

Decision on how the European Investment Bank (EIB) took into account the environmental impact of the Trans Adriatic Pipeline and the Trans-Anatolian Pipeline before financing the projects (case 2030/2020/NH)

Decision

Case 2030/2020/NH - Opened on 28/05/2021 - Decision on 27/04/2022 - Institution concerned European Investment Bank (No maladministration found) |

The case concerned two gas pipeline projects financed by the European Investment Bank (EIB) in 2018. The complainants contended that the EIB had failed to ensure that the projects' impact on the environment had been assessed appropriately.

While drawing attention to the limited review she can conduct in cases like this, the Ombudsman opened an inquiry and asked the EIB to provide additional documents concerning the complainants' allegations. The EIB was also asked to explain the main changes in how it ensures respect for environmental criteria in projects that it finances following its commitment to stop financing fossil fuel energy projects from the end of 2021.

The EIB provided adequate explanations by way of reply. The Ombudsman found that it had taken appropriate action as part of its 'due diligence process' in order to ensure that the impact of the two pipelines on the environment had been properly assessed. The Ombudsman closed the inquiry with the finding that there had been no maladministration by the EIB.

Background to the complaint

1. On 6 February and 15 March 2018, the European Investment Bank (EIB) approved two loans to finance the construction of two gas pipelines, the Trans Adriatic Pipeline (TAP) and the Trans Anatolian Natural Gas Pipeline (TANAP). Both pipelines are a component of the Southern Gas Corridor, which is a complex chain of pipelines that connects the Caspian Sea to Europe. It brings natural gas produced in Azerbaijan to Turkey and Europe.

2. TANAP crosses Turkey from the border with Georgia and is about 1850 km long. TAP crosses Greece and Albania from the border with Turkey and connects to the Italian gas network. It is about 878 km long. Both pipelines were financed from different sources: private



investment, national authorities and international financial institutions. The EIB approved a EUR 1.5 billion loan for the TAP, and a EUR 932 million loan for TANAP. Gas started flowing through the pipelines into the EU in November 2020.

Map of the Southern Gas Corridor (source: www.sgc.az/en [Link]):



3. The complainants are a group of four environmental organisations that monitor investment banks and environmental issues. They argue that the EIB failed to ensure that the impact on the environment of the projects had been weighed appropriately when it financed them.

4. In 2019, the complainants submitted a complaint to the EIB Complaints Mechanism (EIB-CM), which is the EIB's internal accountability mechanism designed to handle complaints against the EIB by anyone who feels affected by its activities. The EIB-CM considered the allegations unfounded and dismissed the complaint in July 2020. [1]

5. Dissatisfied with the way the EIB-CM had handled their complaint, the complainants turned to the European Ombudsman in November 2020.

The inquiry

6. The Ombudsman opened an inquiry into the complaint, and asked the EIB to provide documents concerning the environmental impact assessment of the TAP and TANAP projects. The EIB was also asked to set out how its practices have changed between 2018 (when the projects in question were financed) and today (in 2019, the EIB changed its lending policy and committed to stop financing fossil fuel energy projects from the end of 2021). [2]

7. In the course of the inquiry, the Ombudsman received the reply of the EIB and, subsequently, the comments of the complainants in response to the EIB's reply.

Arguments presented to the Ombudsman



8. In their complaint to the Ombudsman, the complainants made the overall argument that the EIB failed to require the promoters of the TAP and TANAP projects to carry out complete and accurate environmental and social impact assessments, despite the obligation to do so under the EIB's rules. [3] In particular, they argued that the assessments covered only some limited sections of the Southern Gas Corridor and failed fully to take into account fugitive gas emissions and future capacity increases of the pipelines. They were also incoherent because the promoters measured some greenhouse gas emissions for certain parts of the pipeline and not for others (for example, the Italian section of TAP). The complainants claimed that the EIB had used out of date science for its calculations, which minimised the climate impact of the pipelines. A detailed description of the arguments is available in the Annex.

