and support engaging local communities in project monitoring through local training, sharing transparent information on project phases and the methodology for defining target areas;
- provide an access channel, characterized according to the context, for any reports from people who need to contact us, based on tools and means available at the site, such as local teams or specific people, toll-free numbers, the internet, or, in the case of isolated rural communities, even local leaders willing to collect all possible complaints periodically.

Moreover, Enel Human rights policy codifies, amongst other, the Group's commitment to respect the rights of communities and of vulnerable groups, including indigenous and tribal peoples, in line with the ILO Convention n. 169.

In the case of Windpeshi, the presence of indigenous peoples in the area of influence also entails that such activity has to follow a specific process regulated by the Colombian authorities and aimed at ensuring that the rights of indigenous peoples are respected.

Such process involves the directorate of the Ministry of the Interior national prior consultation authority that is responsible for determining whether a community is subject (or not) to prior consultation, and that guides, directs and coordinates the exercise of the right to preliminary consultation, through appropriate procedures, ensuring the participation of the communities through their representative institutions. The directorate establishes differentiated guidelines, methodologies, protocols and tools to carry out prior consultation processes, in accordance with the relevant legislation<sup>1</sup>.

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<sup>1</sup> <https://www.mininterior.gov.co/proceso-de-consuta-previa/>; (<https://www.mininterior.gov.co/direccion-de-autoridad-nacional-y-consulta-previa/>).



The Ministry of Interior is the third-party present at the meetings that are documented through minutes signed by the company, the ministry and the representatives of the communities. The Ministry of interior is also in charge of setting up follow-up meetings during which it goes through the list of planned actions to verify progress according to the schedule agreed during consultation.

Documentation about progress on the projects agreed with the communities, planning and prioritization of resources, yearly update of the population census of the certified communities are a fundamental and transparent way to make sure rights of communities are respected. In no case has Enel been involved in forced displacement. The Company has always been and will always be respectful of the communities settled in the territories where it carries out activities and rejects any form of violation of human rights.

As for the Jawou community, the latter is not located in the territory where the Windpeshi project would have been developed and was not certified as a community potentially affected by its development by the competent authority (Directorate of the National Authority for Prior Consultation).

### **Change in the original wind turbine model**

The report complains about the modification of the wind turbines installed on the plant and on the lack of involvement of the community in such modification. Despite the circumstance that the wind turbines ultimately installed were not the ones originally planned, and that changes in the layout of the projects during the development phase are quite standard, the communities in the area of influence of Windpeshi were informed about the new (and improved) features of the new turbines to be installed (with shorter towers and blades) during a meeting held in February 2021 – prior to the commencement of construction of the wind farm – which was aimed at illustrating the updated contents of the environmental license.

### **Avifauna**

For the licensing process of the wind farm, the avifauna baseline was carried out in the years 2016, 2018 and 2019. In the last year, 4 avifauna campaigns were carried out, considering different migration seasons and management measures were proposed based on the information collected in these monitoring periods.

### **Water use**

As far as the use of water for the construction of the access road, such needs have been met through a company in Manaure holding the permits (Dimar and Corpoguajira) for the sale and marketing of brackish water. The water was taken from the only storage point in Uribia that receives water from the company in Manaure. The company and its contractors did not use other water extraction points in La Guajira.

### **Overlays of Windpeshi with other wind farms**

Overlays frequently occur in infrastructure projects and are specifically referred to by the authority in charge in the environmental licensing process which requires that the companies involved develop and sign specific coexistence agreements.



**Luciano Tommasi**  
General Manager Enel  
Colombia & Central America

As a final remark, we are fully aware that responsible business conduct goes through respecting human rights and that is why we embarked as early as 2013, two years after the publication of Prof. Ruggie's testimony through the United Nations Guiding Principles on business and human rights, in taking a public commitment at the highest governance level through our Human Rights policy (approved by the Board of Directors).

Taking a public commitment, despite the voluntary nature of application of the above principles, implies setting up a corporate due diligence process, which, following what the above guidelines and the OECD guidelines for multinational enterprises mandate, translates into human rights management system aimed at identifying if the Human Rights principles are properly embedded into internal operating policies or if there are any gaps and therefore improvement actions need to be put in place, since the logic in the human rights domain is one of a 'continuous improvement'.

Sincerely,

**Luciano Tommasi**  
General Manager Enel  
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