

# Energy Charter Treaty Secretariat Fact Filing Report for Energy Charter Stakeholders

## on Grave Misconduct by Secretary-General Guy Lentz (Luxembourg) and Deputy-Secretary-General Atsuko Hirose (Japan) since the commencement of their appointments

This reports and its annexes exposes grave misconduct which has been taking place at the Energy Charter Secretariat since Mr Guy Lentz was placed by the EU as the Organisation's Secretary General on 1 January 2022, and Ms Atsuko Hirose placed by Japan as the Deputy Secretary General on 15 September 2021. Since the time of their joint appointments, the Secretariat has become engulfed in fierce disputes which has created a malicious and toxic workplace environment unfit for any sane person to be employed at. The once important international energy security organisation established largely by the EU to prevent disputes between investors and governments in the energy sector, has itself degenerated into a hotbed of workplace conflict never before seen at any international organisation.

Multiple forms of harassment, blackmail and intimidation of staff have become a pervasive practice at the organisation since the appointments of Mr Lentz and Ms Hirose. Arbitrary termination of employment, in breach of the Secretariat's rules and procedures, has become so common that the number of lawsuits against the Organisation has skyrocketed during the last year and a half. It is now a real possibility that during the next few years the total amount of compensation paid to mistreated Secretariat staff will eclipse the annual budget of the Organisation. This will pose a challenge to the Energy Charter Secretariat's very survival, not to mention the damage that this is already causing to the credibility of its member countries. As the EU prepares to pull out from the Energy Charter Treaty, the task of cleaning up the enormous mess created by Mr Lentz and Ms Hirose at the Energy Charter Secretariat will be inherited by the remaining member countries of the Treaty, including the present Jordanian Chairmanship of the Organisation.

This report has been prepared by diligent professionals who have worked at the Energy Charter Secretariat for many, many years and who have also worked closely with Mr Lentz and Ms Hirose. The report can be received by its readership as a form of whistleblowing, but its core objective remains to expose – in a factual and structural manner – the damage caused to the Energy Charter Secretariat as an organisation, including the scale of the monetary and reputational damage, by Mr Lentz and Ms Hirose. The report aims to clearly

illustrate to all Energy Charter stakeholders, including civil society and appropriate justice authorities, both the severity and the degree of the misconduct in which Mr Lentz and Ms Hirose have engaged since the commencement of their appointments at the end of 2021 – beginning of 2022.

However, only a proper and full investigation by the relevant justice authorities in Energy Charter Treaty member countries will reveal the full scale of misconduct, including its motivations. Since the next 5-Year Review of the Energy Charter Treaty under Article 34(7) is due in 2024, the authors of the report heavily recommend that a full and proper investigation into the misconduct as set out in this report is commenced without delay. What is currently taking place at the Energy Charter Secretariat is totally outrageous and simply unacceptable for an international public organisation operating in the heart of the EU, as the reader of the report will discover as they peruse through the ensuing pages.

## 1. The Energy Charter Treaty Secretariat is the most dispute-ridden International Organisation in the World

- **[?]** The Energy Charter Treaty (ECT) is widely and rightly labelled in the media as the most litigated international investment treaty in the world. As of 1 May 2023, 158 cases were brought to international arbitration tribunals by investors in the energy sector on the basis of the ECT, according to the website of the Energy Charter Secretariat<sup>1</sup>.
- **[?]** There are billions of Euros in unsettled ECT cases still pending in the courts, excluding the EUR 40 billion YUKOS case, which was the largest award in the history of international arbitration.
- **[?]** Most ECT cases are made by European investors against governments from the EU member states, which is leading to a collective withdrawal of the EU from the ECT.
- **[?]** Something much less known is that the Energy Charter Secretariat, the Brussels-based public body responsible for administering the ECT, is itself bogged down in multiple disputes between staff members and the management of the Organisation.
- **[?]** The disproportionately high number of disputes, which is eating into the budget of the Secretariat, threatens the very existence of the

organisation. For example, in January 2023, the Secretariat was ordered by the courts to pay more than EUR 150,000 following an arbitration case which went against the organisation<sup>2</sup>. On top of that, the Secretariat paid more than EUR 83,000 in administrative costs related to these disputes.