9. The EIB-CM concluded that the complainants' allegations were unfounded. It explained that the EIB had complied with the applicable standards for the projects' carbon footprint assessment and had ensured that its own carbon footprint exercise filled any gap in the promoters' climate impact assessment. The EIB-CM noticed that the TANAP promoter had made a mistake in its calculations of greenhouse gas emissions by using an outdated value, but considered that the impact was insignificant.

10. In response to the Ombudsman's request, the EIB presented the main changes in its practices between 2018 (when TAP and TANAP were financed) and today. The major change took place in November 2019, when the EIB adopted its new Energy Lending Policy [4] , which was designed to ensure that the Bank's activities in the energy sector are consistent with and supportive of EU energy and climate policies, as well as of the goals of the Paris Agreement [5] . The EIB stopped financing unabated fossil fuel energy projects, including gas, at the end of 2021.

11. The EIB has since then developed a series of guidance notes for project promoters, including on stakeholder engagement, hydropower development and COVID-19 related projects.

12. The EIB has also revised its rules for project financing (the EIB's Environmental and Social Policy Framework [6]) following a public consultation in 2021, in which the complainants participated. In particular, the EIB updated the 2013 Environmental and Social Standards (in force when TAP and TANAP had been financed) to address new environmental and social challenges and lessons learned. The EIB's revision included, in particular, a stronger obligation for promoters to guarantee the completeness and sufficient quality of the information provided in the environmental and social studies, as well as stricter requirements concerning greenhouse gas emissions and climate risks. It also added a new Standard concerning intermediated finance. [7]

13. The EIB insisted that the approach it had followed for the TAP and TANAP projects was best practice. The EIB had carried out appropriate due diligence processes and only one marginal shortcoming (the outdated value) had been identified by the EIB-CM when it inquired into the complainant's allegations. The EIB said that it would continue to follow the same



approach in the appraisal of future operations featuring similar degrees of complexity as TAP and TANAP.

14. The complainants made comments on the EIB's reply. They argued that the TAP and TANAP promoters had failed to assess greenhouse gas emissions when, according to the EIB standards, they should have carried out a proper environmental impact assessment. The EIB did calculate these emissions as part of its due diligence, but its own carbon footprint assessment should not be a replacement for the promoters' failed obligations.

15. The complainants also argued that the EIB's review of its Environmental and Social Policy Framework did not address the issues identified around the TAP and TANAP projects. They provided the Ombudsman with a copy of the joint submission that they sent to the EIB in the context of the public consultation. The main issue that the complainants had raised was that the revised framework lacked clarity on the due diligence of the EIB regarding environmental, social and human rights implications of the projects. They criticised the fact that the EIB's internal document setting out its due diligence practices was not part of the public consultation and was not publicly available.

The Ombudsman's assessment

16. The complaint concerns the way the EIB assessed the impact of two pipeline projects on the environment when it financed them. It is important to note that the main responsibility for assessing the environmental impact of the pipelines was with the project promoters (consortiums of several private and state-owned energy companies), whose actions fall outside the mandate of the European Ombudsman. The role of the Ombudsman in this case is therefore not to assess how the project promoters prepared the pipelines' environmental impact assessments, but rather how the EIB ensured that the assessments were in accordance with its rules for financing.

17. The EIB was not the only international financial institution providing funding: other investors, as well as the European Bank for Reconstruction and Development (EBRD), participated in the projects. This means that the promoters had to respect the environmental and social criteria of several financing institutions, not just the EIB's. Since the pipelines crossed several countries, some of them EU Member States, different EU and/or national legal requirements applied. [8]

18. The extent of the review that the Ombudsman is in a position to carry out in this case is limited. The Ombudsman is not a technical body equipped to re-assess the adequacy of environmental impact assessments. The Ombudsman's role is limited to ascertaining whether the EIB provided the complainants with a reasonable reply and whether there is a procedural error or a manifest error of assessment in the EIB's own assessment.

