



# THE TRANS ADRIATIC PIPELINE

## AN OPPORTUNITY OR A SCAM IN THE MAKING FOR ALBANIA?

WRITTEN BY RE:COMMON

Every era has its pipe dream, and for many European political leaders their pipe dream du jour is to transform the countries that they govern into 'gas hubs'.

Italy, Greece, Albania, the Netherlands and Ukraine are only some of the various European countries whose political leaders and energy experts wax lyrical in interviews, reports and public statements about how the mega infrastructure that they are planning to build is needed to transform their country into a gas hub. Whether it be a gas deposit, a long distance pipeline, a new piece of the internal distribution network or a regassification plant, the narrative is the same: the country needs it to become a gas hub. And, as a cornerstone of the European Union and its key objective of energy security, Europe is asking us to build it.

Albania is not the only country whose political leaders, energy experts and entrepreneurs have used this 'energy hub' discourse. It comes with the new vision of modernity, a modernity consisting of the 'cleanest' of the fossil fuels available, natural gas, and of being ready to make the most of it as soon as an opportune moment arrives. Yet modernity comes with a double face: its dark side reveals itself in



Gener 2 and Sicilsaldo roads construction site near Coravode, Photo © Elena Gerebizza/Re:Common.

the context of energy megaproject discussions about winners and losers, companies with hidden beneficiaries, middlemen and financiers who use modern ways of building infrastructure as a tool for further physical and financial extraction for the benefit of a few.

This briefing assesses the largest investment in gas infrastructure to which the Albanian government has committed: the Trans Adriatic Pipeline (TAP). It is based on interviews and visits made by Re:Common in May 2016, and on years of investigation into and discussion of the project. In a journey through the 'pipedream of gas' we look into the promises, the hidden interests and the worrying pending questions about TAP in one of the poorest countries of Europe.

## THE CONTEXT: THE TRANS ADRIATIC PIPELINE AS A HISTORIC OPPORTUNITY FOR ALBANIA

"Today we will decide about the signature of the trilateral agreement between Albania, Italy and Greece for the largest infrastructure project in the last 20, or 100 years, or maybe the largest project ever in the region. This is the Trans Adriatic Pipeline"<sup>1</sup>.

It was the 27th of February 2012,

<sup>1</sup> <http://gazeta55.al/neder-firma-per-gazjellesin-tap-shqiperia-e-para-qe-miraton-neparim-marrevshjen/>



The Spiecapag pipes deposit in Durres. The first pipes for the construction of the Trans Adriatic Pipeline were delivered here in April 2016. Photo © Elena Gerebizza/Re:Common, 2016.

and thus pronounced Sali Berisha, the then Prime Minister of Albania. Albania was the first government to publicly announce its endorsement of the TAP project, when Trans Adriatic Pipeline AG (TAP AG – the consortium of companies proposing the construction of the pipeline) was still engaged in dialogue with Azerbaijan and the partners of the Shah Deniz II gas field to decide on what would be the optimal route to transport the gas that they expected to extract from 2020 onwards. In December of the same year, Berisha, in his position of Head of the Territorial Council, granted the pipeline the status of ‘national importance’, and the 500 metre wide TAP corridor was declared a ‘national area’<sup>2</sup>.

In his speech, Berisha recalled a meeting with a high level official from the Swiss Ministry of Foreign Affairs, where both of them agreed

that the TAP project would also mark a turning point in relations between Albania and Switzerland. Indeed, the main proponent of the pipeline at that time was EGL, a Swiss energy company controlled by the Axpo Group, a publicly controlled Swiss company whose shareholders are the Swiss cantons<sup>3</sup>. Of course it was important too for strengthening relations with the other partners: Italy, Greece, Turkey and Azerbaijan. But, first and foremost, Switzerland was key.

Albania and Switzerland’s commercial relations date back to the Bilateral Investment Agreement signed by their respective governments in 1992, when the former was opening up its market after the fall of the regime of the People’s Socialist Republic of Albania<sup>4</sup>. The agreement was signed on the 22nd of September, just a few

months after the first democratic government was elected in March 1992. The new President of Albania was Sali Berisha<sup>5</sup>.

The person who signed the agreement on behalf of the Albanian government in 1992 was Naske Afezulli<sup>6</sup>, Deputy Minister of Economic Relations & Foreign Trade. Shortly after, he became EGL’s representative in south-eastern Europe, and currently sits on the board of TAP AG.

Afezulli in fact was one of the key people who helped to advance the project. Since 2003 he has been chairman of the Board of TAP Storage AG, one of several companies behind the development of the project in its early days. In 2008, he was presenting it to the Albanian government, when the realisation of the project was still a long way off, and EGL was the main proponent<sup>7</sup>. In 2013, he was part of the consultants team who presented a World Bank financed study on gas in the western Balkans<sup>8</sup>. In his CV, he boldly states that “he never has been affiliated with any political party and his opinion is that the biggest enemy of democracy is corruption”<sup>9</sup>.

<sup>5</sup> Sali Berisha was the second President of Albania, from 1992 to 1997, and Prime Minister from 2005 to 2013. [https://en.wikipedia.org/wiki/Sali\\_Berisha](https://en.wikipedia.org/wiki/Sali_Berisha)

<sup>6</sup> [http://arbitration.org/sites/default/files/bit/albania\\_switzerland\\_french.pdf](http://arbitration.org/sites/default/files/bit/albania_switzerland_french.pdf)

<sup>7</sup> [http://www.iene.gr/energyweek08/articlefiles/page03\\_04/b\\_karydogianni.pdf](http://www.iene.gr/energyweek08/articlefiles/page03_04/b_karydogianni.pdf)

<sup>8</sup> [https://www.energy-community.org/portal/page/portal/ENC\\_HOME/DOCS/2470181/0633975AD4A77B9CE053C92FA8C06338.PDF](https://www.energy-community.org/portal/page/portal/ENC_HOME/DOCS/2470181/0633975AD4A77B9CE053C92FA8C06338.PDF)

<sup>9</sup> [http://energija.al/images/CV\\_Naske\\_Afezulli.pdf](http://energija.al/images/CV_Naske_Afezulli.pdf)

<sup>2</sup> <http://www.tap-ag.com/news-and-events/2012/12/24/tap-granted-status-of-national-importance-in-albania>

