Cooperation & Development Institute
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# IMPLEMENTING LARGE INFRASTRUCTURE CONNECTIVITY PROJECTS IN THE WESTERN BALKANS

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# THE CASE OF TRANS ADRIATIC PIPELINE (TAP) IN ALBANIA

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*Tirana, March 2020*

**IMPLEMENTING LARGE INFRASTRUCTURE CONNECTIVITY PROJECTS IN THE WESTERN BALKANS:**
**THE CASE OF TRANS ADRIATIC PIPELINE (TAP) IN ALBANIA**

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## TABLE OF CONTENTS

## LIST OF TABLES



## LIST OF FIGURES



### LIST OF BOXES



## LIST OF ACRONYMS

| | |
|---|---|
| **AIC** | Albanian Institute of Construction |
| **AIDA** | Albanian Investment Development Agency |
| **AMTP** | Land Acquisition Act |
| **ALUIZNI** | Agency for Legalization, Urbanization and Integration of Informal Areas and Buildings |
| **ARA** | Albanian Road Authority |
| **CA** | Contract Administration |
| **CDI** | Cooperation and Development Institute |
| **CONNECTA** | Technical Assistance to Connectivity in the Western Balkans |
| **CUIP** | Cadaster Update and Improvement Program |
| **DCM** | Decision of Council of Ministers |
| **EBRD** | European Bank for Reconstruction and Development |
| **EIA** | Environmental Impact Assessment |
| **ENA** | Environmental National Agency |
| **EnC** | Energy Community |
| **EP** | Environmental Permit |
| **ESIA** | Environmental and Social Impact Assessment |
| **FDI** | Foreign Direct Investment |
| **HGA** | Host Government Agreement |
| **HSSE** | Health, Safety, Security and Environment |
| **H&S** | Health and Safety |
| **IAP** | Ionian-Adriatic Gas Pipeline |
| **ICM** | Institute of Cultural Monuments |
| **IFI** | International Finance Institutions |
| **IGA** | Intergovernmental Agreement |
| **IPRO** | Immovable Property Registration Office |
| **ITGI** | Interconnector Turkey-Greece-Italy |

| | |
|---|---|
| **LEA** | Land Easement and Acquisition |
| **LGU** | Local Government Units |
| **LIP** | Large Regional Infrastructure Projects |
| **LNG** | Liquefied Natural Gas |
| **METE** | Ministry of Economy, Trade and Energy |
| **MoIE** | Ministry of Infrastructure and Energy |
| **NCA** | National Council of Archaeology |
| **NGOs** | Non-Governmental Organizations |
| **NIC** | National Investment Committee |
| **NIPT** | National Importance for Territory Planning |
| **NSP** | National Sectorial Plan |
| **PCM** | Project Cycle Management |
| **PEIA** | Preliminary Environmental Impact Assessment |
| **PFG** | Project Financiers Group |
| **PMU** | Project Management Unit |
| **PPP** | Public Private Partnership |
| **PSGM** | Project Stage-Gating methodology |
| **QHSE** | Quality, Health, Safety and Environment |
| **ROI** | Return on Investment |
| **SECO** | State Secretariat for Economic Affairs |
| **SEECP** | South-East European Cooperation Process |
| **SIF** | Social Investment Fund |
| **TA** | Technical Assistance |
| **TAAS** | Temporary Agreement with the Albanian State |
| **TAP** | Trans Adriatic Pipeline |
| **TEC** | Thermo Electric Plant |
| **WB6** | Western Balkans six |
| **WBIF** | Western Balkans Investment Framework |

# Executive Summary

To be implemented successfully in the Western Balkans countries (WB6), Large Regional Infrastructure Projects (LIPs) should be self-contained, backed-up politically, and with minimum interference from public authorities. Being self-contained involves having in-house the technical expertise and the initial financing to cover the planning phase, and possessing a granular understanding of the legal and institutional context of the host country. Political back-up – international and local – is crucial to successfully navigate the international geo-political scene, to by-pass the challenges posed by the incomplete legal and procedural framework during the construction and operations phase, and to secure the necessary leverage for efficiently pressuring all the levels of national and local administration that deal with LIPs.

To assure cost-efficiency, LIP owners should check the viability of their whole project at key moments, and especially during the planning phase. This brings forward three basic success conditions: i) the need to include the operations phase in the overall planning and financing plan of the LIP; ii) the need to calculate the Return on Investment (ROI) when assessing the viability of the investment, as compared to the widely used “sustainability criteria”; and iii) the need for permanent monitoring of the technical feasibility and of financial sustainability of the project, at every stage.

To contribute in a durable way in the host country’s socio-economic context, every LIP must contain a properly designed and budgeted capacity-building component. Capacity building must: i) start with an assessment of local institutional capacities; ii) include as beneficiaries also selected groups of civil servants, counterpart institutions and local subcontractors; iii) take place during all the phases of LIP (planning, construction and operation), with increased focus on planning; and iv) include an exit phase. The exit phase should contain safeguard clauses regarding local institutional memory, including the archiving process.

To be realistic, capitalization goals should be decided in a holistic way and on different levels (direct and indirect). Direct capitalization focuses and delivers its impact on the pre-designated beneficiaries, i.e., target institutions and civil servants. Indirect capitalization includes the individuals who have been working on the project (civil servants or not), civil servants who may leave or have left the institutions for various reasons, and relevant third parties such as local subcontractors who have been involved with the LIP.

To balance the disequilibria in favor of powerful private LIP investors (with regard to their financing muscle, specialized technical expertise and political lobbying power), and to overcome the limitations stemming from the “small country factor,” small WB6 countries can benefit from: i) assistance of third party non-market actors that prop up and support the WB6 government during all the phases of LIP (planning, construction and operation); and ii) join resources and set-up of Balkans’ wide technically specialized structures that assist in the planning and implementation components of cross-border LIPs.

We believe the study brings an innovative perspective on the local institution governance, or the local “institutional black box” that directly impacts an LIP cycle. While many efforts have been focused on project preparation and its financing, very little has been said about the way local institutions manage the process, on their “internal mechanics,” and on their throughput efficiency.

Moreover, the focus has been on the central government, while it is in the local context that the project has its direct impact. This research brings those two elements to the attention of policy makers and International Finance Institutions (IFIs).

This report also aims to provide a detailed insight on the interaction dynamics, benefits and risk distribution between the host country and the IFI, bilateral donor or private investor on all the project life-cycle from design to post-construction. Wherever relevant, comparisons have been drawn with Connectivity Agenda (CA) projects.

Finally, we have planned the publication of this report in the view of the ongoing preparation of the Growth and Investment Plan for the Western Balkans. We believe this document provides original, context-based and applicable insights that can eventually contribute in the planning, implementation and the operation phases of the Connectivity Agenda projects.

# Methodology

This study was initially conceived as a stand-alone manual analyzing Trans Adriatic Pipeline (TAP) in Albania, and drawing lessons to be used for the Connectivity Agenda projects. However, after its completion we realized that the findings were relevant and complementary to the more general and sectoral yearly reports that Cooperation and Development Institute (CDI) prepares in the framework of the Berlin Process. This explains the decision to publish it in the framework of the Berlin Process series.

As the first completed large infrastructure project in the region - even if it was not a CA project per se - TAP represented a perfect case-study to draw lessons learned for the CA projects. The way TAP dealt with its challenges during planning and construction provides a very interesting trove of insights and tools that other infrastructure projects could make use of. Hence, after consultation with our Swiss partners, we decided to include this study as case-study in the 2019 Berlin Process Monitoring Report.

On the technical level, TAP was identified as the biggest (by budget) among large regional infrastructure projects in the Connectivity Agenda sector of energy, and was 99% complete at the time of the completion of the research (June 2019). As such, it presented a perfect case-study to assess the achievements and challenges that were met and dealt with through its planning and construction phases. All the findings refer to the situation of June 2019.

The list of main problems faced by LIP in the WB6, as defined by CDI in its Berlin Process Monitoring Reports, was used as an initial assessment grid. The CDI team started the study by analyzing how TAP dealt with these issues during the phases of planning and construction, wherever applicable. During the research certain other issues, mostly linked to interaction with local actors on the ground and connected with good governance, arose and completed the framework. The next step has been the identification of transferable successful practices that can eventually be considered in Connectivity Agenda projects.