19. Having analysed the EIB-CM's initial reply to the 2019 complaint, the EIB's clarifications and the additional documents obtained in the course of the inquiry, **the Ombudsman finds that there was no maladministration by the EIB in this case**. The analysis does not reveal -



beyond the calculation error already identified by the EIB-CM - any manifest error of assessment by the EIB when it weighed the impact of TAP and TANAP on the environment. A detailed assessment of all the complainants' allegations is available in the Annex.

20. The environmental impact assessments prepared by the TAP and TANAP promoters presented certain shortcomings, as reported by the complainants. In particular, there were flaws in the calculation of greenhouse gas emissions and the assessments failed to take into account the entire area of influence of the TAP and TANAP projects, and the cumulative impact of other projects. However, the EIB noticed these flaws and took appropriate action as part of its due diligence process. It requested the project promoters to draft additional impact assessments. The EIB also devised its own carbon footprint assessment to ensure a proper overall assessment of the projects. The Ombudsman finds that the EIB acted reasonably in the circumstances.

21. The complainants argue that the EIB was wrong to treat its own carbon footprint assessment as a replacement for the missing assessments by the TAP and TANAP promoters. It should have required the promoters to provide additional assessments instead, they said. However, the Ombudsman finds that the EIB's due diligence process is not designed to substitute the environmental assessments of the promoters; it is rather a stand-alone process, conducted independently to verify whether financed projects comply with the EIB's rules. In the case of TAP and TANAP, the EIB required the promoters to conduct additional studies or provide complementary information as part of its due diligence process. The EIB's rules do not set out an obligation for it to request additional information from the promoters in all cases where information is missing. [9]

22. The Ombudsman welcomes the additional explanations provided by the EIB as regards how its practices have changed since it took on the mantle of the EU's "climate bank" in 2019 (the pipelines were financed in 2018). The EIB revised its rules concerning the environmental and social impact of the projects it finances following a public consultation in 2021. In particular, it strengthened the requirements and responsibilities of promoters to provide environmental studies of sufficient quality and to explain how the projects comply with climate commitments (in particular the goals of the Paris Agreement). [10]

23. The Ombudsman takes note of the complainants' arguments concerning the EIB's review of its Environmental and Social Policy Framework. The review (and the corresponding public consultation) took place at the same time as the Ombudsman's inquiry, but it is not part of it. The Ombudsman notes, however, that the EIB's internal document setting out its due diligence practices has been published on the EIB website during the public consultation. [11] The complainants had raised this as an important matter and it is reassuring that it has now been made public.

Conclusion

Based on the inquiry, the Ombudsman closes this case with the following conclusion:



There was no maladministration by the EIB in this case.

The complainant and the EIB will be informed of this decision .

Emily O'Reilly European Ombudsman

Strasbourg, 27/04/2022

Annex to the Decision on case 2030/2020/NH

The following paragraphs provide more details on the main allegations by the complainant, the EIB's arguments and the Ombudsman's assessment.

1) Failure to take into account the entire area of influence of the projects

The complainants argued that the environmental and social impact assessments failed to take into account the entire area of influence of the TAP and TANAP projects, and the cumulative impact of other projects.

The EIB-CM replied that the promoters of the TAP and TANAP projects had an obligation to carry out their own environmental and social impact assessments before receiving the EIB's financing. At an early stage, the EIB had noted that the impact assessments for the two projects had failed to take into account the cumulative greenhouse gas emissions from other projects in the Southern Gas Corridor. The EIB had therefore required that the promoters carry out a cumulative impact assessment. TAP complied and published on its website a supplementary information package, which includes cumulative calculations. [12] The EIB noted that TANAP failed to do so. However, the EIB carried out a "Climate change vulnerability assessment" based on the projects' impact assessments, and concluded that the climate impact would be limited. The EIB also performed an assessment of cumulative greenhouse gas emissions as part of its due diligence process for TANAP.