<sup>3</sup> <https://www.axpo.com/axpo/us/en/home.html>

<sup>4</sup> [http://arbitration.org/sites/default/files/bit/albania\\_switzerland\\_french.pdf](http://arbitration.org/sites/default/files/bit/albania_switzerland_french.pdf)

## TRANS ADRIATIC PIPELINE AG

The Trans Adriatic Pipeline is one section of a 3500 kilometre gas export route aimed at connecting Azerbaijan's Shah Deniz II offshore gas field with the southern Italy region of Apulia, more specifically with the town of Melendugno (Lecce). The entire pipeline is considered to be a key infrastructure by the European Commission, which has duly deemed it to be a 'Project of Common Interest'. Construction of the TAP is scheduled to start in 2016 and be completed in 2020. Its proposed route traverses northern Greece, Albania, the Adriatic Sea and lands on the coast of Apulia, approximately 20 kilometres south of Lecce, in one of the most wonderful, pristine beaches in Europe. The project is facing fierce opposition from residents<sup>10</sup>, local institutions – including 43 municipalities and the governor of the region – as well as from the wider Italian public.

The project is facing strong opposition also in Greece, in particular by farmers in Kavala and in Serres. According to the Agricultural Association of the Municipality of Kavala, over 70 per cent of the land owners whose land should be crossed by the pipeline have not signed any agreement with TAP AG<sup>11</sup>.

Trans Adriatic Pipeline AG is a company registered in Baar, in the Canton of Zug, Switzerland. Zug is the most

secretive canton in the Swiss Federation, and publicly available information about the TAP AG consortium is very limited:<sup>12</sup> in short, not much more is known about it other than the make-up of its board of directors and the company management. The beneficial owners of the company are not known. The shareholders of TAP were only revealed publicly in 2015 via media investigation into the company's structure:<sup>13</sup> they are all limited liability companies whose main activity is energy trading, and whose ultimate beneficial owner is in some cases not clear.

12 [http://www.moneyhouse.ch/en/u/trans-adriatic\\_pipeline\\_ag\\_CH-170.3.030.511-2.htm](http://www.moneyhouse.ch/en/u/trans-adriatic_pipeline_ag_CH-170.3.030.511-2.htm)

13 <http://lacite.website/2015/12/09/les-nuages-sassombrissent-sur-le-tap-gazoduc-phare-de-la-suisse/>; <http://www.counter-balance.org/clouds-darken-over-the-tap-switzerlands-flagship-gas-pipeline/>

These shareholders comprise:

**Axpo Trading AG** – registered in Dietikon, Switzerland

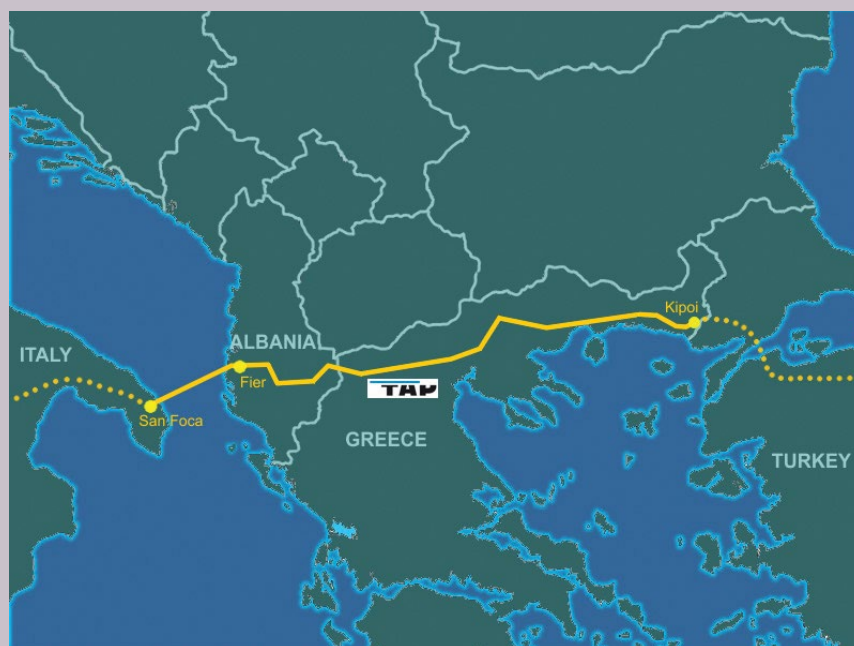
**BP gas marketing Ltd** – registered in Belgium and part of the BP Gas marketing Ltd

**Fluxys Europe B.V.** – registered in Rotterdam, The Netherlands

**Enagas Internacional S.L.U** – a holding company registered in Madrid

**Statoil Holding Netherlands B.V.** – registered in Rotterdam, The Netherlands

**AzTAP GmbH** – registered in Zug, Switzerland



10 <http://notransadriaticpipeline.blogspot.it/>

11 Interview with Themistoklis Kalpakidis, President of the Agricultural Association of the Municipality of Kavala by Re:Common, July 2016.



## A TORTUOUS ENERGY SECTOR PRIVATISATION

The 1990s were the years of public-private partnerships and saw the shaping of a new privatisation agenda. This was true across Europe and even more so in the newly 'democratic' countries which had to endorse the liberalisation agenda in order to be fully welcomed in free market circles.

The first democratically elected government of Albania duly undertook privatisation of the public sector, including the most strategic sectors such as transport, telecommunications and energy. However, this was not an easy task, not least because of the important private and personal interests behind the process – these shaped both how benefits would materialise and who precisely would benefit from the sectors concerned in the decades to come. In particular, the privatisation of the energy sector had been under discussion since the early days of the Berisha government, and still today has not been completed – it remains a sensitive issue.

Albania has been developing oil fields discovered in the area of Fier since 1928, with a rampant national oil industry under state control. Throughout the country's history oil revenues and the industrial system which developed over the years have guaranteed constant flows of money, from which the ruling class has benefited the most. After the fall of the regime, the gap between the small circles around the president and the rest of the population grew drastically.

Undoubtedly, when the privatisation process began in Albania, peculiar interests along with a culture of the

state as an extractive machine for the benefit of a few was still present. The issue in Albania, as in many countries with a history of a strong public sector, was how to create a new structure that would be able to transfer most of the sectors to the private realm while maintaining certain benefits for the ruling class and the close circles around them.