- [?] Disputes at the Secretariat result predominantly from harassment taking place in the workplace, contentious termination of employment contracts and other forms of misconduct or alleged breaches of rules and procedures by the management of the organisation.
- [?] Disputes taking place at the Secretariat are not judged in national courts, but rather at the Administrative Tribunal of the International Labour Organisation (ILOAT), which is based in Geneva. The ILOAT deals with disputes taking place at International Organisations (IOs) and is the competent source of legal authority deciding on the outcomes of such disputes.
- [?] Recent research shows that the Energy Charter Secretariat has the highest rate of ILOAT cases per member of staff across 42 international Organisations (IOs), such as WTO, WHO etc. As it stands, a Staff Member of the Energy Charter submits their complaints to the ILOAT 12 times more often than in other organisations (See Annex A).
- [?] Research also shows that almost every second employee of the Energy Charter Secretariat has sought justice by taking legal action in the ILOAT due to suffering some form of mistreatment by the management of the Secretariat (See Annex A).
- [?] Mistreatment predominantly includes contentious termination of employment and/or workplace harassment.
- [?] The Energy Charter Secretariat has the highest rate of workplace absenteeism due to burnout and harassment than any IO. More than half of the staff of the Secretariat (24 people) were reportedly on long-term medical leave due to stress or burnout in 2023.

<sup>1</sup> <https://www.energychartertreaty.org/cases/staffs/cases/>

<sup>2</sup> [https://www.ilo.org/dyn/triblex/triblexmain.showList?p\\_lang=en&p\\_org\\_id=11](https://www.ilo.org/dyn/triblex/triblexmain.showList?p_lang=en&p_org_id=11)

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☐ One Secretariat staff member recently undertook complex heart surgery whilst on medical leave resulting from stress at the workplace. Another staff member was on sick leave for approximately 10 months before her contract was terminated. Prior to the termination of the woman's contract, she provided the Secretariat's management with a medical certificate prohibiting her from returning to work since the poisonous atmosphere at the organisation would have a highly adverse effect on her health.

## 2. Something has gone terribly wrong: why are there so many disputes at the Energy Charter Secretariat ?

- ☐ As of 7 September 2023, there were seven lawsuits in the ILOAT submitted against the Energy Charter Secretariat by its staff due to mistreatment by the management of the organisation (See Annex B). These cases currently await judgement in the ILOAT.
- ☐ There were another ten cases submitted against the Organisation during 2017-2021, where judgement was already pronounced. For comparison, there were only three cases against the Organisation during 2005-2010.
- ☐ Awards (compensation paid to the complainant) against the Secretariat as well as administrative fees of the tribunal payable by the Secretariat totalled more than EUR 800,000 during 2006-2023 (See Annex C).
- ☐ During late 2021 into early 2022, the Management of the Energy Charter Secretariat changed. Mr Guy Lentz (1 January 2022) and Ms Atusko Hirose (15 September 2021) were appointed as Secretary General and Deputy Secretary General respectively.
- ☐ Eight new complaints have been brought against the organisation in the ILOAT since the appointments of Mr Lentz and Ms Hirose to their executive positions.
- ☐ As the first new complaint was submitted to the ILOAT in the spring of 2022, this means that almost one new complaint is being submitted every two months since the appointment of Mr Lentz and Ms Hirose.

- [?] These complaints were submitted against the Organisation due to disputed termination of employment contract or because of harassment of staff by Mr Lentz and/or Ms Hirose.
- [?] They were also submitted due to Mr Lentz's and Ms Hirose's refusal to settle disputes amicably, leaving the mistreated staff members no choice but to resort to arbitration proceedings in the ILOAT.
- [?] The numbers of new complaints submitted by Secretariat staff against the organisation are only set to rise in the near term. In June 2023, the Secretary- General, Mr Lentz, terminated the employment contracts of the entire body of staff of the Secretariat (except for himself, Ms Hirose and several compliant staff members assisting them in the termination process of their colleagues)
- [?] Many of the Secretariat's staff are already challenging Mr Lentz's termination decision and further complaints against the Organisation in the ILOAT will almost certainly be submitted in the foreseeable future.

### 3. Secretary General - Guy Lentz - responsible for up to EUR 1 million in compensation payouts to mistreated Secretariat staff

- [?] The Secretary General, Mr Lentz, has played a special role in the large number of ILOAT complaints submitted against the Energy Charter. During 2019, while Mr Lentz was the Delegate of Luxembourg to the Energy Charter Conference, he actively promoted a highly scandalous report filled with malicious allegations against Secretariat officials, which was leaked to the media. The report was prepared by disgruntled former Secretariat officials who left the Secretariat during 2017-19.
- [?] Mr Lentz demanded that an investigation of the Secretariat take place based on the allegations contained in the leaked report. He courted the former-officials, who had submitted complaints against the Secretariat to the ILOAT. Mr Lentz then drew up a list of serving Secretariat officials to be singled out for 'special treatment/retaliation' during the investigation (See Annexes D, Di, Dii). The investigation took place in October 2019 in the form of a public audit, caused substantial stress for the organisation and

was led by Mr Lentz himself (See Annexes D, Di, Dii).