The Ombudsman's assessment:

The EIB explained that it had required the project promoters to carry out a cumulative impact assessment, yet only TAP complied. The Ombudsman verified the information and found that the TAP promoters indeed published an additional document taking into account the cumulative impact on the environment, including cumulative greenhouse gas emissions. [13] For TANAP, the EIB performed an assessment of cumulative greenhouse gas emissions as part of its due diligence process. The Ombudsman checked the EIB's own assessment of cumulative greenhouse gas emissions for TANAP, and found that the EIB's calculations covered emissions for the whole Southern Gas Corridor, including associated facilities. [14] The complainants



argued that the environmental impact assessments are contained in a range of different documents, while they should be consolidated in a single one. The Ombudsman found nothing in the EIB's rules that would prevent project promoters from updating and by implication presenting more impact assessments. On the contrary, the promoters are invited to update their environmental assessments with additional studies as necessary, to be agreed with the EIB on a case by case basis. [15]

2) Greenhouse gas emissions for the Italian section of the TAP

The complainants argued that the TAP promoters had failed to calculate greenhouse gas emissions for the Italian section of the TAP, even though they did it for Albania and Greece.

The EIB-CM explained that, as regards the Italian section of TAP, the impact assessment included greenhouse gas emission calculations but mainly for offshore marine activities, and the emissions were considered insignificant.

The Ombudsman's assessment:

The Ombudsman verified the information [16] and found nothing to suggest that the EIB made a manifest error on this aspect.

3) Cumulative fugitive emissions of greenhouse gases

The complainants argued that the projects failed to assess cumulative fugitive emissions of greenhouse gases for the entire Southern Gas Corridor.

The EIB-CM replied that fugitive and venting emissions were included and calculated in the projects' impact assessments (fugitive and venting emissions for TANAP and, for TAP, venting emissions only) [17]. The EIB carried out a carbon footprint assessment that included a calculation of all contributing greenhouse gas emissions covering all infrastructure of the Southern Gas Corridor project. When reviewing the complaint, the EIB-CM noticed that the TANAP promoters had calculated the project's emissions using an outdated value [18]. However, after recalculating with the updated value, it found that the impact was negligible (less than 1% of the total emissions for the whole Southern Gas Corridor).

The Ombudsman's assessment:

The Ombudsman verified the EIB's own carbon footprint assessment, obtained in the course of the inquiry. The Ombudsman confirms that it covered all contributing greenhouse gas emissions (including fugitive emissions) covering all infrastructures of the Southern Gas Corridor project. The EIB-CM acknowledged that an error had occurred in the calculation of TANAP's emissions, which used an outdated value, but found that the impact of the error compared with the total combustion emissions had been negligible (less than 1%). In the absence of any evidence to the contrary, the Ombudsman finds the EIB's assessment and approach to be reasonable.

4) Outdated value to evaluate the climate impact of the



pipelines

The complainants argued that the EIB had used an outdated value to evaluate the climate impact of the pipelines under its carbon footprint assessment and calculation methodology.

The EIB-CM explained that, when preparing its own carbon footprint assessment, the EIB itself had used an outdated value in its calculations. The EIB-CM found that the EIB had since then updated its guidance document with the up-to-date value. [19]

The Ombudsman's assessment:

The EIB itself had used a wrong value in its calculations because the reference document (the EIB's Project Carbon Footprint Methodology, version 10.1) still referred to an outdated value. That value has since then been updated in the current version of the reference document (version 11.1). [20] As such, the Ombudsman finds that the EIB acted reasonably on that aspect.

5) Failure to take into account increased capacity of the pipelines

The complainants alleged that the EIB assessed greenhouse gas emissions only for the first phase of the projects, not for further phases when the pipelines would be operating at full capacity.

In reply to the complaint, the EIB-CM explained that the EIB calculated greenhouse gas emissions for the first phase of the projects only, because it was the only phase financed by the EIB. Any further extension or upgrade of the pipelines, if financed by the EIB, would be subject to further carbon footprint assessments. The EIB-CM concluded that the carbon footprint assessment for phase 1 was fully in line with the EIB's rules.

The complainants insisted that, by taking into account only Phase 1 of the project with a lower pipeline capacity, the EIB downsized the amount of greenhouse gas emissions generated by TAP and TANAP. They said that, contrary to what the EIB claims, the pipeline capacity would increase over time thanks to further compression of natural gas, without any further investments being necessary.