In this context, it is no surprise that the privatisation of the national oil company, Albpetrol, became a priority once again in 2012, when the Berisha government signed the international agreement concerning TAP and related investments. Moreover, the well developed international financial system was to provide major assistance in defining a set up which could guarantee the extraction of wealth and its channelling into the hands of a few.

In October 2012, a consortium headquartered in Singapore, Vetro Energy, won the international tender for the privatisation of Albpetrol at a cost of EUR 850 million<sup>14</sup>. This was a huge economic operation, yet the property of the consortium remained a mystery throughout the tendering process: essentially, Albania was selling off a key strategic sector, and the future rights to benefit from it, to an unknown business entity which was operating via a tax haven.

Only when the assignment of the contract was finalised did the details of the property become public: Vetro Energy was one of the vehicles controlled by the Albanian businessman and oil tycoon Rezart Taci.

The Associated Press reported on the occasion of Prime Minister Sali Berisha's declaration that the agreement

would allow Vetro Energy to explore and develop onshore and offshore fields, build a refinery and transport and distribute natural gas in Albania for 25 years<sup>15</sup>. **The privatisation of Albpetrol and the construction of the TAP pipeline eventually became part of the same deal.** It was at the same time a challenge and an opportunity for the political, economic and financial dimension of the investment, and Taci was the man behind the largest operation that was set to shape the future of the country.

This is no big mystery: the history of privatisation processes always conceals winners and losers. In the case of Albania, the privatisation of the energy sector before TAP became a factor was *a must* in order to make sure that at least the winners would be identified.

In 2012, the negotiation to include TAP as part of the Southern Gas Corridor was reaching a key moment. With the assignation of the contract to "*transport and distribute natural gas in Albania for 25 years*", Vetro Energy was being assigned the rights related to the TAP construction and related industrial development, all bundled into one package.

Yet the question that persisted was why was an Albanian businessman operating through a company registered in Singapore? Equally, why was the government permitting this, and who then was behind Taci, ready to reap the benefits accruing from the deal?

However something went wrong, and Vetro Energy was unable to deposit on time the required 20per cent of the agreed amount for the

14 <http://www.10tv.com/content/stories/apexchange/2012/10/03/eu--albania-albpetrol-vetro-energy.html>

15 <http://www.10tv.com/content/stories/apexchange/2012/10/03/eu--albania-albpetrol-vetro-energy.html>

deal<sup>16</sup>. Therefore, in January 2013, the government cancelled the tender following an attempted fraud by Taci, who reportedly presented a USD 85 million guarantee from the Chicago based American Chartered Bank, which the Ministry of Economy was unable to claim and allegedly may have been a fake<sup>17</sup>.

The businessman's decline was under way and he was forced to sell the majority of his assets in August 2013 to a company registered in the British Virgin Islands, Heaney Asset Corporation, whose property was unknown. Local media subsequently reported a mysterious Azeri property of the company<sup>18</sup>.

Heaney Asset Corporation, according to media reports, paid EUR 35 million to take on Taci's participation in AMRA (Anika Mercuria Refinery Associated Oil), a company which controlled 85 per cent of ARMO, the Albanian Oil Refining and Marketing Company, the other public energy company operating in the sector of oil refining which was under privatisation at the time<sup>19</sup>. The remaining 15 per cent participation in the company stayed with the Albanian government.

Ultimately the Albpetrol privatisation was never concluded. The operation remained suspended for years until, in December 2015, the Prime Minister of Albania, Edi Rama, reportedly announced the suspension of the sale of Albpetrol due to low oil

16 <http://www.reuters.com/article/albania-albpetrol-sale-idUSL5E8NAD0S20121210>

17 <http://www.balkaninsight.com/en/article/albania-oil-tycoon-suspected-of-money-laundering>

18 <http://www.balkaninsight.com/en/article/albania-oil-tycoon-suspected-of-money-laundering>

19 80% of AMRA was purchased by Heaney Assets Corporation, and 20% was purchased by Refinery Associates based in Texas.

## WHO WAS BEHIND HEANEY ASSET CORPORATION?

The company remained a mystery for several months. After its name was brought up as part of the privatisation deal, journalists of the Albanian magazine 'Shqiptarja' were able to shed light on the company by discovering the name of the person who came to Tirana to sign the purchase contract on behalf of a company registered in the British Virgin Islands. That person is Abe Halati, a US citizen of Azeri origins living in Baku, born in Iran and holding a US passport<sup>20</sup>. According to the magazine's investigation, Halati is present on the board of several companies registered in Azerbaijan which operate in the extractives sector. He is on the board of Heaney Asset Corporation, together with Ibrahim Hastopalli, Laurence Storch and the lawyer Erinda Ballanca, who represented the International Bank of Azerbaijan in a lawsuit which the latter had made against Rezart Taci<sup>21</sup>.

20 <http://info.al/v5/category/ekonomi/page/54/>

21 <http://info.al/v5/category/ekonomi/page/54/>

prices<sup>22</sup>. Albanian authorities have also been investigating the sale to Vetro Energy since 2013<sup>23</sup>.

Ultimately, Rezart Taci was arrested at Geneva airport on May 9th 2016, under an Interpol mandate<sup>24</sup>. He is now in jail in Switzerland. It is not fully clear if the investigation that led to his arrest is connected to the one carried out by Albanian authorities into the sell-off of Albpetrol. According to media reports, the investigation was opened after the Panama based companies Wallis Trading Inc and Dutch Trafigura Beheer BV pressed charges against Taci. He is accused by the Swiss authorities of fraud, the falsification of documents and forgery<sup>25</sup>.

This story is far from being unique, and it entered the public domain

22 <http://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=10741109>

23 <http://energija.al/tag/owners/>

24 <http://www.lajme.al/arrestohet-ne-zvicer-rezart-taci-hetohet-edhe-liri-berisha/>

25 <http://www.tuttomercatoweb.com/parma/?action=read&idnet=cGFybWFsaXZlMnNvbS0xMDcxNjM>

only as a result of the recent arrest of Taci, who is now commonly referred to by many in Albania as 'a criminal', even if the judgment in Switzerland and the investigation in Albania are still ongoing. Significantly, if the Albpetrol privatisation had in fact proceeded and gone through smoothly, he would probably today still be an esteemed businessman, and the fact of his operations via tax havens would doubtless simply be seen as normal practice for business in modern times.