CDI largely used the documentary research produced by TAP, by the Albanian Government (national and local level), and by different public agencies. The research included studies, policy documents, legal decisions, correspondence, media reports, and data from the TAP website, and media. This very wide scope allowed us to set up the framework and cross-reference the documents. Special thanks go to Mrs. Eda Koshovari for helping with this component.

The next stage was composed of site visits situated along the TAP route in Albania, and interviews with the local actors and stakeholders. These covered a wide spectrum including Albanian citizens, TAP employees (including former ones), local and central government officials, state agencies, subcontractors, sector specialists, and so on.

To facilitate the transmission of main messages, each chapter starts with the main highlights. This makes the document easily understood for practitioners and other stakeholders involved in the Connectivity Agenda ranging from the local NGOs to the members of National Investment Committee (NIC) or WBIF Project Financiers Group (PFG).

Finally, we would like to thank the State Secretariat for Economic Affairs (SECO) and the Swiss Embassy in Tirana, without whose support this report could not have been produced. We included those thanks in the methodology to also underline the importance that donors have in identifying and supporting out-of-the box proposals that try innovative methodologies adapted to the local context, and beyond the mainstream approach.

# CHAPTER I

# “ACQUIRING” A LARGE STRATEGIC INFRASTRUCTURE PROJECT IN WB6

# I. "ACQUIRING" A LARGE STRATEGIC INFRASTRUCTURE PROJECT IN WB6

## *Selected highlights*

- A "typical" LIP is characterized by its cross-border nature, a relatively very large budget, a long duration between project identification and the start of operations, multilayered and multi-sector interaction, and a big impact on the host country.
- The problems of a "typical" LIP include navigating the international geo-political context, dealing with technical complexity, delays, financing, properly understanding the local context (legal, institutional and land expropriation issues), managing cross-border coordination, assessing the interaction with local population and impact on the ground, interaction with local communities, project communication and outreach.
- In reforming WB6 countries, sometimes the beneficiary country can be a critical risk for the LIP due to the ineptitude or weak governance of its institutions
- Properly planned and executed, LIPs are extraordinary conveyers of standards, norms and values.

## *I.1. Getting TAP in Albania*

Linking Albania to the Italian gas network had been studied previously, in the framework of construction of a Liquefied Natural Gas (LNG) terminal on Albanian shores. In 2003, the Swiss-based company EGL Group used that study as a basis to present TAP as an alternative to NABUCCO and to the Interconnector Turkey-Greece-Italy (ITGI). EGL Group argued that the TAP project presented the best combination of security of supply, economic growth for the involved countries, including cost and long-term sustainability. It promoted the advantage of connecting South-East Europe through the Ionian-Adriatic Pipeline, adding an additional geopolitical element. The TAP project also foresaw the set-up of natural gas deposits in the Dumrea region (in central Albania) and the building of an LNG terminal in Fier, elements that would significantly increase the security and resilience of supply.

Geopolitically, Russia has aimed at undermining any initiative that would bypass Russian territory in bringing gas to the EU. The emergence of the Shah Deniz gas fields provided the opportunity to explore non-Russian gas and bring it to the EU through non-Russian routes. In this context, TAP converted Albania into a systemic EU energy security factor.

Cost and technical elements played in favor of TAP as compared with its direct competitors. The most advantageous was the geography. As a direct result (and also because of the impact of the Greek crisis), the ITGI version – the strongest competitor of TAP – had to be discarded due to the depth of the pipeline traversing the Ionian Sea to link the Greek Ionian coast with Italy (over 2,000 meters below sea level).

EGL Group, the initial TAP promoter, was in charge of presenting the project to EU and US lobbies. The Albanian government of the time provided strong political backing by presenting TAP as a strategic interest for the country and for the Balkan region. TAP was presented as key in the connection of South Balkan countries with European gas networks, as well as for their own gasification. Albanian government representatives were actively engaged in international lobbying, from the EU to Azerbaijan and at all levels of representation.

For example in Italy, the lobbying was done by the Albanian President, the Prime Minister, the Minister of Foreign Affairs and the Minister of Energy during many bilateral and multilateral meetings. In the regional context, TAP was promoted by Albanian officials during their visits in neighboring countries, in contacts with the members of the Energy Community (EnC), as well as at meetings held in the framework of regional cooperation structures such as the South-East European Cooperation Process (SEECP), the Athens Process and the EnC.

The EU-based platforms set up by the EU Commission or the European Parliament were used as well. Events organized under their aegis were a perfect occasion to meet with EU Energy Commissioner, EU energy officials and also organize bilateral meetings with Member State representatives. Economic diplomacy was actively used with non-EU countries. In the framework of the Black Sea Economic Forum, both Turkey and Azerbaijan were approached. The energy forums of Eurasia, Davos and bilateral events were also used to promote the project.

The Albanian leg of TAP was the weakest link of the TAP proposal due to the country's estimated: i) political risks; ii) technical difficulty due to the mountainous relief; iii) implementation challenges due to the missing / incomplete legal framework and land ownership issues; and iv) low institutional and human resource capacity due to no prior experience in LIP implementation or in the gas sector.[1] Only when TAP promoters prepared mitigation measures for all issues mentioned above, was the project considered complete and ready to compete with alternative pipelines.

Among the main success factors in convincing potential investors to support the pipeline has been the predisposition and unwavering commitment of Albania to integrate into the European family and its identification with European values. The TAP endeavor has been a perfect match between the aspirations of individual Albanians and its governing elite. It was seen as the infrastructure concretization of the European aspirations of Albania. Overall, TAP was described by the authorities and perceived by the citizens as representing the "common good."

At this point, it can be concluded that it was a combination of external factors (i.e., geographical, geopolitical) along with cost that was decisive in choosing TAP (and Albania) over competing scenarios. But it was EGL Group – the project promoter – that highlighted and made visible and marketable all those comparative advantages. The commitment at the highest political and administrative levels made Albania move from the country with the highest risk (as compared to Greece and Italy), into the country where the laying of the pipeline met the least problems.[2]

## *I.2. Solving the cross-border coordination riddle*

The challenges met while crossing national borders of Greece, Albania and Italy were part of the initial TAP business plan. Politically, the project was seen as one business endeavor with different parts, and was designed as such. Financially, notwithstanding the progress in one country, the

[1] Interview with Zija Kamberi, Local Permit Coordinator (ENT). Tirana, 3 December 2018.

[2] Interview with Shkelqim Bozgo, TAP Executive Director from 2013 to 2017. Tirana, 28 February 2019.

project could not enter the operations phase without the completion of works in each country. This was a huge trust that promoters placed on the ability of Albanian institutions to deliver in time.

Front-end engineering and the fact that the Albanian leg connects the Italian and Greek portions (both EU members) obliged TAP in Albania to be designed and implemented in full respect of the EU rules. The fact that Albania was part of the Energy Community was another obligatory factor constraining TAP to respect the third Energy Directive even in the Albanian territory and context. As a result, TAP has been instrumental in approximating the new Albanian gas legislation to the EU *acquis*.

Cross-border coordination was crucial to the set-up and construction of TAP. It was materialized through a trilateral government agreement amongst Greece, Albania and Italy, which defined the modalities of support and of cooperation, and also included a non-interruption clause. This agreement was signed as early as January 2012.[3] In practical terms, since its conceptual stage, TAP Albania coordinated not only with the central government and ministries in charge, but also through the Embassies of Albania, with Greece and Italy as well as with relevant shareholder companies.[4]

Due to its cross-border nature, TAP became part of an Agreement amongst Council of Ministers of Albania and Republic of Italy on the development and integration of electric and gas systems between the two countries, signed on 10 March 2009. This agreement also concerned four similar cross-border strategic energy projects between Albania and Italy, as below:

- an Energy Complex, promoted by Enel SPA for the construction of a 500MW electricity line between Albania and Italy;
- an Eolic park of 500MW by Moncada Group;
- a Biomass central and two Eolic parks by Marsiglia Group;
- a Gas powered plant and electricity transmission line by ASG Power Group.

It is interesting to note that while the four others didn't succeed, TAP went through successfully.[5]

## *I.3. National political support and local due diligence*

From the beginning, TAP secured support from all sides of Albanian politics. It was the biggest investment project of the time and the benefits to Albania were tangible and easily understandable. Moreover, its development and construction lifespan (from 2003 to 2020) would overlap with more than one governmental mandate, so the political benefits would be shared in time among competing political parties and respective governments.

