

To: Giorgio Chiarion-Casoni
European Commission
Directorate General for Economic and Financial Affairs
L-2920 Luxembourg

January 11, 2010

Dear Mr. Giorgio Chiarion-Casoni:

As we know there is ongoing mid term review of the European Investment Bank external mandate. We are writing to put our recommendations for the Central Asia (CA).

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

According to the Failed State Index 2009 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)¹.

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:

The EIB should link the possibility to invest in the CA countries with concrete progress in human rights. 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. 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.

CA features poor and unstable local laws, unreasonably frequent amendments thereto, inconsistent regulations and the absence of connection between various legal areas. 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. 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.²

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 satisfactory³, 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 Convention⁴.

¹ http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=391&Itemid=549

² <http://www.greensalvation.org/en/index.php?mact=News,cntnt01,detail,0&cntnt01articleid=28&cntnt01detailtemplate=news02detail.tpl&cntnt01returnid=51>

³ www.unece.org/env/pp/compliance

⁴ <http://www.bankwatch.org/project.shtml?w=147579&s=2001063>.

To prevent the adverse impact of any projects in CA countries financed by the EIB, the EIB 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.

One of the most important goals of EU 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.

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. 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. 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.

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 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.⁵

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. Taking into account further the widely expected militarization 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.

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. 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 projects⁶. 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 Turkmenistan⁷. It is unacceptable that projects financed by the EIB could be used as political leverage in the region.

Therefore:

1. The EIB 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.

⁵ <http://www.greensalvation.org/en/index.php?page=berezovka-en>

⁶ http://www.prezident.tj/rus/novostee_110209.html

⁷ www.regnum.ru/news/1150571.html

2. The EIB should secure the approval of its investment plans with other CA countries through which the main waterways would pass.

Sincerely,

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Inara Aldybaeva, Kazakhstan International Bureau for Human Rights and Rule of Law

Sergey Vorsin, NGO “Taraqqiet”, Tajikistan