Even more compelling is what the media has reported about one of the unanswered questions about Taci – namely, who was behind him? The name that keeps cropping up in allegations is that of the wife of the former prime minister – and still a parliamentarian – Sali Berisha. **Lira Berisha, it is alleged, is one of the hidden beneficiaries of Taci's small empire**<sup>26</sup>. If this is true, it opens up further important questions concerning TAP construction in Albania.

26 <http://www.lajme.al/arrestohet-ne-zvicer-rezart-taci-hetohet-edhe-liri-berisha/>

## “TAP IS A PRIVATE INVESTMENT” – WHO PAYS THE COST FOR PROFITS OF PRIVATE INVESTORS?

During our visit, Selami Xhepa is introduced to us as an independent economist who closely followed the TAP negotiations during the former government of Berisha.

“I was advisor on economic reform in 2005,” he tells us. Back in those days, the Swiss company EGL set up a controlled company in Italy, EGL Produzione Italia SpA, which received EUR 3 million in EU Structural funds in 2004 and 2005 to undertake a feasibility study for and the early engineering stages of a gas pipeline connecting Greece, Albania and Italy. Xhepa was in position when the pipeline project was shaping up in its early days. He was also there a decade after, when an inter-governmental agreement was signed by the three governments and the parliaments of each country had to ratify it. In Albania, the discussion and ratification in the parliament took place in April 2013.

Xhepa confirms to us the general feeling among politicians and entrepreneurs in Albania that the project is an opportunity for the country and will bring enormous benefits for the future. However, advancing more deeply into details, it becomes difficult to get a grasp of how exactly these benefits will look.

“At the time there was no big project about gas in Albania, the most advanced pipeline project was the one driven by Edison, with Depa and

Botas<sup>27</sup>, to connect Greece to Italy (the ‘Poseidon pipeline’). Unfortunately that one did not materialise,” Xhepa tells us. He remembers that at the time there were a lot of geopolitics connected to gas developments, and as part of the Albanian institutional machine, “we were keen to support any project that would provide gas to Albania”.

He, as well as other experts and officials who were part of the year long lobbying and negotiating to include TAP into the Southern Gas Corridor, believe that the project provides an opportunity for the country to use gas in the future. This despite the fact that the project is thought to be only transiting across Albania and the other countries, with none of them set to physically use the transported gas<sup>28</sup>.

Similarly, another Albanian economic expert, Zef Preci, views the project as “a big challenge for Albania and a good opportunity to secure gas to be provided for industrial purposes”. In his eyes, Albania does not have any infrastructure in place for the use of gas, neither industrial (for the production of energy) nor for household consumption. However, participating in the project opens possibilities for the country’s energy future – it could seek to use some of the gas for industrial energy production. The transit fees, in Preci’s view, as well as the percentage of gas that will remain in the country are the key aspects “still being discussed” which will define just how much Albania will gain from the investment.

<sup>27</sup> <http://www.igi-poseidon.com/>

<sup>28</sup> Article 7 of the HGA between the Republic of Albania and TAP AG refers to an “interconnection agreement” which in the future the parties should negotiate to define the ties-in to the Albanian network, which at the moment do not exist. Host Government Agreement between the Republic of Albania and Trans Adriatic Pipeline AG, Allen & Overy LLP, 0086072-0000001 IS:81793.6. Intergovernmental Agreements and Host Government Agreements on Oil and Gas Pipelines -A Comparison- | 2015

An even bigger question concerns how much Albania will actually have to pay. The project proponent, the Trans Adriatic Pipeline AG registered in Baar, in the canton of Zug, Switzerland, has endlessly repeated that *it is a private sector project*. In theory this should mean that governments are not asked to contribute to the investment. However they are asked to facilitate it, and this may have budget implications for the public coffers, as the history of public-private partnerships teaches.

After the selection of TAP in 2013 as the end route for Azeri gas extracted in the Shah Deniz offshore field, the consortium has in fact sought **public finance** to support its investment. TAP AG has been trying to get support from European public banks for the pipeline, and both the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB) are officially considering granting loans for TAP. The EIB in particular has revealed that it may end up being very generous towards TAP: the specific EIB loan that has been under discussion since August 2015 would be the largest in the history of the institution – EUR 2 billion<sup>29</sup>.

However one critical aspect of the project finance concerns the counter-guarantees to the loans. Who will cover them?

Will it be the European Commission? Or will it be the host governments, namely Albania and Greece, for the respective share of the in-

vestment on their own territories?<sup>30</sup>

<sup>29</sup> <http://www.eib.org/projects/pipeline/2014/20140596.htm>

<sup>30</sup> Italy has apparently not signed any host government agreement concerning TAP, neither is there any other investment agreement in place; or, if any have been agreed and signed, they are not in the public domain.

## THE BAKU-TBILISI-CEYHAN (BTC) PIPELINE

The history of major fossil fuel pipelines is one notorious for missed deadlines, private disputes, unhappy intermediaries which sometimes are rearranged as a result of the political backup of governments and – on other occasions – end up in major fall out and disagreement. These no doubt are all inevitable aspects which increase the risks involved in such large scale projects, and that in order to be addressed and tackled require various forms of public and political backup.

The BTC project, the Baku-Tbilisi-Ceyhan oil pipeline, a massive 1776 kilometre slice of infrastructure which can be viewed as the older brother of the Southern Gas Corridor, has experienced such a chequered history. In operation since 2006, for a few years already there have been rumours circulating in the extractives sector about the pipeline pumping oil at reduced capacity. Indeed, according to diplomatic cables released by Wikileaks, in 2008

Socar – the Azeri national energy company – was already experiencing problems related to oil supplies for the three pipelines exporting from Azerbaijan, one of them being BTC. Apparently the company's management was prepared to close the Baku-Novorossiisk pipeline ('Northern Route') if it was not able to find at least 1 million tons [of oil] annually<sup>31</sup>.

It's also incontrovertible that the story of the politics around BTC included contradictory information as to whether the Azeri reserves were enough to allow repayment of the investment, or if the aim was also to transport via BTC a portion of the oil extracted in Kazakhstan's massive fields. To this day the Trans-Caspian oil pipeline, which should have connected the two countries, remains a pipe dream. But, as with the Southern Gas Corridor, BTC is a

highly political and strategic project, and for decision-makers whether or not the investment is able to pay for itself is not the issue.