TAP physically anchored and integrated Albania in the European energy network and as such it was in full compliance with political programs of all political forces. Finally, TAP would develop the

[3] Confidential Discussion Draft, 10 January 2012. Agreement among the Hellenic Republic, the Republic of Albania and the Italian Republic related to the Trans Adriatic Pipeline Project.

[4] MEMO No. 8016, dated on 24.12.2015, "Information provided by the Ministry of Foreign Affairs regarding the meeting held in Germany on 03.12.2015 between TAP Representatives and Albanian, Greek, Italian and Azeri Embassies," Ministry of Energy and Industry, the Directorate of Policies and Development of Hydrocarbons, Sector of the Policies and Development of Gas.

[5] At least one of those bilateral cross-border initiatives was conditioned by internal market developments proper to Italian internal developments.

gas sector in Albania, put the country in the transit and distribution map in South East Europe, and would directly contribute to regional economic growth.

Cost-wise, the fact that no sovereign guarantees from Albania were necessary only helped. Additionally, in the case of Albania, a friendly third actor (Swiss State Secretariat for Economic Affairs SECO) supported the Albanian government to prepare the Host Government Agreement and the International Governments Agreement, and to negotiate favorable financial conditions for the small Balkan country.

From the very beginning TAP prepared a comprehensive list of the Albanian stakeholders. It classified them in three groups[6]:

- National Government Stakeholders: classified by their competencies over the TAP project cycle, and composed of 16 different institutions with a total of 47 departments directly involved;
- Regional and Local Government Stakeholders: defined by the geographical route of the pipeline and composed of three regions, with six districts, 29 communes and municipalities, and 61 settlements (villages and towns) situated within the 2km corridor on both sides of the pipeline. This list also included the local authorities and stakeholders that would be the official participants in the Regional Consultation Meetings as required by Albanian law; and
- NGOs and other interested parties (National & Local): defined by actors that may directly or indirectly impact or be impacted by TAP. The list includes 47 Tirana-based and 18 regional-based NGOs, three universities and research centers, and eight other interested parties, mostly IFIs.

On top of the stakeholder list, TAP prepared a comprehensive sector-based list of:

- The Central Governmental Authorities involved in the permitting flow in Albania that included 14 different authorities and the respective responsibilities for each permit;
- The subordinate government agencies and institutions to be involved in TAP workflow (11 entities); and
- The list of Local Government Authorities and Public Utilities responsible for any permit (classified in four types, and include detailed structures such as the fire protection of public utilities) in each of the municipalities / communes the pipeline passed through.

It must be underlined that TAP worked with all the categories of stakeholders as mentioned above, during all the phases of the project.

Taking into account this complex institutional environment, and the fact that there was no prior experience in the country on implementation of LIPs in the gas sector, TAP prepared and included a detailed plan of activities in the highest-level agreement with the government: the Temporary Agreement with the Albanian State (TAAS).[7] This agreement also included clear and detailed legal steps regulating the tasks and obligations of Albanian institutions to be involved in the identification of the land plots affected by the project.[8]

This granular knowledge of the institutional framework, of local context and risks allowed TAP to forecast the necessary financial and human resources for dealing with them. TAP was able:

- to budget a sizeable amount for its Social Fund whose goal was to respond to the needs emanating from impacted local communities;

[6] Data was drawn from TAP document TAP-FEED-AL-EIA-REP-7028.

[7] Provisional Agreement between the Council of Ministers of the Republic of Albania and TRANS ADRIATIC PIPELINE AG regarding TRANS ADRIATIC JOURNAL PROJECT, Art. 7.f.

[8] Ibid Art. 7.g.

- to cover the cost of embedding external experts in central and local government institutions to help with the processing of TAP dossiers;
- to cover the cost of land easement and acquisition by paying extra staff to help villagers prepare the necessary documentation and see it through the meanderings of Albanian procedural and administrative steps;
- to cover the cost for the de-facto land-owners to register with the Albanian administration and acquire legal ownership of affected land plost; or
- to get the best staff available and keep them motivated by offering the highest salaries by far in the local market.

All this investment favorably impacted the Albanian administrative procedures by assuring that administrative outputs were delivered in time and with the required quality. Through specially funded social investments, TAP managed to obtain political support and engagement on the ground to palliate any eventual local concern. A decisive factor in overcoming the difficulties on the ground was TAP's size, as translated by its overall budget of EUR 1.5bn.

## *I.4. Preparing for impact*

Implementing a LIP of EUR 1.5bn is equivalent to carrying out a sector policy. The difference is that for the citizen the LIP outputs are tangible in a short time frame when compared with outcomes of a public policy. The LIP implementation progress is easily measurable, and its profitability is directly calculable. The nature of its concrete outcomes, the quantification of benefits as well as direct exposure of blockages in the development of the project, allows an LIP to make visible the deficiencies of the local institutions much more easily than a sector policy.

Secondly, TAP applied European standards on work / technical / employment relations everywhere in Albania that it passed through. As such those activities provided the ground for the creation of "TAP-induced" standards covering everything from Health & Safety, to legal proceedings or even to negotiations with subcontractors. The challenge for Albanian authorities now is to preserve and enhance those residual local benefits.

Third, with the disappearance of former socialist big industrial complexes where the local workers had been employed in WB6 countries, the LIPs are among the very few productive activities that directly employ or impact a large number of people living in the vicinity. Based on TAP data and on the authors' research, there were: i) circa 3,000 employees involved in TAP construction; ii) 12,000 households that went through the legal system to clarify their land ownership; and, iii) 46 community projects[9] that were directly supported by TAP. By their size, duration, impact and complexity, LIPs create the conditions for groups of citizens to gather around economic activities. The interaction with LIP management for many of them (especially in the rural areas) was the first power-related interaction outside politics. As such, LIPs convey value systems in the local community where they are implemented.

Finally, the direct contact with TAP has allowed Albanian citizens to understand how such investments impact them. Topics including: i) residual local benefits after the construction phase is over; ii) priority given to infrastructure as contrasted with social, education or public health; and iii) advantages of modern management techniques and procedures, have entered the daily realm. As such, LIPs that are planned and properly executed constitute an unparalleled conveyor of professional and social norms and values.

[9] Data extracted from "The list of Social and Environmental Investment projects per Municipality, financed by EUR 14 M amount."

In conclusion, we can start by saying that the biggest impact of TAP has been geopolitical by anchoring Albania in the European Union energy security policy.[10] Economically, TAP was the main factor in the integration of the Albanian energy sector in European markets.[11]

The second biggest impact is linked with the potential gains if TAP gas is used for local consumption in Albania; with transit fees coming in third place. TAP's short-term impact has been mainly in the indicators of country annual growth due to the amount of TAP-induced FDI, and in the number of construction workers employed during the construction phase.[12]

Finally, looking further into lessons-learned useful while designing and implementing Connectivity Agenda projects, we observe that LIPs have:

- organic connections with other LIPs before and after their implementation. For example, TAP conditions the future development of the Ionian-Adriatic Pipeline; the connection to gas network and repair of the Vlora Thermo Electric Plant, etc.;
- close interrelations with related sector policies: TAP was instrumental in drafting and approving the gasification strategy in Albania; and,
- modification of national or regional institutional frameworks, illustrated with the creation of ALBGAS or with the proposal to create a regional Project Implementation Unit among Ionian-Adriatic Gas Pipeline (IAP) partner countries.[13]

[10] V.1.7. There has been political support from the highest EU authority (Commissioner Oettinger Press release, as rightly pointed out in project proposal). Brussels, 28 September 2012.

[11] Energy Strategy for Albania, Enhancing Capacity for Low Emission Development Strategies, Draft of April 2017, p. 19.

[12] Both contributions are short-term and in the case of contribution to growth, a bit misleading. The USD 1.5bn investment is in very large measure shared amongst cost of pipes and pumping stations, and in the subcontracting of two foreign owned companies (SPIECAPAG and TERNA). Royalties are expected to be circa EUR 35 M / year. The calculation of Albanian growth rate is expected to suffer from the ending of the TAP contribution, starting from 2019 when the pipeline construction will be almost over.

[13] Albania, Montenegro, Bosnia and Herzegovina and Croatia.

