

Briefing for the EIB Board of Directors for the EIB, September 2017

### **Why the EIB should not finance TANAP?**

Dear Board of Directors,

We are writing to you in regards to the Trans Anatolian Gas Pipeline (TANAP) which is part of the Southern Gas Corridor (SGC) that is supposed to bring gas from Azerbaijan to Italy. Azerbaijan just recently hit the news when an investigation by a consortium of journalist revealed facts about the “Azerbaijani Laundromat” in early September<sup>1</sup>. The investigation shed lights on corruption scandals linked to members of the country’s ruling elite using a secret slush fund to pay off European politicians, buy luxury goods, launder money, and otherwise benefit themselves. It is worth noting here that most of the funds fuelling the “Laundromat” come from the International Bank of Azerbaijan<sup>2</sup>, the development bank of Azerbaijan, participated by the government.

Given that the Southern Gas Corridor with all its legs (SCP, TANAP, TAP) is closely linked to the Azeri government, the EIB should scrutinise all loans for the Southern Gas Corridor for the sake of its own reputation.

This briefing below outlines and summarises key issues of concern for civil society organisations in relation to the potential loan. It is crucial that the EIB Board discusses those important matters at the forthcoming Board meeting on 19<sup>th</sup> September 2017.

The loan to TANAP poses a series of questions revolving around human rights violations, support to authoritarian regimes, holding up EIB’s own principles, the correctness of the main argument on diversification of gas supply and the economic viability of the project, as well as the question of whether after the Paris Agreement new fossil fuel projects should be supported at all by the EU’s bank.

Therefore we urge you to ensure that the EIB does not grant finance to a project which stands in stark contrast with the standards that the bank adheres to.

### **TANAP contradicts EIB’s commitments to human rights**

The EIB committed not to finance projects which result in human rights violations, in accordance with the EU Charter of Fundamental rights to which it is bound. Nevertheless, TANAP is a project which results in human rights violations both in Turkey and in Azerbaijan.

#### ***Situation in Turkey***

In Turkey the situation for civil society, freedom of speech and independence of media deteriorated massively throughout the year.

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<sup>1</sup> <https://www.occrp.org/en/azerbijanilaundromat/#all-stories>

<sup>2</sup> <https://www.occrp.org/en/azerbijanilaundromat/the-origin-of-the-money>

TANAP project documents do not include any analysis of the impact of the imposition of martial law and do not reflect the current and rapidly evolving conditions in Turkey. Currently there is no possibility for civil society's scrutiny and monitoring of the project.

In addition, project documents prepared for the World Bank due-diligence<sup>3</sup> identified some of the insurmountable gaps between the World Bank Safeguard requirements for public consultation, livelihood restoration, human rights and gender rights, and the problematic implementation and subsequent compensation by TANAP and its contractors through the Host Government Agreement in Turkey. It is important to highlight the following point: the Host Government Agreement with Turkey for TANAP does not address human rights issues. Therefore the project does not guarantee adherence with international human rights law.

Our analysis of the Guide to Land Acquisition and Compensation<sup>4</sup> found it does not apply the EIB's applicable principles such as the requirement for all project affected persons to be compensated at full replacement cost at market value. The Resettlement Action Plan confirms our analysis: "*although internationally accepted standards would compensate loss of agricultural land at replacement cost, the Project has compensated such lands in accordance with national law with respect to the type of right established on the subject land within the pipeline right of way*"<sup>5</sup>.

In addition, we are afraid that customary law in the Project areas may deny women the right to ownership and management of cultivated lands which would stand against the EIB Gender Strategy recently approved by the Bank.

In these circumstances of martial law and related deficit of information and public control, we fear that the enforcement of international standards for the construction of the pipeline is simply not realistic. The EIB has not provided indications so far that the project in Turkey adheres to its standards, whereas the appraisal process and its outcome remain confidential before approval.

Beyond the concrete problems around TANAP at this point in time the increasingly repressive government in Turkey, which imprisons vast amounts of people on questionable grounds and on fabricated accusations including many independent journalists, should not get a sign that the relationship with the EU is not impacted by this outrageous behaviour- However, agreeing on a significant loan for TANAP would send exactly that signal: EU Turkey relationship is just business as usual.