As long as European governments, along with Azerbaijan, Georgia and Turkey at the time (and today), endorse it, it might be enough to allow construction to come to an end. It is not a question, ultimately, of how much oil is transported, or if the public benefits and by how much. Indeed, who will guarantee the investment, for TAP as for the other sections of the Southern Gas Corridor, remains one of the unanswered questions with long term implications for the governments involved, not to mention the EU as a whole.

<sup>31</sup> [https://wikileaks.org/plusd/cables/08BAKU136\\_a.html](https://wikileaks.org/plusd/cables/08BAKU136_a.html)







Natural canyon near Coravode.  
Photo © Elena Gerebizza/Re:Common, 2016.

The Host Government Agreement signed on April 5th 2013 by Albania regulates the “project financing cooperation” in article 47, where it states that:

“The State acknowledges that the Project Investor intends to finance the development of the Project *on a limited or non-recourse project finance basis*. The State further acknowledges that such financing is *fundamental to the successful implementation of the Project* and that such financing will be *in respect of the entire Project rather than any specific part of the Project*” [emphasis added].

It further states that: *“the State agrees to cooperate with the Project Investor in its pursuit of such limited or non-recourse project finance based debt or bond financing for the Project,” and that if requested by the Project Investor it may require “en-*

*tering into a direct agreement with the Lenders (or the agent or trustee of the Lenders) on terms satisfactory to the Lenders and otherwise customary for a limited recourse debt or bond financings”*<sup>32</sup> [emphasis added].

The text speaks of the *interdependency* between TAP and the other sections of the Southern Gas Corridor, deeming it a key element of the larger USD 45 billion investment. If politically the projects are presented as ‘independent’, de facto they all need to be streamlined when it comes to deadlines and financing for the public and private banks that may decide to jump on board this massive investment.

This arrangement, therefore, places a heavy burden on Albania – the smallest of the economies involved, yet with a long section of the pipeline crossing its territory. One of the questions when it comes to counter-guarantees which governments should normally ask is how the costs will be distributed among the governments. In the case of Albania, for instance, there remains an open question concerning the 150 kilometre section of undersea pipeline between Albania and Italy, which is technically complex and may amount to a large chunk of the investment costs.

In interviews conducted with economists, it was confirmed to us that Albania “is not in a favourable position to increase its public debt”. However, the perspective of the interviewees is that the context of the

32 Article 47, Host Government Agreement between the Republic of Albania and the Trans Adriatic Pipeline AG. Host Government Agreement between the Republic of Albania and Trans Adriatic Pipeline AG, Allen & Overy LLP, 0086072-0000001 IS:81793.6. Intergovernmental Agreements and Host Government Agreements on Oil and Gas Pipelines -A Comparison- | 2015

investment is one involving a clear “predomination of the international interest over the national interest”<sup>33</sup>.

For Albania this may mean that undertaking the counter-guarantee is not an option, but part of the inter-government *do ut des* to allow the project to see the light of day.

What we know today is that the Host Government Agreement sets the ground for the state to play a key role in ‘supporting’ the project finance of the private companies. The potential demand for a guarantee may be quite problematic for Albania, as well as for other governments. Any discussion of a guarantee directly affects the budget discussion of each state involved, and should be agreed on and ratified by the respective parliaments. So whether the parliaments will be forward looking in their decision, and whether parliamentarians will have all the needed elements in their hands to decide if the deal will be favourable or not for Albania, and if the public budget can, or cannot, cover the counter guarantee – alas, these vital considerations remain open questions.

For decision-makers in this small, post-communist country, it seems that the main issue is how to attract foreign investors, rather than how much will it cost the state to facilitate foreign direct investment. So TAP sets its investment in a country where legislation is already very favourable to foreign investors. Moreover, art.24 of the HGA details the VAT regime for the project that complies to the neutrality of VAT principle. The construction of the project is “VAT free”, meaning that the State reimburse to the foreign investor the VAT in full within 30

33 Interview with Zef Preci, economist. Re:Common, May 2016



## SPOTLIGHT ON THE INTERNATIONAL AGREEMENTS FOR TAP

The commitment of governments to build TAP is shaped by two important documents.

1. The first one is the inter-governmental agreement between Italy, Albania and Greece, signed on February 27th 2012, where the three governments acknowledge that:

“Trans Adriatic Pipeline AG (TAP) is a joint venture company owned by *a number of multinational energy companies* and that TAP wishes to construct and operate the trans Adriatic Pipeline project (the TAP PROJECT), a cross-border interconnector pipeline originating in the Hellenic Republic and designed to transport natural gas through the Hellenic Republic to the Italian Republic via the Republic of Albania;<sup>34</sup>”

The first article of the agreement tells us three important things about the content of the agreement reached between the governments and the Swiss-based consortium:

a) That it was not in the interest of the governments to set in stone who were the oil multinationals behind TAP. Indeed in early February, when the agreement was signed, the pipeline had yet to be selected as ‘the

route’ to carry the Azeri gas into the European market. The project was at that stage nothing more than a feasibility study with rough basic engineering. The companies involved were Switzerland’s EGL, Norway’s Statoil and Germany’s E.ON; none of them is in the TAP AG consortium today.

b) that TAP was nothing more than *a wish*

c) and, looking at Albania, that the plan for the country was for the pipeline simply to cross it.

The other element that can be discerned from the agreement is that TAP, despite its scratchy form and its unknown shareholders, had already been selected by the European Commission as one of its ‘Projects of Common Interest’, designed to build the energy security of Europe after 2020<sup>35</sup>. This casts doubts on the selection process and due diligence carried out by the EU institutions when granting such status to TAP.

Ultimately this agreement was ratified in the form of an intergovernmental agreement by the Albanian parliament on the 25th of March 2013<sup>36</sup>.

35 Article 3, Memorandum of Understanding between the Government of the Italian Republic, the Council of Ministers of the Republic of Albania and the Government of the Hellenic Republic on cooperation in relation to the Trans Adriatic Pipeline project.

36 <http://www.tap-ag.com/news-and-events/2013/03/26/albanian-parliament->

2. The second document shaping the relationship between the Albanian government and TAP is the Host Government Agreement (HGA) which the country signed on April 5th 2013<sup>37</sup>.