# CHAPTER II

# PLANNING FOR FULL PROJECT CYCLE MANAGEMENT

# II. PLANNING FOR FULL PROJECT CYCLE MANAGEMENT

## *Selected highlights*

- Include the operation phase in the initial design as a strategic part of the overall project bottom-line calculations.
- While LIP planning, replace “sustainability” with “return on investment.”
- In the case of Albania, a friendly third actor (SECO) supported the Albanian government to prepare Host Government Agreement (HGA) and Intergovernmental Agreement (IGA), and negotiate favorable conditions with private project promoters.

TAP acknowledged and identified critical risks and success factors from the very beginning, and planned the whole project accordingly. Among main project risks were: performance and financial risk; political and country risk; design failure risk; cost over-run and late delivery; and technical failure, disruption and environmental risks.

## *II.1. Necessity to plan for the full project cycle*

TAP planning included the three-project cycle management (PCM) phases: i) planning, ii) pre-construction and construction, and iii) operations. Each PCM phase involves its own actors, specific complexity, risk distribution exercise and respective funding strategy.

To account for its high complexity and long-term project cycle timeline, TAP adopted the Project Stage-Gating methodology (PSGM). This mechanism allowed the owners and the management to control, assess and validate the investment at predetermined key intervals. The goal was to keep in check the financial and technical viability of the whole project.

The **Planning** phase comprised: screening, pre-feasibility (done in 2003), feasibility study (in 2006), front-end engineering and design (started in 2008), permits and authorizations, securing financing of project, third party access exemptions, and definition of commercial contracts (started in 2012). The planning phase lasted from 2003 to 2014, and all its activities were under the responsibility of the financial holding structure – i.e., TAP AG – as they were crucial for the final investment decision.

During the planning phase, TAP AG held the totality of investment risk and consequently, PSGM was used many times. The estimated cost of the TAP planning phase for the three countries involved was EUR 300 M. TAP shareholders provided the totality of financing. From the risk distribution scheme, and given the fact that the higher the risks the higher the expected profits, we draw the conclusion that the real added value of an LIP resides in the planning phase.

The **Pre-construction and Construction** phase followed a positive investment decision taken in the planning phase and did not involve any decision gate – PSGM. It included the works needed to lay and assemble the pipeline on-shore and offshore, as well as building the supporting

infrastructure. The absence of PSGM and the fact that this activity was almost subcontracted in its totality, indicates its comparatively low relevance for the LIP added value (notwithstanding its estimated total cost of EUR 2.9bn for the three countries involved).

Moreover, the Construction phase used the financial resources that had been secured during the planning phase. The financing of pre-construction and construction was a combination of private and international financing institutions (mostly EBRD). Hence, during the planning phase the TAP shareholders (or the owners) provided to the public financiers a clear assessment of the overall viability of the project and raised the funds for the construction phase. In the planning phase, the owner (i.e., TAP AG) had all the pressure to keep the project viable, and also took the corresponding risk.

The **Operations** phase is an integral part of the TAP project cycle and includes monitoring, operation of gas compressors, regular controls of pipeline, and maintenance. During that phase the gas starts to flow, while the financial flows reverse. It is during the operations phase that we have the clearest idea whether the investment in planning and construction was worthwhile. Until operations start, all the calculations are based on working hypotheses.

The operations phase was planned to last for 25 years, which brings the overall lifecycle of the whole TAP project to 41 years. Such a lifespan required a very detailed and careful planning with focus on the commercial activities. In the case of TAP in Albania, a very strategic element was the positive assessment by owners and financiers of the financial viability of the infrastructure investment and of the acceptable risks that were posed by Albania. Basically, TAP delivered a "passport of stability" to the small Balkan country. By accepting its validity, strategic partners in Europe made Albania's stability a key variable in their calculations.

In conclusion, TAP's funding structure and risk distribution varied in function of the project phase:

- stage 1: planning (including screening / pre-feasibility /.../ up to commercial contract) was secured by private funding from TAP shareholders, who also kept all the risk;
- stage 2: pre-construction and construction: funding was a combination of private and overwhelmingly IFI, and the risk was shared accordingly;
- stage 3: operation (monitoring, control and maintenance) is the phase where the cash-flow reverses, and TAP starts paying its creditors.

At this point, it can be noted that TAP shareholders kept the funding of the stage 1 in-house and went public only after they were sure about the viability of the whole operation and had enough elements to convince the IFIs. TAP infrastructure project maturity is only one of the components of the whole gas transport and sale core function. IFIs agreed to finance TAP only when convinced that it was a profitable investment, even without a sovereign guaranty.

## *II.2. Comparison with infrastructure PCM supported by Connectivity Agenda*

As the owner, TAP AG kept in-house *all* operations that dealt with *core* trade, as well as the subsequent risk. In the CA projects, the owner is the WB6 country. The priority project pipeline follows national procedures and their financing obeys the budget management rules and public procurement procedures. WBIF considers an infrastructure project mature for co-financing if the project has *"…reached the completion of Detailed Design*". As CA projects are public goods, their return on investment has not been a paramount condition to their prioritization and financing.

But, in a context of limited resources and taking into account the large costs involved, we believe that TAP offers some elements of comparison that may be useful with regard to planning, financing and risk distribution of a LIP. This comparison becomes even more relevant if we consider the fact that WB6 governments are currently involving private businesses in the design, construction and operation of Connectivity Agenda projects, mostly through Public Private Partnership (PPP) financing schemes. Those decisions have a direct impact on the project cost born by WB6 taxpayers, as well as the on risk involved.

As previously mentioned, in the case of infrastructure projects supported by the Connectivity Agenda, one of the main differences with TAP resides in the risk distribution. While taking the decision to finance (or not) a CA project, IFIs have three advantages when compared with privately owned TAP-like financing. First, and most important, their CA project-financing amount is backed with sovereign guarantees by the beneficiary WB6 government. Second, through complementary grant schemes, almost all the activities of the LIP planning phase are financed by or / and implemented under the careful watch of the EU Commission structures in charge of CA. The Commission (or its agents) chooses the service providers and pays for their costs, thereby ensuring the required technical and financial standards.[14] Third, the IFIs involved are certain about the exactitude and relevance of the information they obtain through the planning phase and that is needed for their investment decision, as it is they themselves – through WBIF financing – who perform the work. As a result, risks taken by IFIs during the planning and construction phases of CA projects are negligible, if any.

The other difference is the clear set-up of in-house LIP core and non-core activities. Basically, the commercial part of the TAP project as a whole (including strategic design) was kept in-house and developed by the owner / principal, TAP AG. Planning included the **project definition** (conceptual plan, commercial set-up and business development, obtaining relevant agreements and authorizations, and forecasting and raising the funds for the project). This is the riskiest process of the project, and as a result represents a major value-added element of the LIP value chain.

The second component is the **engineering and design** (includes front-end engineering and detailed design). To perform this component, TAP used its own shareholders as service providers and acquired their in-house expertise, experience, systems, tools, and capacities available, rather than mobilizing external consulting teams. During the planning phase the owner (TAP AG) calculated the value chain, completed the commercial set-up and business development (both were done in-house as even host country entities were not involved). As a result, TAP took on the main risks associated with the project such as regulatory, marketing, design failure, project delays, cost overruns, liabilities, etc. Consequently, the planning phase holds the bigger added value on the owner's bottom line as compared with the construction and the operations phase.

Meanwhile, i) the responsibility for permits and authorizations were transferred to the host country entity which outsourced them to local Albanian-registered actors; ii) engineering was done in-house and/or outsourced; iii) construction was completely outsourced, and the risk was borne by the subcontractor, and iv) operations (flowing the gas) were kept in-house, by the owner.

It may sound counterintuitive when the costs of each of the three phases are compared, but it is the planning (est. TAP budget of EUR 300 M) that is the riskiest, and also has the highest added value. Hence, TAP owners kept the planning in-house. The construction phase (est. EUR 2.9 bn for three segments GR-AL-IT) was completely subcontracted.

From Figure 1 below it appears clearly that what TAP does in-house at stage 1, the Connectivity Agenda actors implement through coordination and subcontracting (supported by JASPERS,

[14] Different EU Commission paid external consultants – Infrastructure Preparation Facility, CONNECTA, etc. – cover all the phases of project planning.

WBIF Technical Assistance, or CONNECTA technical assistance). Hence, it can be argued that the role of WBIF as a blending instrument has been enlarged to palliating the deficiencies of the owner of Connectivity Agenda projects (i.e., the WB6 governments) and include the components from infrastructure project identification up to the technical design.