### ***Situation in Azerbaijan***

In Azerbaijan over the past years human rights activists and independent journalists have been arrested and sentenced on fabricated charges. This situation was of the concern of the European External Action Services and the European Parliament who have been very vocal in criticising the Azeri government over the past two years.

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<sup>3</sup> All documents are available on the WB as well as the TANAP webpages:  
<http://projects.worldbank.org/P157416/?lang=en&tab=overview> and <http://www.tanap.com/reference-documents/>

<sup>4</sup> Guide to Land Acquisition and Compensation  
<http://www.tanap.com/store/file/common/290001c7a61cba32b0fe3ed2696661d1.pdf>

<sup>5</sup> TANAP final addendum to RAP for pipeline route, October 21, 2016, page 26,  
<http://www.tanap.com/reference-documents/>

Additionally, in March this year, the Extractive Industry Transparency Initiative (EITI) suspended Azerbaijan's membership in a result of a crackdown on civil society organizations after the country had been given a chance to comply with these international standards. This was followed by the Azeri government deciding to quit the EITI.

The case of Ilgar Mammadov, a former member of the Advisory Board of the Natural Resource Governance Institute, a CSO member of the Extractives Industry Transparency Initiative - who was arrested in 2013 by the Azeri authorities on bogus charges, is a sad but clear illustration of the most probable impacts of Southern Gas Corridor. Still in jail, he published a "letter from an inmate of the Southern Gas Corridor" on January 20th 2017 where he states that "*International investment in fossil fuel extraction is making me and other Azerbaijani political prisoners hostages to the Aliyev regime.*"<sup>6</sup>

For the EIB, as a longstanding supporter and promoter of EITI, the issue of Azerbaijan's EITI membership should be another indication that the project is not being developed in line with the standards the bank professes to adhere to and thus refrain from financing it. In a response from EIB's former Vice-President Vapaavuori to civil society raising concerns on this project, the VP stressed in December 2016 that both TANAP and TAP, are not located in Azerbaijan.

But this argument does not stand. Considering that the pipelines are owned by the Azeri state owned company SOCAR to 58% in the case of TANAP and to 20% in the case of TAP and that the pipelines transport gas from Azerbaijan, Vapaavuori's argument falls short of the reality of the pipeline. SOCAR and BP are de facto the main sponsors of the project. The EIB itself stresses in its due diligence handbook very clearly that the environmental and social impacts of projects should be taken into account in the entirety of the project, rather than slicing projects into various sections supposedly "independent" from one another. Assessing TAP or TANAP without considering Azerbaijan as part of the picture would be a violation of EIB standards, as well as a moral mistake.

There should be no doubts that projects related to the development of the Southern Gas Corridor will strengthen oppression in countries where liberty and security of individuals are seriously impaired. This stands in contradiction to the EU Charter of Fundamental Rights which binds the EIB. And it is also clear that, to date, the EIB's engagement with Azerbaijan, through loans to commercial banks for instance, has not succeeded in halting the wave of repression in the country.

We therefore urge the bank to disclose its appraisal documentation before approval in which it confirms the full alignment of the project with all applicable standards including the European Charter of Fundamental Rights.

### **TANAP is built by companies with a legacy of corruption**

The main constructor of TANAP is the Turkish state-owned Botas, which then hired four other companies to build various segments of the pipeline: these are Limak, Yuksel, Tekfen and Fernas. As revealed in the report published by CEE Bankwatch Network "Risky Business"<sup>7</sup>, all these subcontractors hired by Botas for the project have close ties to Erdogan's AK Party.

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<sup>6</sup> <https://www.opendemocracy.net/od-russia/ilgar-mammadov/open-letter-from-inmate-of-southern-gas-corridor>

<sup>7</sup> CEE Bankwatch Network, *Risky business-Who benefits from the Southern Gas Corridor?*, December 13, 2016 <https://bankwatch.org/publications/risky-business>

Botas has been implicated in at least two major corruption scandals, where bribery has played a central role in winning public tenders. Among those convicted in these two scandals were top executives in Botas and in some of its subcontractors for the TANAP project, as well as senior officials in the Ministry of Energy and Natural Resources which partly controls Botas. The Turkish Supreme Court later overturned the rulings, clearing most of the defendants, but much of the evidence, including transcripts of police phone tapings that point to corrupted payment, remains in the public record.