The Ombudsman's assessment:

The EIB decided to assess greenhouse gas emissions only for the first phase of the projects. The first phase took into account a pipeline capacity of 10 billion cubic metres per year (bcm) for TAP and 16 bcm for TANAP, while the capacity would increase to 20 bcm for TAP and 24 bcm for TANAP in the next phases. The EIB explained that it would carry out separate carbon footprint assessments in case it decided to finance any further extension or upgrade of the pipelines. The Ombudsman finds this explanation to be reasonable. The complainants argued that the pipeline capacity would increase without the need for further investments, but the evidence rather points to the contrary: the construction of additional compressor stations is necessary if TAP and TANAP want to increase pipeline capacity. [21] Such construction - if financed by the EIB - would then need to be subject to separate carbon footprint assessments.



6) Credible baseline scenario (without the project)

The complainants argued that the EIB's carbon footprint assessment failed to provide a credible baseline scenario to compare the projects' impact with other alternatives should the pipelines not be built.

The EIB-CM replied that, according to the EIB's rules, the credible baseline scenario (the "without the project" scenario), requires envisaging what would happen in the eventuality of the projects not being built and the same amount of gas being imported through alternative routes. The EIB said, at the time, that the alternatives to the pipelines would be Russian gas imports through Nord Stream 2 and the Ukrainian transit pipelines, or imports of Liquefied Natural Gas from the United States. The EIB-CM found that the EIB had carried out a credible and realistic baseline scenario for its carbon footprint assessment.

The complainants insisted that the EIB had failed to consider a scenario with actions and policies aimed at energy saving instead of increasing the natural gas import capacity.

The Ombudsman's assessment:

The "credible baseline scenario" is meant to compare the projects' impact with other alternatives should the pipelines not be built. The Ombudsman finds nothing in the alternative scenario envisaged by the EIB that would indicate a significant deviation from its own rules. It was perfectly reasonable at the time for the EIB to envisage a scenario in which gas would continue to flow to Europe through the already-existing pipelines (Russia, US, Ukraine). The complainants argue that the EIB failed to take into account the old age of the Russian pipelines and should have predicted an alternative scenario focusing on energy saving policies. However, the Ombudsman notes that there is nothing in the EIB's rules that would oblige the EIB to come up with alternative scenarios to such a level of detail. [22]

7) Albania's international commitments to reduce its carbon dioxide emissions

The complainants argued that the projects seriously threatened the international commitments taken by Albania to reduce its carbon dioxide emissions. The predicted greenhouse gas emissions from the TAP project would amount to 7% of Albania's annual total emissions, even though Albania had promised to reduce its carbon dioxide emissions by 11.5% before 2030. The promoters failed to present any mitigation strategies to alleviate the significant impact that TAP would have on Albania's greenhouse gas inventory.

The EIB-CM said that there was no evidence that Albania would not respect its international commitments to reduce its carbon dioxide emissions. In addition, the TAP promoters were in the process of preparing a management plan intended to address the residual impacts and provide mitigation controls and safeguards for the TAP section crossing Albania.

The Ombudsman's assessment:



It is not the Ombudsman's role to assess whether a third country will respect its international commitments as regards climate change. The complainants' main argument is that the TAP promoters had failed to present mitigation or compensation measures, which was against the EIB's requirements. The EIB-CM explained that the TAP promoters would prepare an additional document with mitigation measures. The Ombudsman confirms that the TAP promoters have, in the meantime, published such a document. [23] The document presents the tools and processes in place to manage emissions during the operations phase, including greenhouse gas emissions, and to set measurable reduction targets for greenhouse gases, including fugitive emissions. The Ombudsman finds that the EIB has provided a reasonable reply to the complainants' arguments on that aspect.