Unfortunately, the externally funded and contracted technical assistance has become a permanent fixture in the overall development of the planning phase of CA projects. On top of the positive results regarding the process quality assurance, it impacts the sustainability of local institutions, and may eventually affect the overall rationale of project planning phase and the respective distribution of risk-taking.

Another consequence has been the de-facto removal of local WB6 actors / private companies from their participation in the services market created by the CA planning phase. In practical terms WB6 engineering companies have been sidelined by their EU peers.[15]

**Figure 1. Distribution of risk in cross-border Connectivity Agenda project**


## *II.3. Importance of ownership and regular verification of project viability*

TAP shows us the crucial importance that in-house knowledge represents for the owner (as compared with acquiring it in the open market). In-house and proprietary knowledge directly condition the amount of risk-taking and consequently the respective added value. This logic applies also in CA infrastructure works where the WB6 state is the owner. But in the cases where the state is "captured"[16] or inept, there are the "captured" institutions that may become the critical risk itself. In this Catch22 situation, pretending that the "owner" will identify itself as a risk is not realistic.

On the other side, the assessment of the capacity of WB6 institutions to properly implement a CA project is not in the WBIF assessment grid for Grant Application for Technical Assistance. As previously noted "… *while the WBIF has improved its reviews of LIP grant application, its*

[15] Detailed data on the local content during planning phase are provided in the Chap. IV.3. Local content in the Connectivity Agenda.

[16] "state capture" appeared for the first time in the 2016 EU Enlargement strategy to explain the situation of the Rule of Law and of the Economy, and was there as well in the 2018 and 2019 edition of EU Commission Enlargement Communications.

*assessment still remains largely based on the information presented in the grant application form presented by the beneficiary institution. There is no in-depth evaluation of the applicant institutions / grant recipients when those are government entities. In general, EU Commission–supported blending facilities pay little attention to "concessionality, debt sustainability, or economic viability*")".[17]

In-house knowledge coupled with a proper mechanism of monitoring are essential to keep the infrastructure project on track, and the budget under control. In that regard, regular assessments – internal and external – of the overall project viability is another feature of TAP as LIP. Internally, it has been assured through the "decision gates" methodology: validation of investment at key intervals in order to assess and confirm the project viability.

### Box 1. Infrastructure Project Steps

In a typical infrastructure project, once the project definition phase is over, the subsequent steps are:

- pre-feasibility and feasibility study: includes data gathering on the rationale for the project and on alternatives. Help the "owner" to assess its financial viability and project priority as compared with other alternatives;
- project design: based on the conclusions of the feasibility study, and on the project's quality, profitability and durability, the technical design is prepared. The country administration – Ministry of Infrastructure or National Road Authority – defines the most suitable variant, including consultations with local communities impacted by the project;
- budgeting: the project is submitted for financing to the Ministry of Finance, which presents it for approval at the Strategic Planning Committee. Accordingly, the project becomes a part of the state budget for the subsequent budget years;
- tendering and contracting: includes the selection of companies that will do the work and supervision. Price is not the only selection criteria. WB6 countries apply public procurement rules that are harmonized with the EU ones;
- permitting, including application and acquisition of construction permits, environmental permits and others as per the specific nature of the project; expropriation starts after approval of the official version of the project, together with costs. As will be explained in the next chapter, land ownership is the major headache impacting FDI in Albania;
- implementation, including the actual construction works, is the last step, which ends with the commissioning and the handover.

As we saw with TAP, there is a direct relationship between ownership, added value and risk taking, where high added value is correlated with high risk taking and in-house ownership. This logic changes significantly in the case of CA as while the risk remains with the owner (i.e., WB6 state), the added value (as defined by who is involved in the phase with the highest margin) goes to external consultants contracted to perform the planning components. While this may have been necessary some years ago, it is time to consider shifting in-house (i.e., to be performed by Balkan institutions, whether public or privately owned) as many as possible planning phase components .

[17] Box. 3 "Dealing with weak institutional capacity," in "Berlin Process: Implementation of Connectivity and Institutional Governance," p. 27, A. Hackaj et K. Hackaj, CDI ed. Tirana, March 2019.

Second, the involvement of external consultants in the planning phase inexorably extends the timeline of CA projects because of the time needed for the public procurement process to take place. Acknowledging this fact, and to shorten the response time for contracting of specific services in pre-feasibility, feasibility, Environmental Impact Assessment (EIA) and main design, the EU Commission has set up the CONNECTA technical assistance project.

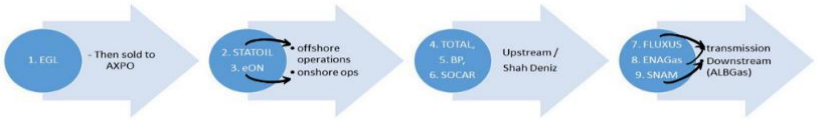
Third, the use of those Technical Assistance external service contracts, does not take into account the capacity of the local institutions to fully benefit from it. It simply implies that the local beneficiary institutions – who are also the LIP "owner" - have the expertise and are capable to manage the external consultant and to efficiently interact with it.

In reality, faced with an inept administration or non-responsive institutional partner, very often it is the external consultant that automatically "covers" for the LIP owner and masks local institutional inability to perform their tasks by providing services that should be performed by their civil servant counterparts.[18]

In the TAP planning phase, private ownership and initial internal funding eliminated the delays that are unavoidable in the case of public procurement. Moreover, private ownership avoided the interference of Albanian public authorities in the TAP procurement and contracting processes.

Externally, the existence of an "intra-project market" during the whole TAP project timeline has helped to keep the financial viability of the project on track. Concretely, from the moment of its inception by EGL, no less than nine companies have entered (and left) the TAP shareholder structure. This dynamic has contributed to the external transparency of TAP operations and to the efficiency of the whole project.

**Figure 2. Evolution of TAP ownership**




On top of the transparency due to this diverse and highly specialized ownership, there has been a permanent control of operations by the owners. Accountability has been reinforced by the owners through the appointment of "secondees" at placed at TAP corporate activities.[19]

As presented in the figure 3 below, Connectivity Agenda projects receive assistance for all the project cycle components mentioned above, except the operations phase. However, the owner of the project is the Albanian state as represented by the Albanian institutions in charge the relevant sector (i.e., transport, energy, etc.). This raises two questions:

[18] It should also be noted that it is implicitly supposed that external business consultants are able to fully represent and automatically defend the interests of client public institutions

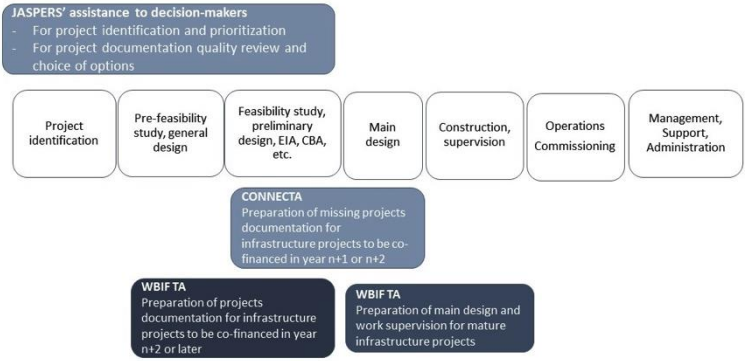
[19] Interview with Zija Kamberi, TAP Local Permit Coordinator (ENT). Tirana, 3 December 2018.

First, contract performance indicators for CA-supported TA contracts do not cover the phases of project identification[20] and the operation. Even if elements of the operations phase are factored into the planning phase (through the cost-benefit analysis) when the external consultants involved in planning finish their contract, or when the works subcontractors hand over the LIP to the beneficiary government, the cost-benefit assumptions still remain only hypothetical future scenarios. Hence, all the risks related to previous phases are transferred to the operations phase, and are borne by the beneficiary government. In the majority of cases there are no problems, however there are certain examples where this has happened. The best illustration is the Vlora Thermo Electric Plant (TEC) in Albania, supported by IFI and handed over in 2012. While the Albanian government is paying the loan installments, the Vlora TEC has never been in operation due to "technical failure".

The second issue is the capacity of local institutions to efficiently operate the LIP, including financial, human resources, accounting, tax, legal or other task. Often, especially during recent years, numerous LIPs in Albania have been handed over to the private sector to be operated through PPP schemes. The main justifications have been the incapacity of state budget to cover the operational costs, or that private businesses do a better job,and more efficiently. The negative side has been the long-term impact on the cost side of LIPs in the state budget.

