

A photograph of a man in a dark shirt and trousers walking away from the camera down a dirt path between rows of lush green grapevines in a vineyard. The background shows a hilly landscape under a clear sky.

Land lost but not forgotten

**Impacts of the Trans-Adriatic
Pipeline on the land and livelihoods
of farmers in Albania**

November 2017

Introduction

In May 2017, Bankwatch, together with the Albanian Helsinki Committee undertook a follow-up fact finding mission (FFM) along the corridor of the Trans-Adriatic Pipeline (TAP) in Albania to monitor the construction of the pipeline, conduct interviews with impacted persons and to inform about applicable international standards.

The construction of the Trans Adriatic Pipeline in Albania entered the final phase in summer 2017 after the corridor had been cleared and the ground surface levelled. The black pipes were buried in many places along the corridor or were lying on the surface ready to be put underground.

Our conversations with local communities and affected farmers confirmed and further documented the initial findings reported in the field mission report “We have no other option” from 2016. Impacted persons were very dissatisfied with the level of compensation they had received and the way they had been treated by the company and its representatives in Albania¹.

Background on TAP and the field mission

The Trans-Adriatic Pipeline is the most western part of the *Southern Gas Corridor*, a pipeline project to bring gas from Azerbaijan to Europe. It is promoted by the European Commission as a strategic asset for Europe’s energy security. The TAP pipeline crosses Greece, Albania and the Adriatic Sea before reaching shore in Italy. In all three countries, affected people have voiced objections to the project.

Considered to be a ‘project of common interest’ by the EU and its Energy Union, the projects is currently being considered for an unprecedented sum of public loans of up to EUR 2.5 billion by the European Investment Bank (EIB) and the European Bank for Reconstruction and Development. Their loan decisions are expected in the coming months.

In spite of the highly politicised character of the project, no public authority is currently involved to ensure the fair treatment of project affected people. Their ability to disagree and appeal to impartial bodies is – currently – highly limited if not nonexistent.

For a more detailed background on relevant policies of international financial institutions, see our report from 2016 *We have no other option - Preparation of the Trans-Adriatic Pipeline in Albania Fact Finding Mission Report, July 2016*².

1 ABKons is the company commissioned by TAP to conduct resettlement process on behalf of TAP.

2 <https://bankwatch.org/sites/default/files/no-other-option-TAP-FFM-Albania.pdf>

Apart from highly insufficient levels of compensation, the grievances we've learned about ranged from a non-transparent compensation process and lack of legal and administrative assistance to intimidation and dubious irregularities in the land certification process where the company has been involved. Each of these points is outlined in more detail and with example cases below.

Based on our findings, TAP raises serious concerns with regards to its compliance with the fundamental human right to property. Public finance institutions like the European Investment Bank and the European Bank for Reconstruction and Development should not support the project until these concerns have been solved to the satisfaction of all parties.

For the case that public financing for TAP should nonetheless be approved, we include several recommendations at the end of this document.

Shortcomings in TAP's engagement in Albania

Questionable compensation values

In 2016 Bankwatch documented that the vast majority of impacted people interviewed felt the compensation being offered was inadequate. New interviews revealed that the compensation has already been paid to most people affected by the TAP construction.

Most of the farmers, however, were still dissatisfied, explaining that the compensation was not covering their loss of income and property. In those cases where farmers calculated for us their income and compared it to what they received, the discrepancy was enormous.

In addition, none of the farmers interviewed were compensated for associated assets like destroyed fences, wells, pergolas or other equipment. Documents showed by the farmers, such as compensation agreements, do not mention the

impacted fixed assets, even though TAP committed to provide compensation at full replacement value of fixed assets impacted by the pipeline construction.

Compensation worth only one year of production

Arjan, an oliver farmer in Berat County, owned 130 olive trees that were 70-80 years old. In his irrigated and well maintained orchard one tree gives up to 150 kg of olives per year. At a price of 150 lek per kg, he earned about 22.500 lek per tree every year, which not only supported a family of about 16 people, but also several seasonal workers he employed.

He received a compensation of only 25.000 lek per tree. **This covers just one year of his income but it will take 15-20 years until newly planted trees will give olives.** And even then, they will only provide about 10-15% of the yield he used to have. He will probably not see the day that they will have the same yield as his old trees.