An HGA is a legal agreement between a foreign investor and the local government which is designed to reduce financial and political risks posed to investors by sudden changes in national law<sup>38</sup>. If a country breaks an agreement by interrupting or modifying a project it must pay a penalty, which can risk deterring interventions necessary to protect rights and enforce national laws that apply elsewhere in the country<sup>39</sup>. The HGA defines liabilities and dispute resolution rules among the public and private parties, taxes and transit fees to be applied, land acquisition etc. For Albania, looking into the clauses of the agreement gives an overview of how much the country may benefit, or not, from the construction of the largest infrastructure ever to cross its territory.

[ratifies-intergovernmental-agreement-on-the-trans-adriatic-pipeline](#)

37 <http://www.tap-ag.com/news-and-events/2013/04/05/government-of-albania-and-tap-finalise-host-government-agreement>

38 <http://www.brettonwoodsproject.org/2006/01/host-government-agreement/>

39 <http://www.brettonwoodsproject.org/2006/01/host-government-agreement/>

34 Article 1, Memorandum of Understanding between the Government of the Italian Republic, the Council of Ministers of the Republic of Albania and the Government of the Hellenic Republic on cooperation in relation to the Trans Adriatic Pipeline project.

days. Also, “The Project Investor’s activity of providing Natural Gas transportation services to the Shippers shall be considered to be outside the scope of Albanian VAT with the right to deduction and all Albanian VAT suffered by the Project Investor in connection with the whole or any part of the Project Activities shall be refundable”<sup>40</sup>.

Aside from this, what elements are being considered in the overall decision-making process, including whether personal, private interests are being given more or less priority compared to the general ‘public’ interest of people living in Albania is to be assessed.

According to Zef Preci again: “If we consider the investment, we have a very liberal regulatory framework for Foreign Direct Investment in the country. It is true that there are difficulties in the implementation, that our judicial system is corrupt, that there are administrative barriers. However there is no risk for expropriation, stopping the operation [...]”<sup>41</sup>.

In any case, winks the economist, “having a guarantee does not mean using it”. As we know, however, optimism usually goes hand in hand with economic considerations – particularly when it is the general public which has to pay at the end of the day.

40 Art 24.11, Host Government Agreement between the Republic of Albania and Trans Adriatic Pipeline AG, Allen & Overy LLP , 0086072-0000001 IS:81793.6. Intergovernmental Agreements and Host Government Agreements on Oil and Gas Pipelines -A Comparison- | 2015

41 Interview with Zef Preci, economist. Re:Common, May 2016.

## CONTROVERSIAL LINKS TO AZERBAIJAN?

Albania was the first country to sign an HGA with TAP AG. The timing of this signature is intriguing, coming as it did only a few months after the vote of the Council of Europe on an infamous dossier on political prisoners in Azerbaijan that took place in January 2013. The report – which was critical to the repression taking place in the Caspian state – was rejected by the Council. This consequently opened the doors to the political endorsement of Azerbaijan by European governments and institutions as a key strategic partner for Europe, especially in terms of European energy security.

The vote in the Council of Europe, which was heavily criticised by human rights activists in Azerbaijan and internationally, revealed the biased position of the EU towards the crackdown on human rights in Azerbaijan which has worsened in subsequent years.

But the story is not over as, in June 2016, dark shadows further emerged regarding the heavy influence of Azerbaijan in the shaping of the Council of Europe position back in 2013. Milan’s public prosecutor opened an investigation into international corruption and money laundering against an Italian member of parliament, Luca Volontè, who is alleged to have received a bribe of EUR 2.39 million to shape the position of the European Popular Party (EPP) in the Council of Europe regarding the vote on the above-mentioned report<sup>42</sup>.

42 [http://www.laprovinciadico.it/stories/como-citta/tangente-da-due-milioni-dallazerbaijan-accuse-allex-deputato-comasco-volonte\\_1189472\\_11/](http://www.laprovinciadico.it/stories/como-citta/tangente-da-due-milioni-dallazerbaijan-accuse-allex-deputato-comasco-volonte_1189472_11/); <http://www.ilfattoquotidiano.it/2016/06/25/corruzione-tangente-da-due-milioni-dallazerbaijan-indagato-a-milano-ex-udc-volonte/2859414/>



Photo © Eana Korbezashvili /Bankwatch

## SITUATION ON THE GROUND: DELAYS AND UNCERTAINTIES

On May 17th 2016 in Thessaloniki the opening ceremony for the TAP construction took place<sup>43</sup>.

This was a symbolic ceremony, designed to communicate to the European institutions – including the public banks which TAP has approached for financing in the scale of billions of euros – that the project is on schedule, and that the financial markets and private investors should be assured that gas will be flowing to the EU market by the end of 2020. However, away from the ceremony and the official pictures of the Greek prime minister with his esteemed guests, we wanted to see with our own eyes if construction was really under way in Albania. Indeed, another much less high profile opening ceremony took place about a year ago, and thus preparation works should be more advanced than in Greece<sup>44</sup>.

It was no surprise to see that very little was or had been going on along the long and complex route that the pipeline should follow through Albania. According to the company plan, pre-construction works include the construction and rehabilitation of about 100 kilometres of road, including access roads that the constructors need in order to access the locations where the pipeline should be laid. Also included in the plan is the construction of two new bridges



Spigapag pipes and materials deposit in Durrës. Photo © Elena Gerebizza/Re:Common, 2016.

and the rehabilitation of approximately 50 existing bridges in the regions of Korce, Berat and Fier<sup>45</sup>. But even before this, the company is supposed to complete negotiations with more than 1200 land owners relevant to the project or related infrastructure along the 215 kilometre TAP path across Albanian territory.

On the day of the official opening ceremony in Greece, and ten months after the official opening in Albania, all the pre-construction had barely commenced. In the district of Fier, the only completed access road ends in the middle of a field where local herders tend their sheep. A portaloo was the signal marking the construction site right there. Indeed, three workers and a drill were doing the pre-construction sampling where the pressurising station should be built. In the city of Berat, the main road was being paved by AlbStar workers, a subcontractor of the Albanian company Gener 2, while all along the way from Berat to Coravode we counted nine spots where a billboard with the TAP logo was signalling

the rebuilding of roads and bridges which started in July 2015, and was still far from being completed.

The only location where some activity was ongoing is in Coravode, a small town almost in the centre of the country, where the Gener 2 company has headquartered its team of engineers and employed most of the local workers which have been busy in the pre-construction. We understand from one of the engineers that the operations should scale up in the coming months, however there are still many pending issues for the company to sort out.