Below is a graphic presentation of the technical assistance provided by the EU for Connectivity Agenda projects.[21]

**Figure 3. Distribution of TA in CA projects as per project cycle components**




[20] CA project identification procedure in WB6 is done through the National Single Project Pipeline and the National Investment Committee. It is covered extensively in the "Monitoring the Berlin Process: From Paris to Trieste," A. Hackaj & K. Hackaj. CDI ed. 2018.

[21] Slide from WBIF 2016 Programming Mission for Connectivity projects, presentation by Davor Kunc, Program Manager, Energy & Transport, and Ana Simecki, Transport Expert, Connectivity Center, Tirana, 1 December 2015, and adapted by CDI.

# CHAPTER III

# OVERCOMING THE LAND EXPROPRIATION HURDLE

# III. OVERCOMING THE LAND EXPROPRIATION HURDLE

## *Selected highlights*

- The engagement of local subcontractors possessing expert knowledge is crucial.
- TAP converted a problem into an opportunity by: i) taking stock and contributing to solving the unclear ownership situation; ii) covering the financial costs of ownership legalization procedures to speed up the process; and iii) benefiting from bilateral negotiations with villagers, and avoiding the country's inept justice and court system.
- TAP solved an apparently intractable problem by acting at the same time on all levels: community, village, LGU, and central government.

The importance of dealing with land ownership in Albania has been acknowledged by TAP since the project identification phase. Complicated land ownership was cited as a negative factor during its competition with NABUCO.[22] Therefore, Land Easement and Acquisition program was designed and recognized as "core business" – with same status of importance as pipeline laying, building measuring and pressure stations, and repair or construction of secondary roads.[23]

## *III.1. Complexity of land ownership in Albania*

The relevant legal context of land ownership in Albania is fragmented, and the institutional procedure regarding land return and/or compensation is very complex. Moreover, there are many central and local government levels involved. This confusion is compounded by the absence of coordination, overlapping competencies and functions, and the many bureaucratic layers. Inexact maps, delays in initial registration and faulty implementation of legal framework, as well as corruption, have all impacted land ownership issues in the Balkan country.

The process of registration of land ownership is problematic as well. Because the initial registration of a significant number of parcels has not yet been completed, large parcels of land remain outside the national land registration system. Moreover, even among the registered parcels, changes are not updated regularly and this causes overlapping of ownership titles and other related problems.

[22] Interview with Bujar Leka, former General Director, Department of Projects and External Relations at the Ministry of Energy, former Albanian representative in the Permanent High Level Group for Energy Community 2013–2012. Tirana, 27 November 2018.

[23] Interview with Diana Sinojmeri, Stakeholder Manager, Trans Adriatic Pipeline AG – Albania (Branch Office). Tirana, 13 December 2018.

Beyond these administrative challenges, the registration of land ownership in Albania is also complicated because of technical issues. The majority of ownership maps are not accurate and do not reflect the reality on the ground. Similar problems affect immovable property. The Immovable Property Registration Office (IPRO)[24] has reportedly had problems in its own archive because many original documents are lost or simply cannot be found. The new digital register does not function properly yet. As a result, there have been cases when a parcel has been sold but the transaction has not been recorded in the respective IPRO.[25]

The problem of return and compensation of land ownership has an international dimension because of complaints made by Albanian citizens in Strasbourg. Up to September 2018, the Strasbourg Court had rendered 131 decisions on return and compensation of land in Albania, while 224 cases were in the pipeline.

Moreover, it is estimated that almost one third of privately owned constructions in Albania are illegal, mainly because of missing construction permits or the absence of legal certainty on ownership. According to the 2016 Annual Report from the Agency for Legalization, Urbanization and Integration of Informal Areas and Buildings (ALUIZNI),[26] up to that year there were 314,789 illegal constructions in the country, out of which 120,000 were in Tirana.

In December 2018, the Director of ALUIZNI presented to the Albanian Parliament a draft law "On fiscal land register." In his presentation, the Director underlined that out of 4.4 million ownership titles, 3.5 million are registered while 600,000 are not. "*Of the 3.5 million registered ones, 2.5 million have problems and that means that the registration process must restart from beginning*"[27] he stated.

With the new law, government has gathered all the above processes into a single legal procedure. The goal was to use real estate ownership as a development factor, especially for attracting FDI and developing investment in the tourism sector.

Beyond the private ownership, another problem is the status of state-owned parcels as the "…*Albanian state has not registered all its properties*."[28] This issue is very visible at the level of LGU ownership and corresponds with the devolvement and decentralization process where land and real estate were devolved from central government to local government. Land parcels have been transferred from the central government into LGU ownership, but without completing the paperwork regarding the new ownership. So in practical terms the LGU, while owning the parcel, has never completed the paperwork and does not have the relevant ownership papers to issue the building permits that would allow construction to take place.

To overcome the gridlock resulting from land ownership, the Albanian government has introduced a statute on "strategic investments." In the Albanian legislation, important economic sectors and economic activities are considered as strategic, and as such are subject to "public interest" procedures. This status gives the strategic investor additional benefits over land ownership, and in

[24] Or in the Albanian language ZRPP – Zyra e Regjistrimit të Pasurive të Paluajtshme (Real Estate Registration Office).

[25] EURALIUS Report: "Albanian property law violates human rights," B. Likmeta, BIRN, 27 September 2018, at https://www.reporter.al/raporti-i-euralius-legjislacioni-shqiptar-i-prones-shkel-te-drejtat-e-njeriut/, retrieved on 7 January 2019.

[26] ALUIZINI (in English: Agency for Legalization, Urbanization and Integration of Informal Areas and Buildings) is the government agency responsible for coordinating the legalization process in Albania. It has the authority to interpret and confirm decisions on legalization permits and to coordinate inter-institutional action related to all informal construction activity present in the country.

[27] As translated by the Parliament of Albania official website: "The Committee on Production, Trade and Environment discussed two draft laws for completing the transitional ownership processes and the fiscal cadaster," at http:// www.parlament.al/News/Index/7064, retrieved on 4 December 2018.

[28] "2.5 million of real estate in Albania with problems," in Albania Daily News retrieved on 20 June 2019 at: https://www.albaniandailynews.com/index.php?idm=31632&mod=2

selected cases also applies to privately owned land. In those cases strategic investors can negotiate with owners to acquire the land they need. If those negotiations fail, strategic investors can legally acquire the said land through expropriation procedure.

Again, the above-mentioned report[29] indicates that Albanian citizens face many problems in IPRO while deposing and logging the notary acts, administrative acts and judicial decisions necessary for clarifying and obtaining ownership titles. The process of registration takes a long time because of a very complex procedure regarding administrative verification at many levels. In cases where there is overlap, the registration is suspended until the IPRO conflict is dealt with through the judiciary. This is another very lengthy procedure and may go through different levels and appeals.

## *III.2. TAP response: The Cadaster Update and Improvement Program*

In 2013, TAP started the Cadaster Update and Improvement Program (CUIP) in conjunction with the Albanian competent authority IPRO, and with the support of TAP local subcontractors. TAP built from scratch the Land Easement and Acquisition (LEA) methodology, basing it on two components: i) setting up the legal land registry (cadaster) so as to define borders and ownership structure of land plots impacted by the pipeline and other TAP-related works; and ii) building the methodology for evaluation of on-the-ground assets and of inventory. This methodology is quite innovative in the country and proved very successful. It can eventually be replicated in other public works in Albania.

To date, TAP's Cadaster Update and Improvement Program has benefited over 12,000 Albanian households, providing them with improved and updated land ownership documentation, and officially recognized land ownership cadastral data. The TAP CUIP program collected all the officially required documentation, conducted field surveys and measurements, generated new maps, and completed a large-scale community consultation and household stakeholder engagement campaign.

TAP covered all the expenses related to these processes, including the administrative fees payable by the would-be individual owners and needed to complete the official registration of their property. Approximately 34,000 properties have been registered under this TAP CUIP program, including the full first registration of three villages, two in Korça region (Vithkuq and Mollaj) and one in Fieri region (Sheq-Marinas).[30]

Parallel with the support provided by TAP, the Albanian government received technical assistance on a bilateral basis to help it deal with the land ownership issue.[31] However, this top-down TA component was later discontinued because it was realized that TAP itself had dealt with the LEA by adopting a bottom-up approach.