- [?] It is therefore quite probable that following his appointment as Secretary General, Mr Lentz never had the intention to manage the Secretariat in good faith, or to lead the organisation based on its program of work. Rather, there is every likelihood that his main purpose in becoming Secretary General was to assume a role where he would have executive power in order to terminate all Secretariat officials singled out for special treatment on the list from October 2019, submitted to him by disgruntled former-Secretariat officials.
- [?] While his motivations for the terminations are yet to be identified, it is undeniable that there is an evident correlation between Mr Lentz's involvement in the investigation of the Secretariat in October 2019, his termination of the entire staff of the Secretariat during 2022-23, and the spiralling number of ILOAT complaints submitted against the Organisation.
- [?] Indeed, it is quite probable that he may have encouraged some officials of the Secretariat to submit complaints to the ILOAT against the Organisation before he became Secretary General. He may have done this in order to add weight to the allegations contained in the scandalous leaked media report and to provide him with an opportunity to audit the Secretariat.
- [?] It is therefore quite likely that Mr Lentz is not only responsible for all new eight ILOAT complaints submitted against the Secretariat after he became the Secretary-General, but at least another five cases before he assumed the role – a total of 13 cases all in all.
- [?] It is estimated that the organisation will be liable to pay more than EUR 700,000, including EUR 500,000 to claimants following the pronouncement of the judgments in this cases and more than EUR 200,000 to the ILOAT procedural costs. Needless to say, this is all public money which is being spent as a result of the court cases against the Secretariat.
- [?] In short, Mr Lentz's behaviour may be directly responsible for nearly 1 million EUROS in tax payers' money being paid to settle claims and for the

administrative costs of tribunals. This amount is likely to be greater than the entire budget of the Energy Charter Secretariat for 2024.

- [?] Moreover, Mr Lentz continued to refuse any amicable settlements with the claimant staff of the Organisation, whilst he also misled and tricked some staff with false promises.
- [?] Following his termination of the contracts of the remaining Secretariat Official in June 2023, he took long-term medical leave himself, until the beginning of November 2023.
- [?] He has continued to receive a salary and compensation package valued at around EUR 15,000 per month during his medical leave. He also continued to use the Organisation's official car while on medical leave, which was recently involved in an accident resulting in a EUR 35,000 insurance payout.

#### 4. Harassment cover up – changing the Chair of the Advisory Board to protect Deputy-Secretary General Atsuko Hirose from probable dismissal

- [?] During November 2022-January 2023, Mr Lentz made great efforts to change the Chair of the Secretariat's Advisory Board. The Advisory Board is the Secretariat's internal body mandated to resolve disputes within the organisation, including disputes resulting from harassment.
- [?] The Advisory Board is not designed to be an instrument of the management and is guided by the principle of impartiality. Secretariat staff are obliged to have their disputes heard by the Advisory Board before they can submit complaints to the ILOAT.
- [?] In October 2023, a formal Advisory Board investigation found that the Deputy Secretary General, Ms Atsuko Hirose, was engaged in multiple incidents of continued harassment against a long-serving Secretariat official (See Annex E). This resulted in Mr Lentz exerting pressure on Members of the Advisory Board in an attempt to have the decision against Ms Hirose

overturned.

- [?] Since he did not succeed in this effort, Mr Lentz next applied pressure on the Advisory Board Chair, eventually forcing him to resign prematurely. This situation led to a strong letter of protest from the outgoing Chair to the Secretariat's governing body, also called the Management Committee (See Annexes F, Fi).
- [?] The Management Committee largely ignored the letter of protest from the Advisory Board Chair. The Committee then ignored the report of Advisory Board which confirmed Ms Hirose's harassment of the Secretariat Official, and ignored the Official's appeal to have the dispute settled amicably. This was likely due to Japanese Members of the Management Committee providing cover for Ms Hirose's acts of harassment, as she was in a senior management position appointed by the Japanese government at an International Organisation.
- [?] Mr Lentz then appointed a new Advisory Board Chair, Ms Marie-Anne Birken, in early 2023. Ms Birken, is widely known to be an acquaintance of Ms Atsuko Hirose, with whom she worked at another IOs. It is clear from Ms Birken's letter of application for the role of Advisory Board Chair that the two women are close to one another (See Annex G).
- [?] It is quite likely that Mr Lentz appointed Ms Birken on the instruction, if not insistence, of Ms Hirose, who was identified in the October 2023 Advisory Board report as a perpetrator of harassment.