[1] The EIB-CM published information on the case, and its conclusions report, on its website: <https://www.eib.org/en/about/accountability/complaints/cases/tap-tanap> [Link]

[2] See

<https://www.eib.org/en/press/all/2019-313-eu-bank-launches-ambitious-new-climate-strategy-and-energy-lending-policy> [Link]

[3] At the time when the TAP and TANAP projects were assessed, the EIB had an **Environmental and Social Sustainability Framework** which comprised (i) a [2009 Statement of Environmental and Social Principle and Standards](#) [Link] (the Statement explained the environmental and social requirements against which the projects the EIB finances are assessed) and (ii) a [Handbook on Environmental and Social Standards](#) [Link] (the Handbook translated the environmental standards described in the Statement into the operational practices followed by the staff of the EIB). The EIB also published a [Project Carbon Footprint Methodology](#) [Link] (version 10.1) explaining how EIB staff members should calculate the carbon footprint of the investment projects financed by the EIB. The EIB updated its Framework in 2021 following a public consultation (see: <https://www.eib.org/en/about/priorities/climate-action/environment-sustainability/index.htm> [Link]).

[4] See: https://www.eib.org/attachments/strategies/eib_energy_lending_policy_en.pdf [Link]

[5] The Paris Agreement is a legally binding global climate change agreement, adopted at the Paris climate conference (COP21) in December 2015. The Paris Agreement sets out a global framework to avoid dangerous climate change by limiting global warming to below 2°C. It also aims to strengthen countries' ability to deal with the impacts of climate change and support them in their efforts. The EU and its Member States are parties to the agreement.

[6] See footnote 3.



monoxide (CO) for onshore operations (see p. 47). The emissions are considered of minor significance.

[17] Fugitive emissions are emissions that are not physically controlled but result from the intentional or unintentional releases of greenhouse gases. They commonly arise from the production, processing transmission storage and use of fuels and other chemicals, often through joints, seals, packing, gaskets, etc. Venting emissions are emissions that are typically released through a deliberate action associated with plant activities. Venting emissions are in principle included in the definition of fugitive emissions.

[18] The Global Warming Potential index for methane (CH₄) was set by the United Nation's Intergovernmental Panel on Climate Change (IPCC) at 21 in 1996, and then updated to 25 in 2007. TANAP's impact assessment used the old value (21).

[19] The updated EIB Project Carbon Footprint Methodologies (version 11.1, July 2020) uses a Global Warming Potential index for methane (CH₄) of **28**, in line with the latest IPCC assessments. See page 41 of the Methodologies, available at:
https://www.eib.org/attachments/strategies/eib_project_carbon_footprint_methodologies_en.pdf
[Link]

[20] Version 11.1 of the Methodologies is available at
<https://www.eib.org/en/about/cr/footprint-methodologies.htm> [Link] (last accessed 8 March 2022)

[21] The [TAP website](#) [Link] explains that: “ *TAP's current operational capacity is 10 billion cubic metres annually (bcm/a). However, with the addition of two compressor stations and modification to the existing compressor stations, the existing pipeline capacity can be increased to a throughput of 20 bcm/a.* ” (emphasis added). The [TANAP website](#) [Link] says: “ *The transmission capacity of the pipeline will be 16 billion cubic meters at the outset, but will be increased to 24 billion cubic meters and then to 31 billion cubic meters in the coming years with additional investments. (...) 2 Compressor Stations (Once the transmission capacity increases to 31 bcm, the number of Compressor Stations will be increased to 7).* ” (emphasis added)

[22] The EIB's Project Carbon Footprint Methodology, version 10.1, says that “ *The project baseline scenario (or “without project” scenario) is defined as the expected alternative means to meet the output supplied by the proposed project. The baseline scenario must therefore propose the likely alternative to the proposed project which (i) in technical terms can meet required output; and (ii) is credible in terms of economic and regulatory requirements.* ”

[23] See the TAP “ *Atmospheric Emissions Management Procedure* ”, published in September 2020, available at:
[https://www.tap-ag.com/sustainability/lenders-requirements/esch-management-operations/\\$18964/\\$18963/\\$19030](https://www.tap-ag.com/sustainability/lenders-requirements/esch-management-operations/$18964/$18963/$19030)
[Link]