[29] EURALIUS Report: "Albanian Property Legislation violates human rights," B. Likmeta, BIRN, 27 September 2018, at https:// www.reporter.al/raporti-i-euralius-legjislacioni-shqiptar-i-prones-shkel-te-drejtat-e-njeriut/, retrieved on 7 January 2019.

[30] Communication from Diana Sinojmeri, Stakeholder Manager, Trans Adriatic Pipeline AG – Albania (Branch Office). Tirana, 13 December 2018, received by e-mail on 30 January 2019.

[31] Project Agreement between the Government of the Swiss Confederation and the Council of Ministers of the Republic of Albania on the Granting of the Financial Assistance for the Capacity Building Project for the Large Gas Infrastructure Development in Albania I (April 2011) and II in March 2015, respectively Art. 2.3.d and Art. 2.2.d cover land easement and acquisition. The agreements were implemented through a technical assistance contact by Roland Berger GmbH.

## *III.3. Adapting to local context: Land Easement and Acquisition process*

TAP has strictly avoided the use of the word "expropriation" in its engagement with Albanian stakeholders. Instead they utilized the term "Land Easement and Acquisition (LEA)." The LEA program started in 2014, and was based on bilateral agreements with the presumptive land "owner."

The main problem affecting LEA was the missing official land ownership documents. Many villagers had – in the best case – only an administrative act certifying the ownership of the land issued by the Municipality,[32] but without any definitive legal value.

We have identified three situations that TAP faced while tackling the land ownership problem in Albania:

- land ownership documents existed (the owner being a public entity or private): this was the easiest scenario as it was dealt through straightforward procedures as enacted by applicable law and the Council of Ministers decisions regarding land needed for TAP;
- land ownership documents did not exist but the presumptive owner had a temporary certificate recognizing his/her right on the land and allowing him/her to start the administrative procedure for completing the registration (i.e., the famous Land Acquisition Act known as "AMTP"): through a written agreement, the de-facto owner mandated TAP to initiate and complete the registration procedure in order to obtain legal ownership on behalf of the villager. TAP would also cover the costs of that procedure;
- The parcel in question was in the municipality inventory, but was not registered under municipal ownership. As mentioned previously, after 1999 and especially following the Territorial and Administrative Reform of 2014 many central government–owned real estate and land plots were transferred to ownership of the local government units, but the legal procedures for registering were never completed. This problem became even more complicated with the said 2014 Territorial and Administrative reform that merged 382 communes and municipalities into 61 new ones. One of the reasons given to us was the cost the registration procedure would impose on the budget of certain poor municipalities. Hence the observation that similar LIPs should take this situation into account.[33]

In the institutional context, TAP had placed its employees – literally – inside the public institutions in charge, as well as having supported, facilitated or sped up the national inter-institutional interaction in involved in the LEA. IPRO was targeted as the strategic nod that conditioned the progress of the LEA program. The institutional capacity inside the local IPRO offices was identified as a limiting factor. To deal with this issue, TAP allocated at least one externally contracted staff in each local IPRO. The staff was paid by TAP and worked on pushing forward the TAP-related files within the IPRO office.

Once the file had gone through the office in charge, to the next institution, TAP staff followed it as well. They covered inter-institutional cooperation by following each file individually, delivering them manually, kindly reminding the officials about the time limits and sometimes even exercising gentle "pressure" on the next institution wherever a delay appeared with the dossier in question ("*put the file at the top of the pile*").

[32] The Land Acquisition Act acknowledged the fact that public cooperatives' land was distributed to the former villager (or cooperativist). It was not registered with IPRO.

[33] On the other side, to speed up the process, the Albanian government should consider not charging the municipalities. At least the "poorest" municipalities should be allowed to obtain ownership documents free of charge.

At the central government level, a special structure was created through a Ministerial order with the goal to carry on with the expropriation procedure. This order aimed at setting up a special Commission within the Ministry to follow up and prepare the legal basis[34] (or the required Decisions of Council of Ministers – DCM, as each expropriation procedure needs the corresponding DCM). Another ministerial order followed designed to regulate the "temporal use and servitude" of land affected by TAP.[35]

In the case of private ownership, around 80% of villagers had only AMTP but no legally valid ownership over the land, especially in the LGUs of Skrapar, Çorovode and Berat. TAP solved this issue by getting a mandate from the "owner," covering the costs and doing the administrative demarche itself.

To give an idea of the capillary work done by TAP on the ground, it is worth observing the whole process, as detailed below:

- Each villager impacted by TAP route, signed a notarial act mandating TAP to obtain the ownership certificate for him / her.
- Where information about land ownership was not clear or in disputed cases, the municipality set up an ad-hoc commission to verify on the ground the: i) parcel borders; and ii) investment on the land (mainly crops or fruit / olive trees). This commission was composed of the leaders / elders of the community or village, the Municipality Director of Agriculture department, a topography specialist, an agronomy specialist, and the concerned parties. After agreement the commission would fix the physical borders and indicate the situation to the local IPRO office for further processing.

It should be stated that the bulk of LEA was implemented at the local level. The central government provided the legal and procedural background, but all the groundwork – technical, administrative and face-to-face – was done on the ground.

This involved working on a regular basis with the villagers, different communities and community leaders, with the municipalities and with the local branches of central government (IPRO being the most important). This very successful approach indicates the need for similar endeavors to go capillary, beyond capital cities and the central government level or agencies.

The capillary approach also bypassed the institutional problems within the institutions in charge, as well as those stemming from poor inter-institutional cooperation.

As a result, LEA went through flawlessly. The national cadaster was improved for 400 meters around the pipeline. This clarification affected 45,000 owners, 22,000 parcels and the equivalent of 86 km2 (215km length * 0.4km width, or 0.3% of all the territory of Republic of Albania). TAP has covered the cost of the procedure in all those cases. Reportedly there has been not one single case in which the LEA has been forced upon the (presumptive) owner and not given by consent.

[34] Ministerial order Nr. 223 of 06.7.2016 for the Creation of Special Commission for the follow up and implementation of procedures of expropriation for public interest of land under private ownership, for the implementation of the project Trans-Adriatic pipeline, Ministry of Energy and Industry, Directorate of Concessions, Procurements, Expropriations and Privatization.

[35] Ministerial Order Nr. 222 of 6.7.2016, by Ministry of Energy and Industry, Directorate of Concessions, Procurements, Expropriations and Privatization.

# CHAPTER IV

# LOCAL CONTENT, OR TAP CONTRIBUTION TO ALBANIA

# IV. LOCAL CONTENT, OR TAP CONTRIBUTION TO ALBANIA

## *Selected highlights*

- "Local content" is different from "national content." National content was incurred by TAP actions through Albanian subcontractors and through assistance to government for improvement of cadaster; on policy making (such as contributing in drafting sector policies); or improvement of the national legal context. The local content (contribution at the level of local government) was achieved almost exclusively through the TAP Social Investment Fund (TAP SIF was an investment by the company with no relation to TAP core business).
- The local action financed by TAP SIF focused on direct-impact / visible / quick / relevant needs of the community / inhabitant that affected their everyday life (such as roads, bridges, schools, libraries, mitigation of natural disasters, etc.). The local impact on employment was limited to the construction period, and was focused on infrastructure works.
- The national impact consisted in a significant positive macro-economic contribution during the construction period; creating opportunity for diversification of energy sources in the future; and very importantly, contributing to geopolitical stability and further anchoring of Albania to the EU.

## *IV.1. National content: Legal context and the private sector*

One of the most important contributions of the TAP endeavor in Albania has been the completion of the legal framework necessary for the development of the gas sector, the most important being Law 102 on the Natural Gas Sector promulgated in 2015.

This law covers transmission, distribution, trade, deposits, supply, consumption, as well as construction and operation of natural gas infrastructure. It replaces the previous one of 2008.[36] Its strategic and groundbreaking profile can be illustrated by the fact that it provides the legal definition of 116 technical and legal terms regarding the gas sector or more than double the previous law of 2008; and has 118 articles (the previous law had only 56).

The Law 102/2015 defines no less than 55 by-laws or implementing acts needed to complement the legal context. It includes specifications ranging from the certification of gas specialists to technical rules, customer definitions, etc. It also has important spillover effects on local institutions and on other similar infrastructure projects.