Arjan's words are both desperate and resigned: *"We will invest the money we got to plant new trees [on the same land]. But until they become productive, I don't know what we will be doing."*

"We had a good income from those trees," he adds.



Image 1 - The pipeline route cuts like a scar through Arjan's land.

Transparency of compensation values

In order to receive loans from international financial institutions TAP must conduct the project in line with their standards. These standards state that the compensation must be calculated on the basis of the market values and must represent the full replacement value², including the loss of income until the return to full production and necessary initial investments such as in new seedlings and agricultural infrastructure.

To guide this compensation process, the company prepared Guides for Land Easement and Acquisition (from hereon called “booklets”) for each country the pipeline traverses.

In Albania, the compensation rates in the booklets are presented both per tree and per hectare, but it is unknown which one is applicable in individual cases. Neither the crop compensation rates nor the applicable unit (per tree or per hectare) are established transparently in the individual contracts with farmers.

Contrary to TAP’s declarations, none of the dozens of compensation offers, compensation agreements and notarial documents provided by TAP that relate to the compensation include a detailed valuation of land lease, crops and assets. Only the total compensation sum related to the parcel concerned was presented to the impacted persons and included in the documents.

No explanation or details have been offered for how the compensation corresponds with the applied methodology. As a result, the impacted persons have almost no way to review and challenge the final compensation sum based on the methodology.

The lack of transparency and information adds to the overall heavy-handed way in which farmers have been treated. It stymies efforts by affected people to verify whether they have been treated fairly.

² TAP had adopted the EBRD’s standard PR 05 requiring adequate compensation to be paid to the users of the affected land in order for them to be in the position to replace what they will be foregoing.

Lack of transparency obscures inaccurate compensation

Urim, a very well organised apple farmer from Cangojn, tried to reconstruct the compensation he received based on his contract and TAP's compensation booklet.

While the booklet defines a compensation price "per tree" (depending on different production types), his contract only states a compensation per square metre. According to the booklet he should have received more than 18.000 lek per tree. However, for a 403 m² parcel, for instance, where he had 36 trees, he received 344.662 lek which makes 9.574 lek per tree – half the amount he is entitled to.

He rejected the offer for one year and filed a petition with 21 other farmers who had the same issue. He went to the nearest administrative unit and to Tirana several times. The petition remained unanswered. Instead, the company threatened that the state would seize their land. He signed eventually because of this threat.



Image 2 – Urim's remaining apple trees next to the pipeline corridor

Irregularities with land registration and cadastral data update

On the basis of an agreement with the Albanian Immovable Property Registration Office TAP was allowed to establish, enhance and update cadastral data (property ownership, boundaries, and usage) within the pipeline corridor.

In several cases, where a person's land was affected, they received new certificates where the boundaries and even the size of their land had changed.

In none of these cases the person understood the reason for the change and in all cases owners were dissatisfied with the new certificates.

This practice and the fact farmers did not receive an explanation or a compensation for the reduced value of their land raises the question if the agreement between TAP and Albanian authorities is in line with Albanian law and with international property rights. The EU's Charter of Fundamental Rights and the UN's Universal Declaration of Human Rights, documents to which the European Investment Bank's standards refer, offer protection against arbitrary deprivation of property.

Why was the TAP company entitled to change cadastral data for its own benefit without supervision of an authority and without prior agreement of the impacted person? Why were the affected persons not provided with detailed explanations for the changes and compensated for the losses of land?

In several cases, people received new land certificates where the boundaries and even the size of their land had changed.

Curious shift of property

One farmer from Fush Peshtan, a village in the Berat region, bought a parcel of land in 2014 from the state with money he had earned abroad to invest in the family's own olive business. He had a relatively new certificate, including a map, to show for his purchase.

The new certificate, provided by TAP, showed a parcel whose location had been shifted and its size had been reduced. TAP did not offer to pay a compensation for the difference in the value between those two parcels.

The new parcel has been shifted uphill, above the pipeline corridor. The missing part of his land is now state land. While this causes additional difficulties for the family in accessing their olive orchard, TAP has access to the state land downhill, bordering the location from where the pipeline is coming after crossing the river.



Image 3 - The piece of land next to the river that has been taken away from the farmer (red frame). The pipeline route is marked in yellow and green.

