

**The European Investment Bank and Central Asia**  
**Updated Crude Accountability position paper**  
**January 30, 2009**

“The EU and Central Asia: Strategy for a New Partnership”<sup>1</sup> emphasizes that the European Investment Bank (EIB) will be playing an increasingly important role in financing projects in which the European Union (EU) is interested in Central Asia (CA). However, when preparing the EIB's Investment Policy in the region, the European Commission should not turn a blind eye to ongoing and deeply-rooted problems in CA, including human rights abuses, legal non-compliance, arbitrary rule, corruption, and the undermining of the governmental mechanism. In such conditions the implementation of EIB projects in energy and transport may have the potential to bring negative impacts.

### **Failed state status**

The European security strategy deems the 'failed state' status as one of the fundamental threats to European and global security.

This failed state status involves a government's inability to function properly and to bear responsibility, the undermining of the governmental mechanism, the disorganised state of state authorities, the decay of law and order, weak legal compliance, neglect for international regulations, corruption, and mass human rights abuses. The above-stated problems are typical for CA, and lead to the growth of tension in the region.

According to the Failed State Index 2009<sup>2</sup> estimated for 177 countries, the situation in Uzbekistan (31st place) and Tajikistan (37th place) is ranked as **critical**, and in Kyrgyzstan (42nd place), Turkmenistan (59th place) and Kazakhstan (105th place) it is ranked as **dangerous**. In CA, a notoriously high level of human rights violations also persists: the worst situation is found in Uzbekistan (9.2 points), followed by Turkmenistan (8.9 points), Tajikistan (8.6 points), Kyrgyzstan (7.6 points) and Kazakhstan (6.8 points)<sup>3</sup>. Even in relatively prosperous Kazakhstan, anti-democratic processes are becoming more evident, and the government approves laws restricting public rights, despite the country's expected presidency of the OSCE in 2010<sup>4</sup>. Indeed, the arbitrary jailing recently of Yevgeny Zhovtis, a leading activist, has dramatised concerns about Kazakhstan's human rights record as it prepares to become the OSCE chair.

To ensure that the EIB's projects are consistent with development goals, the EIB policy in the region should take into account these violations of human rights and legal non-compliance, as well as the low-level ability of the CA authorities to fulfill their functions.

Therefore:

- First of all, the European Commission should focus on the processes that serve to reinforce human rights and legal compliance, the development of democratic institutions and good governance.
- As Turkmenistan and Uzbekistan face major human rights and legal compliance problems, it may be appropriate for the EIB not to invest in these two countries for the time being. The EIB should link the possibility to invest in these countries with concrete progress in human rights. Otherwise there is a risk that the EIB's funds and authority will serve the authoritarian and anti-democratic regimes of these countries rather than the general public.

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<sup>1</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/librairie/PDF/EU\\_CtrlAsia\\_EN-RU.pdf](http://www.consilium.europa.eu/uedocs/cms_data/librairie/PDF/EU_CtrlAsia_EN-RU.pdf)

<sup>2</sup> [http://www.fundforpeace.org/web/index.php?option=com\\_content&task=view&id=391&Itemid=549](http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=391&Itemid=549)

<sup>3</sup> [http://www.fundforpeace.org/web/index.php?option=com\\_content&task=view&id=391&Itemid=549](http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=391&Itemid=549)

<sup>4</sup> <http://www.freedomhouse.hu/images/nit2009/kazakhstan.pdf>

## **Rule of law**

CA features poor and unstable local laws, unreasonably frequent amendments thereto, inconsistent regulations and the absence of connection between various legal areas. For example, between 1991 and 2007, Kazakhstan twice changed its Constitution, changed its land laws three times and has also twice changed its Forest Code<sup>5</sup>.

The situation is made worse because of the failure to comply with and the violation of national laws, as well as the neglect for international regulations by state authorities. There have been regular cases of arbitrary interpretation of legal provisions in order to realise commercial projects, as well as poor enforcement of environmental laws and decline of environmental standards, all in favour of major users of natural resources. A recent example is the attempt of the Kazakhstan State Company KEGOC to secure a World Bank loan for a project that contravenes the national laws.<sup>6</sup>

The Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters is ratified in all countries of the region except Uzbekistan. However, compliance among the countries with the Convention is far from being satisfactory<sup>7</sup>, including in the project implementation by international financial institutions and transnational corporations. For instance, the European Bank for Reconstruction and Development's borrower ArcelorMittal Temirtau is known to have repeatedly violated the Aarhus Convention<sup>8</sup>.

To prevent the adverse impact of any projects in CA countries financed by the EIB, the EIB and the EU should ensure:

1. Compliance with the national laws of CA countries, European regulations and international agreements ratified by the EU.
2. Compliance with the Aarhus Convention when implementing projects in CA.
3. Strict control of the financed projects' quality and processes in CA.

## **Production and transportation of energy resources**

One of the most important goals of the EU strategy is to expand energy cooperation with the CA countries to reinforce the EU's security of energy supplies. Therefore, the EU will support the development of oil and gas deposits and the construction of additional pipelines. But this approach to solving the EU's energy problems with the EIB's participation means a return to the past.