For instance, several of the residents are unhappy with the offers made for the rent or purchase of their land. As we learned from Zef Preci, the independent economist who has previously served as an advisor to the Albanian government, only China is purchasing land at a price lower than Albania. According to his figures, the offer to farmers is less than 1 euro per square metre, almost nothing even for poor residents in the internal part of the country, who mostly eke out a living from subsistence agriculture.

43 <http://www.tap-ag.com/news-and-events/2016/05/17/trans-adriatic-pipeline-holds-ceremony-to-mark-start-of-construction>

44 <http://www.tap-ag.com/news-and-events/2015/07/03/tap-begins-construction-of-access-roads-and-bridges-in-albania>

45 <http://www.tap-ag.com/news-and-events/2015/04/14/tap-awards-first-major-contract-for-construction-of-access-roads-and-bridges-in-albania>



## EUROPEAN INTERESTS IN ALBANIA'S ENERGY SECTOR

A key sector for international investments in Albania is the energy sector. For instance, the EIB<sup>46</sup>, the EBRD, the World Bank and Deutsche Bank have all helped to boost growth in hydro electricity production in Albania. According to Der Spiegel, at least 570 dams are currently under construction in the Balkans.

In 2014 the World Bank discussed future projects in Albania: "Since Albania joined the World Bank in 1991, the Bank's overall financing to Albania is estimated at US\$2.1 billion, including trust fund resources managed by the World Bank. The Bank Group Country Partnership Strategy (CPS) for 2011–14 focused on three strategic objectives: (i) supporting Albania's economic recovery and growth; (ii) broadening and sustaining Albania's social gains; and (iii) reducing vulnerability to climate change and natural disasters. A total US\$442 million of International Bank for Reconstruction and Development (IBRD) commitments was approved during this CPS period. During FY15, a Power Sector Recovery Project (US\$150 million), Health System Modernization Project (US\$40 million), Road Safety and Maintenance Project (US\$80 million), and a Policy-Based Guarantee (US\$200 million) have been approved."<sup>47</sup>

46 October 2015: "EIB activities to be extended to Albania by means of loans of up to ECU 50 million to be guaranteed by the Community budget", [http://europa.eu/rapid/press-release\\_IP-92-1060\\_en.htm](http://europa.eu/rapid/press-release_IP-92-1060_en.htm)

47 <https://www.worldbank.org/content/dam/Worldbank/document/eca/Albania-Snapshot.pdf>

The main energy projects financed by European public financial institutions include<sup>48</sup>:

- Drin River Hydropower Cascade (2008-10, Swiss companies)<sup>49</sup>
- Komani Dam built by Albanian Power Corporation (Korporata Elektroenergjitike Shqiptare sh.a – KESH)<sup>50</sup>
- Vlore Thermal Power Generation Project built by Albanian Power Corporation (Korporata Elektroenergjitike Shqiptare sh.a – KESH)<sup>51</sup>
- Albania power distribution rehabilitation by Albanian Power Corporation (Korporata Elektroenergjitike Shqiptare sh.a – KESH)<sup>52</sup>

In 2013 the **EBRD** financed the following hydropower plants<sup>53</sup>:

- Ulez
- Shkopet
- Bistrica 1 and 2.

**KfW**, a German public bank, has partially financed the Bistrica project and is involved in broader investments in the energy sector in Albania:

"Albania produces way in excess of 90% of its electricity with hydropower. However, for a number of years, volumes of rainfall have varied enormously, meaning that if rainfall is low, the output of the power plants is not sufficient and

48 <http://www.ebrd.com/work-with-us/project-finance/project-summary-documents.html?1=1&filterCountry=Albania>

49 <http://www.news-service.admin.ch/NS-BSsubscriber/message/attachments/7939.pdf>

50 <http://www.ebrd.com/work-with-us/projects/psd/komani-hpp-dam-safety-upgrade.html>

51 <http://www.ebrd.com/work-with-us/projects/psd/vlore-thermal-power-generation-project.html>

52 <http://www.ebrd.com/work-with-us/projects/psd/albania-power-distribution-rehabilitation.html>

53 <http://bankwatch.org/sites/default/files/EBRD-stuck-in-market.pdf>

electricity has to be imported at high cost. For this reason, Albania aims to expand its power network into its neighbouring countries, in order to have enough capacity for importing electricity or alternatively exporting power when the reservoirs are full. Furthermore, Albania intends to leverage the untapped potential of its hydropower to a greater extent. KfW is committed to this South Eastern European country in order to shape what is still a precarious energy supply in a safe manner. The energy sector with German government commitments of 268 million EUR is, for the development bank, the second pillar of German-Albanian cooperation. KfW supports the energy sector in several areas. It invests in the expansion of high-voltage networks. In 2011, Albania was connected to the European high-voltage network from Tirana to Podgorica in Montenegro by means of a transmission line. A second connection between Albania and Kosovo is still under construction. Furthermore, Albania, supported by KfW, is able to finance transmission and distribution stations, improve the security of hydropower dams and also improve the energy efficiency of public buildings<sup>54</sup>."

In 2015, the **TAP company** applied for a loan of EUR 2 billion with the EIB. The European public financial institution has not yet taken a decision about the financing<sup>55</sup>.

The EBRD has informally declared an 'interest' in the financing of TAP, however no formal discussion at the EBRD's board has yet taken place.

54 <https://www.kfw-entwicklungsbank.de/International-financing/KfW-Development-Bank/Local-presence/Europe/Albania/>

55 <http://www.eib.org/projects/pipe-line/2014/20140596.htm>

## SOME CONCLUDING THOUGHTS

This report has looked at the numerous questions and uncertainties that continue to hang over TAP and its real benefits for Albania. But looking at the bigger picture, it also raises questions about the broader trend of state capture in relation to large infrastructure projects.

State capture can take many different forms and this is what makes it so difficult to define. It can hide behind structures of power that respond to personal interests within the state. This is certainly where the corruption of public officials, when it emerges and can be addressed by the magistrates, is its most visible element.

However, it can also be rooted in the power structures that take forms which are legal and consist of personal benefits for certain public officials, revolving doors or mixed personal and private interests. Among the questions to be asked, featuring prominently are the ultimate vision and rationale driving profound state reforms or state involvement in large scale investments that may not bring direct benefits for the relevant population but are rather oriented towards favouring certain private business and vested interests.