Communication and engagement with affected persons

TAP's Livelihoods Restoration Plan explains the process of securing land access for the company. It explains that the affected persons will be given a time to consider an offer and will be offered additional explanation and information, even legal advice, if required. Dedicated Community Liaison Officers were to be available for answering questions.

This commitment stands in stark contrast with the reality which was witnessed by impacted persons. Both visits to the impacted areas and our interviews with dozens of affected persons revealed that they were simply left alone without any objective legal or administrative assistance. In case of individuals resisting TAP's offer, on the other hand, the company sent its lawyers and representatives who stubbornly kept coming in different groups, adding to the confusion and intimidation of locals.

None of the person interviewed had information about Community Liaison Officers, while many complained that when visiting TAP's offices seeking explanations they were simply ignored, sent to other offices in Tirana and even Switzerland or sent back based on various excuses.

Resistance was also effectively mitigated by TAP by making a reference to a national expropriation process that would be applied in case the compensation offer was rejected. This was considered a threat by the farmers who often gave up their claims, fearing repercussions from state authorities.

Given the lack of external and objective legal assistance available to the communities and individuals, the potential right to seek justice remained illusionary.

Damages to infrastructure and local neighbourhoods

During our mission, several complaints were raised that the company destroyed (mostly rural dirt) roads and drainage systems in the fields.

For example a farmer from Strum who grows tomatoes in greenhouses next to the pipeline complained about the destruction of the drainage system that protected his plants from being drowned by heavy rains. Even though the company was responsible, it was not willing to fix the infrastructure, leaving the farmer no choice but to dig a provisional canal that provides at least limited protection for his cultivation.

In other villages of Visocice and Kapshtica, on the other side of the country, the constant stream of trucks and machinery has damaged a village's access road. Locals suffer under continuous noise, dust and dirt from early morning until the evening past 6 pm.

Once the contract has been signed, the company disengages

An affected farmer from Strum grows tomatoes next to the pipeline, both in greenhouses and without. He told us that when at first he refused to sign the contract with the company, he was threatened that the state is going to take his land.

The pipeline cuts through his land and because he is not able to access the other part. The construction works have destroyed the canals of his drainage system, rendering it useless. They have also damaged the road leading to his greenhouses.

He asked the company to help him build a simple road to cross to the other side of his land, and repair the drainage system and the road to his greenhouses. He was told that someone would assess the situation but he never heard from the company about this issue again. He went from office to office, trying to get information, but was always told to go somewhere else.



Difference in methodologies across countries

As TAP is an international project running through Greece, Albania and Italy, it came as no surprise that Albanian farmers compared their situation with their peers in neighbouring Greece. The common understanding by all farmers we spoke to was that Greek farmers were treated better and received a higher compensation for the same loss.

Although the market conditions and prices differ in Greece and Albania, the nature of impacts are identical – the pipeline crosses agriculture parcels with annual and perennial crops, causes damages to infrastructure and reduces the value of private properties. The general principles for compensation proposed by TAP are therefore the same in both countries.

However, two different formulas were developed for both countries to calculate the compensations. The Guides for Land Easement and Acquisition for both countries present different methodologies for crops and land compensation so that it is difficult to compare the compensation paid for similar farms.

To our knowledge, this difference in methodologies is not justified and the company has not provided reasonable grounds for its decision to treat farmers differently depending on the country.

Recommendations

European financial institutions must not support a project that violates human rights. Based on our findings in Albania, TAP raises serious concerns with regards to its compliance with the fundamental right to property.

Should financing for TAP be approved, we make the following recommendations:

- Establish a working group in order to review the methodology for Compensation for Land Easement and Acquisition so that it ensures that the TAP project does not lead to the loss of livelihood for all affected people and

that it is duly in line with the relevant policies of the involved financial institutions;

- Require the Trans Adriatic Pipeline (TAP) AG (the company) to provide additional compensation in cases where it does not cover full replacement value based on market prices, including the loss of income until the return to full production and necessary initial investments;
- As a condition for the approval of public loans for the project, require TAP AG to inform all project affected persons about their rights to use grievance mechanisms (both that of TAP as well as those in place at the respective IFIs);
- Review the sample Land Easement and Acquisition agreements to ensure that it is in line with social standards and international law, including the right to property;
- Require TAP AG to release information related both to grievances received and how they were dealt with.



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