

Trans Adriatic Pipeline
Trans Anatolian Pipeline

Complaint SG/E/2019/02

Complaints Mechanism - Complaints Mechanism - Complaints Mechanism - Complaints Mechanism

INITIAL ASSESSMENT REPORT

3 June 2019

Prepared by

Complaints Mechanism

External Distribution
Complainants

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EIB services concerned

The EIB Complaints Mechanism

The EIB Complaints Mechanism is designed to provide the public with a tool enabling alternative and pre-emptive resolution of disputes in cases in which members of the public feel that the EIB Group has done something wrong, i.e. if they consider that the EIB has committed an act of maladministration. When exercising the right to lodge a complaint against the EIB, any member of the public has access to a two-tier procedure, one internal – the Complaints Mechanism Division (EIB-CM) – and one external – the European Ombudsman (EO).

Maladministration means poor or failed administration. This occurs when the EIB Group fails to act in accordance with the applicable legislation and/or established policies, standards and procedures, fails to respect the principles of good administration or violates human rights. Some examples, as set out by the European Ombudsman, are: administrative irregularities, unfairness, discrimination, abuse of power, failure to reply, refusal to provide information, unnecessary delay. Maladministration may also relate to the environmental or social impacts of the EIB Group's activities and to project cycle-related policies and other applicable policies of the EIB.

The EIB Complaints Mechanism is designed not only to address non-compliance by the EIB with its policies and procedures but also to endeavour to solve the problem(s) raised by complainants such as those regarding the implementation of projects.

For further and more detailed information regarding the EIB Complaints Mechanism, please visit our website: <http://www.eib.org/about/accountability/complaints/index.htm>

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EXECUTIVE SUMMARY

On 7 February 2019, 4 Non-Governmental Organizations – NGOs (Bankwatch, Counter Balance, Friends of the Earth Europe, RE: COMMON) (hereinafter the complainants) lodged a complaint with the EIB-Complaints Mechanism (EIB-CM) concerning the Trans Adriatic Pipeline (TAP) and Trans Anatolian Natural Gas Pipeline (TANAP) projects. The complaint was also published on the website of Bankwatch.

Following the Initial Assessment of the complaint, the EIB-CM identified the following main allegations:

- The EIB failed to require project promoters to provide climate impact assessment for TAP and TANAP projects within their entire area of influence
- The ESIA failed to include fugitive emissions of greenhouse gases.
- The EIB failed to conduct an accurate greenhouse gases emission assessment for its loans for the Southern Gas Corridor.
- The project fails to comply with requirements under EIB's Environmental Standards in the EU and Enlargement Countries and with the provisions of United Nation Framework Convention on Climate Change, EIB policies, procedures and standards

Way forward

Following the admissibility of the complaint, in line with 2.2 of the EIB-CM Procedures, the EIB-CM carried out an Initial Assessment. The objective of the Initial Assessment is to clarify the concerns raised by the complainants, understand the complainants' position, understand the validity of the concerns raised and to determine if further work by the EIB-CM is necessary and/or possible (investigation, compliance review or mediation between the parties) to address the allegation or resolve the issues raised by the complainant.

In light of the Initial Assessment and due to the technical nature of the raised allegations, the EIB-CM deems it appropriate to further carry out a compliance investigation regarding the allegations identified in the Initial Assessment.

In light of the Initial Assessment, the EIB-CM will:

- Proceed with a compliance investigation in line with 4.2 of the EIB-CM Procedures
- Discard mediation possibilities due to the nature of the allegations

INITIAL ASSESSMENT REPORT

Complainant: CEE Bankwatch Network, Counter Balance, Friends of the Earth Europe and RE: COMMON.

Date received 7 February 2019

1 THE COMPLAINT

- 1.1 On 7 February 2019, 4 Non-Governmental Organizations – NGOs (Bankwatch, Counter Balance, Friends of the Earth Europe, RE: COMMON) (hereinafter the complainants) lodged a complaint with the EIB-Complaints Mechanism (EIB-CM) concerning the Trans Adriatic Pipeline (TAP) and Trans Anatolian Natural Gas Pipeline (TANAP) projects. The complaint was also published on the website of Bankwatch¹.
- 1.2 The complainants alleged that the EIB had failed to ensure proper climate impact assessment for the concerned projects. The complainants' concerns referred to the EIB's compliance as well as the project compliance with the applicable environmental standards. In particular, the complainants raised concerns regarding the climate impact assessment, the greenhouse gases and carbon footprint of the project.
- 1.3 Following the Initial Assessment of the complaint, the EIB-CM identified the following main allegations:

Main allegations

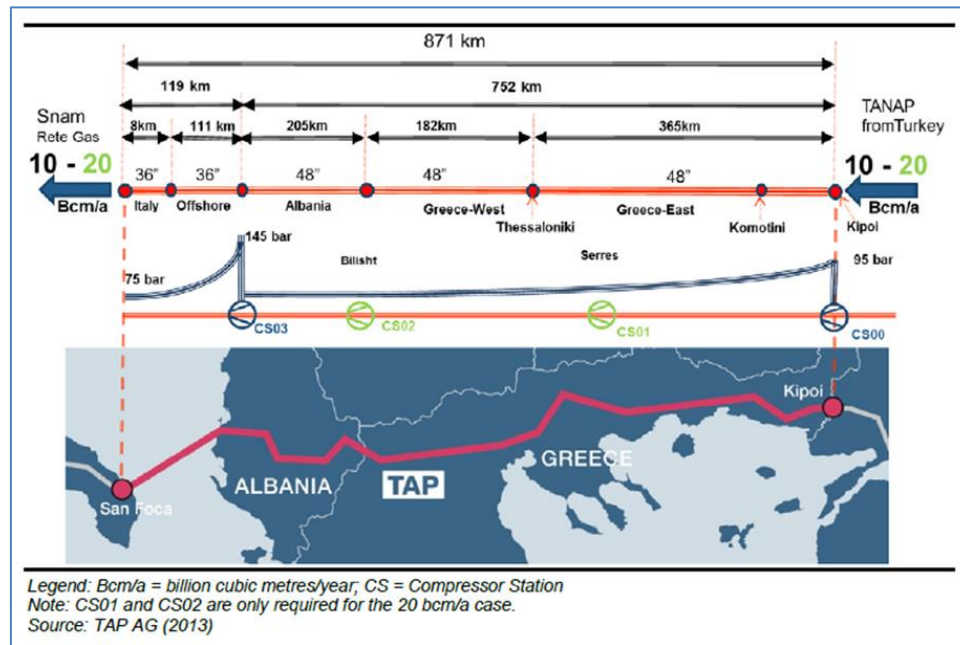
1. The EIB failed to require project promoters to provide climate impact assessment for TAP and TANAP projects within their entire area of influence
2. The ESIA failed to include fugitive emissions of greenhouse gases.
3. The EIB failed to conduct an accurate greenhouse gases emission assessment for its loans for the Southern Gas Corridor.
4. The project fails to comply with requirements under EIB's Environmental Standards in the EU and Enlargement Countries and with the provisions of United Nation Framework Convention on Climate Change, EIB policies, procedures and standards

¹ <https://bankwatch.org/wp-content/uploads/2019/02/7th-February-2019-Complaint-Climate-Assessment-of-SGC.pdf>

2 THE PROJECTS

2.1 TAP

- 2.1.1 The TAP project concerns the construction of the Trans Adriatic Pipeline, which is the western part of the Southern Gas Corridor. The Pipeline is approximately 878 Kilometres long, starts at the Turkish border near Kipoi in Greece, crosses Northern Greece, Albania, and will tie-in to the Italian Gas transmission network near Lecce in Southern Italy. The scope of the TAP project is shown in the following figure:



2.2 TANAP

- 2.2.1 The TANAP Project entails the construction and operation of the Trans-Anatolian Natural Gas Pipeline in Turkey. TANAP is part of the Southern Gas Corridor development, linking Azerbaijan's Shah Deniz gas field to Turkey and Europe (ESDS TANAP, 2015). The territorial extension of the project is shown in the following figure:

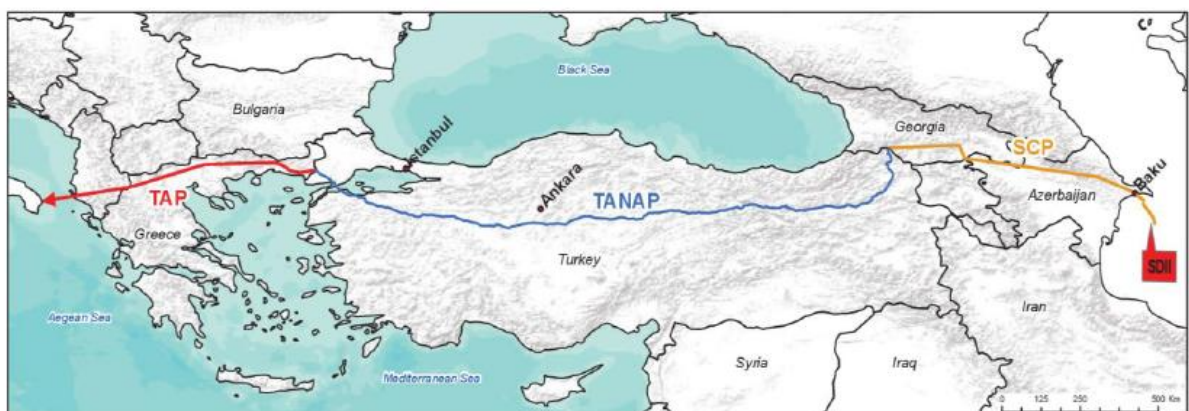


Figure 2-1: TANAP project site location map, showing the southern gas corridor the South Caucasus Pipeline(SCP), TANAP and TAP (Source: TANAP Project's Executive Summary of ESIA and Supporting Environmental and Social Safeguard Documents 22 July 2016)

2.3 Southern Gas Corridor

2.3.1 The Commission Staff Working Document, Accompanying the document Commission delegated Regulation amending Regulation (EU) No 347/2013 of the European Parliament and of the Council as regards the Union list of projects of common interest² provides the following definition of the Southern Gas Corridor:

In the Southern Gas Corridor, the gas PCIs will connect the EU energy market to the new sources of gas in the Caspian region, Central Asia and the eastern Mediterranean. The Azerbaijani gas fields will be connected to the EU via three PCIs: the South Caucasus pipeline (SCP X), the trans-Anatolian pipeline (TANAP), and the trans-Adriatic pipeline (TAP); construction is on schedule and the first flows of Azerbaijani gas to Greece and Italy are expected in 2020. Another PCI, the trans-Caspian pipeline, may supplement these flows at a later stage with the Turkmen gas.

3 INITIAL ASSESSMENT AND WORK PERFORMED

3.1 Following the admissibility of the complaint, in line with 2.2 of the EIB-CM Procedures, the EIB-CM carried out an Initial Assessment on the concerns raised by the complainants. The objective of the Initial Assessment is to clarify the concerns raised by the complainant, understand the complainant's position, understand the validity of the concerns raised and to determine if further work by the EIB-CM is necessary and/or possible (investigation, compliance review or mediation between the parties) to address the allegation or resolve the issues raised by the complainant.

3.2 Therefore, the EIB-CM carried out a meeting with the EIB services concerned in which it requested clarifications and further details regarding the EIB's due diligence on the projects. The EIB-CM gathered and reviewed the EIB environmental and social documentation of TAP and TANAP projects as well as the relevant EIB standards and methodologies.

3.3 Finally, in order to clarify the concerns raised in the complaint, the EIB-CM carried out a review of the arguments used by the complainants in support of the allegations.

4 WAY FORWARD

4.1 From the information gathered to date, the EIB-CM identified that:

- TAP and TANAP promoters conducted climate impact assessments as part of the ESIA's for the concerned projects. These included GHG emissions calculations for the realization and operations of both projects.
- The climate impact assessments for TAP and TANAP have been undertaken on a country specific basis. Their significance in terms of GHG impacts and GHG contribution per country has also been assessed.

² https://ec.europa.eu/energy/sites/ener/files/documents/swd_accompanying_pci_list_final_2017_en.pdf

- 4.2** Given the nature of the allegations, the EIB-CM does not see a manifest opportunity for mediation or dialogue facilitation. Therefore, this option will be discarded.
- 4.3 In light of the Initial Assessment and due to the technical nature of the raised allegations, the EIB-CM deems it appropriate to further carry out a compliance investigation regarding all the allegations identified in the Initial Assessment.
- 4.3 The compliance investigation will assess the complainants' allegations in the context of potential Bank's maladministration, including whether the Bank complied with the applicable regulatory framework. With the support of specialised expertise, the review will assess the project documentation and the due diligence carried out by the Bank in the areas related to the Complainants' concerns as identified in this Initial Assessment Report. The compliance investigation will consider whether the EIB's due diligence of the project is in accordance with applicable EIB policies, procedures and standards.
- 4.4 The outcome of the compliance investigation will be communicated to the complainants through the EIB-CM's Conclusions Report in line with 2.4 "Investigation Phase" of the EIB-CM Procedures.