The report has been provided to the EIB's Group Chief Compliance Officer in January 2017; however we have so far not seen any reply regarding a possible investigation on the issues raised in the report.

An international investigation by Italian and foreign journalists named "The pipeline of the three regimes" have uncovered the complex company structure of SOCAR and Botas in Turkey, including TANAP, the beneficial owners of companies and their offshore connections<sup>8</sup>. Such a company structure opens questions about where public money eventually channelled into SOCAR or BOTAS will actually end, and how the EIB could prove that none of it would be diverted for the personal benefit of the many politically exposed people part of the network.

### **TANAP is at odds with Paris agreement**

Gas is being portrayed as the cleanest of fossil fuels and thus as a transition fuel. However, methane leaks along gas pipelines and the fossil fuel lock-in it implies for decades contradict the Paris Agreement. As a climate champion the bank should therefore refrain from investing into new large-scale fossil fuel projects such as the Southern Gas Corridor.

Gas demand is also declining in Europe. The think tank E3G has been analysing recent trends in gas demand and came to the following conclusion: "*In contrast to official projections, EU gas demand is falling and is now 23% below its peak. Demand is falling across all three major sectors: power, industry and residential. 80% of gas demand comes from seven western European nations with strong renewables and efficiency policies in place.*"<sup>9</sup> The shrinking gas demands however are contrasted by massive plans to build new pipelines and new Liquefied Natural Gas (LNG) terminals. Both trends taken together risk the creation of stranded assets: underused pipelines or LNG terminals. Financing the Southern Gas Corridor would be in stark contrast to the objective to assess and manage portfolio climate risk, which the EIB formulated in its climate strategy of October 2015.

### **TANAP does not guarantee energy security**

Additionally, the Southern Gas Corridor fails to genuinely contribute to European energy security. The Energy Union, a priority project of the current Commission, has among its objectives a) the diversification of energy sources, b) the EU becoming less dependent on energy imports, c) making the EU the world number one in renewable energy and leading the fight against global warming. Building the SGC does not help on any of these objectives: just replacing one gas supplier (Russia) by another (Azerbaijan) upholds the dependence on energy imports. It is no diversification of energy sources, especially since the Russian company Lukoil owns 10 percent in the Azeri Shah Deniz field which will feed the SGC. A real diversification would be to replace gas as much as possible by increased energy efficiency and renewables. Especially Eastern Europe, which depends very much on Russian gas, still has huge potential for gains

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<sup>8</sup> <http://espresso.repubblica.it/inchieste/2017/04/18/news/the-pipeline-of-the-three-regimes-1.299786>

<sup>9</sup> E3G, *Europe's declining gas demand*, 11 June 2015, <https://www.e3g.org/news/media-room/europes-declining-gas-demand>

through increased energy efficiency. This would truly help on the objective to make EU a leader in the fight against global warming.

In addition, a study from the Oxford Institute for Energy Studies from July 2016 found that the gas reserves of Azerbaijan are not sufficient to feed the pipeline for its lifetime and more gas will have to be imported from other countries<sup>10</sup>. Ironically in the light of the diversification-away-from-Russia argument, one of these countries is likely to be Russia: Turkey and Greece have both signed bilateral agreements that allow Gazprom gas to be transported through the Southern Gas Corridor. In addition the deal signed in October 2016 between Turkey and Russia on the Turkish Stream shows that one section of Turkish Stream will be in a position to connect to the planned junction at Ipsala-Kipoi of the Trans Anatolian pipeline (TANAP) and Trans Adriatic pipeline (TAP). Ultimately this would mean that the Southern Gas Corridor might be built with strong public support to diversify gas supply away from Russian gas, only to allow Russian gas into the pipeline once it is readily built.

Dear Directors, as Board members you should ensure that those concerns are being seriously addressed. Therefore, we call on you to suspend the appraisal process of TANAP and not to enter into a deal which is likely to become a black hole for EU public finance and a threat to EIB's reputation.

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<sup>10</sup> Azerbaijan's gas supply squeeze and the consequences for the Southern Corridor, The Oxford Institute for Energy Studies, July 2016, <https://www.oxfordenergy.org/wpcms/wp-content/uploads/2016/07/Azerbaijans-gas-supply-squeeze-and-the-consequences-for-the-Southern-Corridor-NG-110.pdf>