At a time when international institutions themselves are beginning to question the narrative



Business centre "Aba Centre", Tirana.  
Photo © Elena Gerebizza/Re:Common, 2016.

and genuine benefits of the so-called 'trickle down effect'<sup>56</sup>, it is clear that large scale private sector infrastructure investments are often oriented and aimed at facilitating the extraction of wealth for the benefit of a few, with the bottom line rationale being 'accumulation through dispossession' rather than improving the way of life for the large majority by guaranteeing for everyone a true and valid share of 'public' wealth.

This story is only one of many where large infrastructure is portrayed

<sup>56</sup> The 'trickle-down theory' insists that supporting private sector development and improving the investment climate for private investors, by reducing taxation and minimising public constraints, necessarily triggers economic growth and, in the longer term, some improvements of social and economic conditions for the poor too. Nevertheless, empirical evidence about how much these policies contribute to development deeply questions the flawed conceptual assumptions behind this model

as the gateway to modernity, where the citizens of the countries involved may have to pay a relevant price without being consulted, but where the sacrifice will be worthwhile in the end – somehow – and will provide longer term benefits for the country involved.

In the case of TAP, a lot is at stake. Future recipient and transit countries are being compelled by politicians and energy experts into a tunnel of belief in the project and in the future benefits that it will bring. And where the 'national interest' justification is not sufficient, then the European 'supranational interest' is glibly trotted out to justify infrastructure that looks dubious to the eyes of many.

The real question may be what lies behind this narrative facade, and how much the public, not to mention some of the public officials involved in the decision-making and in shaping the decisions, have all the elements at their disposal to understand if the promised El Dorado is an opportunity or a scam.

For Albania, TAP is portrayed as an opportunity that should not be missed, in order for the country to be well equipped to benefit from the European internal gas market once it is in place. In a recent speech, the Albanian prime minister Edi Rama stated that "TAP is not just an investment in itself, but it is an important milestone that allows us to go further, by building the Adriatic-Ionian Pipeline which will link our country with Montenegro, Bosnia and Croatia."<sup>57</sup>

Albanian leaders continue to portray

<sup>57</sup> <http://www.kryeministria.al/en/newsroom/speeches/tap-albania-is-one-of-the-most-important-artries-of-energy-in-europe1462376681>



Road rehabilitation in Corovode, funded by the EIB and EBRD. Photo © Elena Gerebizza/Re:Common, 2016.

TAP as a project that will strengthen ties with the EU and set the ground for the future entry of Albania into the EU<sup>58</sup>. However the questions concerning the real costs of the project, and who will ultimately benefit, remain central and need to be answered.

As outlined in this report, TAP is the largest, long term investment for Albania for the coming decades, intersecting of course with important economic and financial interests related to who will ultimately benefit not only from its construction but also from the operational phase of the project. Looking at the story so far, it is difficult to draw a line between the public and private interests involved in the pipeline. Even more so when the personal interests of high level

officials may well be mixing with the interests of private investors, rather than safeguarding the broader interests of the Albanian people and future generations. This scenario is only worsened by the fact that financial markets are best suited to allow grey company structures to be set up for investments of this scale.

The story of the financial engineering around TAP in Italy – from the first engineering up to the set up of TAP AG in Switzerland<sup>59</sup> – also sketches a blurry picture of companies whose beneficial owners are largely unknown – and based in tax havens and secrecy jurisdictions – and who are taking the lion's share of rushed privatisation processes. This demonstrates how the current international financial system enables a whole system of grey

financial operations in the energy sector, with significant uncertainty around who really benefits from the public funding that the EU is channelling into the sector, as in the case of TAP.

<sup>58</sup> <http://www.albaniannews.com/index.php?idm=4760&mod=2>

<sup>59</sup> <http://www.albaniannews.com/index.php?idm=4760&mod=2>



## ABOUT US

### Re:Common

is a public campaign membership based organisation challenging the financialisation of the natural commons in solidarity with affected communities both in the South and in the North and advocating for new and democratic public financial institutions at national and global level to promote the commons.

Re:Common works to produce structural change both in finance and the ways natural commons are dealt with, in solidarity with those directly affected by an harmful and unjust development model, both in the global South and in Italy and Europe.

In order to achieve its long-term goal Re:Common will have a stronger commitment to developing, promoting and practicing alternatives reclaiming both public finance and public interest natural commons policies.

Re:Common will primarily act within social movements in Italy, Europe and the world by supporting and enhancing them with its analyses, campaigns and concrete support in order to generate external pressure on governments and institutions for a transformative change.

[www.recommon.org](http://www.recommon.org)



RE:COMMON

### Counter Balance – Challenging public investment banks

is a European coalition of development and environmental non-governmental organisations (NGOs) with extensive experience working on development finance and the international financial institutions (IFIs) as well as campaigning to prevent negative impacts resulting from major infrastructure projects.

The coalition was formed in 2007 to specifically challenge the European Investment Bank (EIB) and push for its reform. While the EIB remains our main target, we have expanded the scope of our work to other public investment banks such as the European Bank for Reconstruction and Development (EBRD) and national Development Financial Institutions (DFIs) – all public financial institutions which operate similarly. We also deal with related EU policies and regulations impacting those institutions.

Counter Balance's mission is to make European public finance a key driver of the transition towards socially and environmentally sustainable and equitable societies.

We do this by holding EU public financial institutions to account, challenging harmful decisions, policies and projects, and promoting alternatives. As a coalition we work in close cooperation and solidarity with affected communities and citizens around the world and are willing to act as a support service for them.

Starting from the observation of a growing dominance of private finance driving inequality and straitjacketing our economies, politics and societies, we pay a lot of attention to how money is spent and who profits from it.

Therefore, we challenge the business model of public investment banks which is increasingly subordinated to the same market logic, even when tasked with promoting development. The tendency to appeal to and strengthen financial markets rather than to counterbalance them is also reflected in the financial mechanisms used to finance infrastructure and support the private sector.

At the same time we promote and advocate for more transparency and stronger accountability mechanisms for these institutions. We support our findings and recommendations through case studies illustrating the impact of public financial flows.

[www.counter-balance.org](http://www.counter-balance.org)

#### Counter

Challenging  
Public  
Investment  
Banks

*This activity is taking place with the financial assistance of the*  
**Foundation Open Society Institute**

*in cooperation with*  
**the Think Tank Fund of the Open Society Foundations**