The use of traditional energy carriers is one of the prime reasons for global climate change, and the combating of it is one of the EU's main priorities<sup>9</sup>. By financing oil and gas production project, the EIB contradicts both the EU climate change policy and the EIB's own commitments to promote sustainable development<sup>10</sup>. This does not provide real energy security for the EU but instead increases its dependence on countries with authoritarian regimes.

Oil and gas development projects serve the self interests of the CA authorities and resource extraction companies. The generated income contributes to the reinforcement of their authoritarian rule rather than the improvement of people's lives and the respective countries' development.

Investments in energy resource production will contribute to the conservation of the inefficient and unstable model of resource economy preferred by the CA countries.

Another issue of concern is that the implementation of such projects in the region results in the increase of environmental pollution, mass human rights violations and corruption scandals. An

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<sup>5</sup> [www.zakon.kz](http://www.zakon.kz).

<sup>6</sup> <http://www.greensalvation.org/en/index.php?mact=News,cntnt01,detail,0&cntnt01articleid=28&cntnt01detailtemplate=news02detail.tpl&cntnt01returnid=51>

<sup>7</sup> [www.unece.org/env/pp/compliance](http://www.unece.org/env/pp/compliance)

<sup>8</sup> <http://www.bankwatch.org/project.shtml?w=147579&s=2001063>.

<sup>9</sup> [http://www.se2009.eu/en/the\\_presidency/work\\_programme/climate](http://www.se2009.eu/en/the_presidency/work_programme/climate)

<sup>10</sup> [www.eib.org/projects/topics/environment/responsibility/index.htm](http://www.eib.org/projects/topics/environment/responsibility/index.htm)

illustrative example is the conflict between the people of the village of Berezovka (Western Kazakhstan) and Karachaganak Petroleum Operating (BG, Eni, Chevron, Lukoil) which has been developing one of the largest oil and gas condensate fields in the world.<sup>11</sup> The companies have repeatedly violated the country's environmental laws. In March 2009, the Kazakhstan Parliament discussed the derangement of the national programme for casing-head gas utilisation by oil producers<sup>12</sup>.

One of the international legal problems in the region in the area of energy resource production and transportation is the legal status of the Caspian Sea and the clear division of its bottom and the resources between the Caspian countries. By participating in projects like the potential Nabucco pipeline, the Kashagan oil deposit development, and the development of the Kazakh Caspian Oil Transportation System (KCOTS) to support the Baku-Tbilisi-Ceyhan pipeline (BTC), the EIB may face serious political, economical and environmental problems. Taking into account further the widely expected militarisation of the Caspian region and the potential worsening of relations between the Caspian countries, the EIB's investments may escalate the tension in the Caspian region.

- Therefore, in our opinion, the EIB should not finance energy resource production and transportation projects in CA.

### **Development of hydropower industry**

We are also concerned about the possibility that the EIB will finance the construction of large hydropower plants in the region, as this may result in considerable social and ecological consequences. The region is located in an area of high seismicity where earthquakes can reach 9-10 magnitude.

Plans to build large hydropower stations (HPPs) have caused increased tension between the CA countries. In February 2009, Tajikistan and the EIB entered into a cooperation agreement for investment into Tajikistan's hydropower projects<sup>13</sup>. Kyrgyzstan has similar plans to build a series of HPPs in the upper reaches of the Syrdarya river.

In view of this, in April 2009 the Ministry of Foreign Affairs of Uzbekistan made a resolute statement of the necessity for fair water consumption and the protection of interests of other CA countries. Construction of HPPs can worsen the water supplies in the lower reaches of the Amudarya and Syrdarya rivers, sharpen the environmental situation related to drying out of the Aral Sea, and negatively impact the living conditions of the people of Uzbekistan, Kazakhstan and Turkmenistan<sup>14</sup>. It is unacceptable that projects financed by the EIB could be used as political leverage in the region.

Another threat is the possible deployment of water power projects in protected nature lands. Negative examples in the Republic of Kazakhstan are the construction of the Issyk HPS-2 in the Ile-Alatau national park, and plans to build the Bulak HPS on the Irtysh river, the flooding area of which may cover the State Forest Nature Reserve "Semei Ormany"<sup>15</sup>.

- The EIB and the EU should use the recommendations of the World Commission on Dams when making decisions to finance hydropower projects, and demand that the borrowing countries strictly comply with the relevant international agreements, such as the Espoo Convention on Environmental Impact Assessment in a Transboundary Context.
- The EIB should secure the approval of its investment plans with other CA countries through which the main waterways would pass.

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<sup>11</sup> <http://www.greensalvation.org/en/index.php?page=berezovka-en>

<sup>12</sup> [www.panorama.kz](http://www.panorama.kz), 27.03.2009

<sup>13</sup> [http://www.prezident.tj/rus/novostee\\_110209.html](http://www.prezident.tj/rus/novostee_110209.html)

<sup>14</sup> [www.regnum.ru/news/1150571.html](http://www.regnum.ru/news/1150571.html)

<sup>15</sup> [www.greensalvation.org](http://www.greensalvation.org)

