



Press release

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For immediate release

BAKU-CEYHAN PROJECT VIOLATES TURKEY'S EU ACCESSION AGREEMENT

CAMPAIGNERS TAKE FIRST STEP IN POTENTIAL EU LEGAL CHALLENGE TO CONTROVERSIAL BP PIPELINE

The controversial BP-led Baku-Tbilisi-Ceyhan (BTC) oil pipeline project [1] violates Turkey's accession agreements for entry into the European Union [2], says a coalition of leading human rights and environmental NGOs [3], as well as a group of local Kurdish people affected by the project. The NGOs and affected people yesterday submitted a detailed submission to the European Commission, calling for all pre-accession assistance to Turkey to be frozen until all BTC project defects are remedied. If the Commission fails to take corrective action, the campaigners and affected people will consider all legal avenues open to them, including seeking remedy through the European Court of Justice.

According to the campaigners, the legal agreements that underpin the project break EU law, as well as Turkey's obligations under the EU Accession Partnership. Under the agreements, Turkey exempts the pipeline consortium from all Turkish laws that might affect the project [4]. Turkey would also be obliged to compensate the consortium if new laws were introduced that affected the "Economic Equilibrium" or profitability of the project [5].

The NGOs cite a legal opinion by EU law barrister Philip Moser [6], in which he argues that as part of its EU Accession Partnership, Turkey is obliged to move towards the *acquis* of Community law; instead, it has moved away from the *acquis*, triggering the Commission's duty to act. Moser concludes that the agreements, "amount to a clear potential breach of what would be Turkey's EU law obligations, namely accepting the supremacy of Community Law."

In their letter to the Commission, the campaigners state:

“The Accession Partnership with Turkey is severely undermined by the construction of this pipeline. Turkey has agreed a move towards the Community *acquis* and the Copenhagen criteria, yet the pipeline project agreements represent a step in entirely the wrong direction. The implementation of this project involves actual and/or potential breaches of EU, Human Rights and International Law.”

Turkey has also undertaken to implement EU laws on environmental impact assessments (EIAs). However, the submission points out that the project violates EU EIA requirements on nine counts, including failing to consult properly with those affected by the pipeline. The Complaint is supported by sworn affidavits from villagers affected by the project, who state that they been neither properly consulted nor compensated, although BP has frequently claimed to have consulted everyone who will be affected by the pipeline.

Accusations of human rights violations, particularly in areas with large Kurdish populations, have also dogged the BTC project. “These statements are only the tip of the iceberg”, says Kerim Yildiz, Executive Director of the Kurdish Human Rights Project.

“There are hundreds more people who are in the process of filing complaints about the way BP has failed to consult them about, or pay them for, the use of their land. But what else do you expect when BP’s plans took so little account of their rights in a politically repressive environment? It’s a tribute to these people’s bravery that they are willing to speak up in a climate so lacking in freedom of expression.” [7]

The European Commission has powers to act in the event of Turkey acting contrary to its accession agreements, including the capacity to freeze all pre-accession assistance [8]. “The European Commission is the Guardian of the accession process and must act in circumstances such as these, where the evidence of Turkey’s failure to comply with its accession obligations is so overwhelming,” says Phil Michaels, legal advisor to Friends of the Earth. “We expect them to take appropriate and proportionate action.”

ENDS

EDITORS’ NOTES

[1] The Baku-Tbilisi-Ceyhan (BTC) pipeline, if built, would carry up to a million barrels of oil a day from the Caspian Sea through Georgia to Ceyhan on the Turkish Mediterranean coast. UK oil giant BP leads the project, and is seeking around \$2 billion in public subsidy from the European Bank for Reconstruction and Development, the World Bank and export credit agencies such as the UK’s ECGD. The BTC project has come in for extensive criticism for its human rights, social and environmental implications: for more on the critiques, see www.baku.org.uk.

[2] The letter sent to the Commission is available from The Kurdish Human Rights Project – khrg@khrg.demon.co.uk

[3] The groups include the Kurdish Human Rights Project, Friends of the Earth, PLATFORM, the Ilisu Dam Campaign and The Corner House.

[4] The preamble of the Intergovernmental Agreement signed between Turkey, Azerbaijan and Georgia, the three states through which the pipeline passes, states:

“ . . . the Intergovernmental Agreement shall become effective as law of the Republic of Turkey and (with respect to the subject matter thereof) prevailing over all other Turkish Law (other than the Constitution) and the terms of such agreement shall be the binding obligation of the Republic of Turkey under international law . . . ”

[5] The HGA contains a ‘stabilisation clause’, where if anything threatens the “Economic Equilibrium” of the Project, then Turkey and other states shall (HGA, Art.7.2(xi)):

“...take all action available to them to restore the Economic Equilibrium established under the Project Agreements if and to the extent the Economic Equilibrium is disrupted or negatively affected, directly or indirectly, as a result of any change in Turkish law (including any Turkish laws regarding taxes, health and safety and the environment). ...this shall include the obligation to take all appropriate measures to resolve promptly by whatever means may be necessary, including by way of exemption, legislation, decree and/or other authoritative acts, any conflict or anomaly between any Project Agreement and ... Turkish law.”

[6] Philip Moser, a barrister with the European Law Group at 4 Paper Buildings, Temple, is a widely acknowledged specialist in European Law.

[7] A fact-finding mission report issued in May by many of the NGOs involved in the submission concluded that so serious is the level of political repression along parts of the pipeline route that freedom of expression effectively does not exist, fundamentally invalidating the idea or practice of consultation.

[8] Council Regulation 390/2001 “on assistance to Turkey in the framework of the pre-accession strategy” establishes a system for the Commission to recommend that ‘appropriate steps’ be taken in relation to pre-accession assistance to Turkey. Such steps include the freezing, or withdrawal, of such assistance.