The expected impact of TAP on the Albanian private sector was relatively high. The total investment of TAP in Albania is estimated at approximately EUR1.5bn – this amount being the sum of all costs including pipes, compressor stations, measuring stations, valves and other technical equipment, and work. The most impacted sector was construction.

[36] Law No. 9946, date 30.6.2008, For Natural Gas Sector.

The biggest subcontractor was Spiecapag, a French company which won an international tender to do the engineering project and construction / laying of pipeline for 185km in Greece and 215 km in Albania. In 2017, Spiecapag Albania (a structure created ex-nihilo for the purpose of TAP) became the third biggest company in Albania (rising from ninth place in 2016). That year Spiecapag Transadriatica, another affiliated company working for TAP, took eleventh place. Meanwhile, Joint Venture Terna – Albania branch (an Italian-owned structure which also did work for TAP) quadrupled its turnover in 2017 and ranked as the 72nd largest company in the country.[37] Hence, a sizeable part of the total TAP works budget in Albania has been contracted to foreign-owned companies, or to their locally registered subsidiaries.

As direct subcontractor or not, more than 35 Albanian companies have been engaged in TAP works in the country, with the most relevant (not an exclusive list) being: Abcons, McCann, AlbStar, Diamant Logistics, Startrans, Sterkaj, Albarent, Vagalat, Gjoka, Doko, Altea Geostudio 2000, AMOS Oil, Angerba, Artyka II, Defex, Delia Group, ECCAT, EL-BU 2009, ERA Rescue, Ferra Construction, Flenarb, GEO-Bruna, GENER2, Geosat Group, Gllavica, GR Albania, I.XH.E.M, Idea Communication, Kastrati, Kuel, MRDC Foundation, Nazeri 2000, Pelikani Security, Salillari, Europa sh.p.k., Rogat, Avis, Odisea, ARB-Security, etc.

It must be noted that Albanian subcontractors were national, not local, with the most important ones being ALBStar and GENER2, both headquartered in Tirana. Also, from the table below it can easily be noticed that the bulk of subcontractors are based in Tirana (even though the TAP pipeline does not go through the capital city), while there is none registered in Berat, Polican, Corovode, etc.

**Table 1. Distribution of TAP Subcontractors by District**

| No. | District / Sector of Activity | Service | Construction | Production | Total | TAP Goes Through |
|---|---|---|---|---|---|---|
| 1 | TIRANË | 16 | 4 | 1 | 21 | No |
| 2 | FIER | 2 | 1 | | 3 | Yes |
| 3 | DURRËS | 2 | 2 | 1 | 5 | No |
| 4 | GJIROKASTËR | 1 | 1 | | 2 | No |
| 5 | ELBASAN | 1 | 1 | | 2 | No |
| 6 | KORÇË | 1 | 1 | | 2 | Yes |
| 7 | BILISHT | | 1 | | 1 | Yes |
| 8 | SHKODËR | 1 | | | 1 | No |
| 9 | TOTAL | 24 | 11 | 2 | 37 | N/A |

It should be mentioned that TAP did subcontract the newly created state-owned company AlbGas for the maintenance of the pipeline. This constitutes a very important and regular source of income for the newly established national gas operator in Albania.

## *IV.2. Local content: The role of TAP Social Investment Fund*

To contribute to the improvement of livelihood and quality of life of local communities along the project route, TAP established a Social Investment Fund of EUR 14 M (for the Albanian leg only;

[37] "200 VIPs in 2017: In the construction trap," *Monitor*, September 2018, at: http://www.monitor.al/200-vip-e-2017-s-ne-kurthin-e-ndertimit/

the total amount also including Greece and Italy amounted to EUR 55 M).[38] The objective of the Fund was improvement of the neighborhood along the pipeline track. The amount represents the largest budget set aside by a private company working in Albania directly targeting non-profit works for the benefit of local communities.

Accessing this fund, as well as obtaining employment opportunities for locals and subcontracting agreements for local companies, has been the main goal for the small Albanian LGUs[39] during their negotiations with TAP. Only big municipalities such as Korça included TAP in their local development strategies so as to benefit from its longer-term socio-economic impact in the area. This is an indicator of the limited ability of LGUs – especially the smaller ones – to systemically profit from an LIP that goes through their territory.

All concerned municipalities produced a wish-list for TAP. This document was joined to the LGU decision permitting the pipeline to be laid in the territory of the commune and for the works to break ground. In the decisions of each of 38 municipalities regarding the ESIA and building permits to be delivered to TAP as a prior condition to its works, the first thing that one notices is the similarity in form and content among the 38 documents. They have the same format – which suggests they have been pre-prepared by the same entity – with slight modifications regarding the specific demands of each LGU[40].

The most important demands emanating from the to-be-impacted LGUs fall into five categories. Ranged by frequency of appearance in the requests, they ask TAP:

- to employ local people;
- to subcontract to local SMEs;
- to reimburse expropriations;
- to provide assistance for agriculture; and
- to reconstruct local roads and/or national roads that go through the municipality.

However, these requests are more of a wish list than conditions for TAP, per se.[41] The other feature is that they do not refer to any pre-existing local development strategy.

TAP used its own criteria to determine the amount of SIF to invest in the territory of the affected LGU.[42] One of our findings is that TAP (and its subcontractors) responded positively to most of the LGU requests. The requests that were not "satisfied" by TAP SIF were discarded because they did not provide the needed justifications, hence they did not fulfill the criteria.

The identification and subsequent investment in local content to be supported by SIF depended to a large degree on communication with local communities and with the LGU structures. As mentioned before, employees of TAP and of its subcontractors, as well as TAP external experts spent a lot of time on the ground talking with local stakeholders. Nothing was left to chance. Even the mail was hand-delivered to the LGU offices to make certain that the local government official in charge got the document and read it.

[38] "Trans Adriatic Pipeline, Project Opportunities for Communities" at: https://www.tap-ag.com/project-opportunities/for-communities

[39] Interview with Gezim Mema, General Secretary of Berat Municipality. Berat, 10 March 2019.

[40] Ministry of Economy, Trade and Energy, "Decisions of 38 municipalities on the development of the TAP project, in the framework of the National Sectorial Plan for the Trans Adriatic Pipeline." Tirana, February 2013.

[41] Ibid., Annex 5.

[42] Interview with Diana Sinojmeri, Stakeholder Manager, Trans Adriatic Pipeline AG – Albania (Branch Office). Tirana, 13 December 2018

This large presence in the ground allowed TAP to identify problems impacting its relations with local communities and react very quickly. For example, in Berat during the LEA process, initially TAP (through its subcontractors) had been directly in contact with villagers trying to negotiate the terms and conditions, thereby bypassing the LGU level. Not involving the LGU was a premise for misunderstanding, unkept or broken promises and finally conflicts between the company and the villagers. With the involvement of the LGU those issues calmed down and were treated properly.

Here we notice two issues. The first is that municipalities negotiated with TAP in an uncoordinated way, each addressing the TAP portion and impact in its own territory. Hence investments that would have benefited two or more municipalities were not discussed with TAP. When asked what they would done differently, the only thing municipality staff mentioned was for the LGUs affected to have had the possibility to negotiate together with TAP, and not separately. For example, Korça LGU staff would have asked for an inter-municipality road connecting Korça with Çorovoda. But because each municipality dealt on its own and central government did not coordinate, this inter-municipality synergy was not achieved.

Lack of communication between central government and LGUs appears repeatedly as a major problem. Berat municipality (as was also true in the Poliçan municipality) needed TAP to invest in the national road that went through the UNESCO-protected city. But given that national roads are under the competency of the central government, it is Albanian Road Authority (ARA) that should have followed up this issue. On the other side, all the secondary roads that were under the competency of municipalities, and that were the subject of request, were properly repaired and in some cases improved (cases of roads in the villages of Kodras, Veterik and Ullinjas in Berat were mentioned in our Berat interviews).

The next issue is the capacity of Albanian municipalities to deal with such a complex project. Again, a good example of LGU–TAP collaboration has been the municipality of Korça, the largest city in south-east Albania. Municipality administration was very active during interaction with TAP. The pipeline was part of its Regional Development Plan, and TAP figured prominently (map of TAP trace included) in the document of Strategy of Development of Territory of the Korça Municipality.[43] Moreover, Korça local officials, including the Urbanism specialist, negotiated with TAP on two sizeable investments as identified and needed by the city.

As a result of this engagement, in Korça municipality the TAP Social Fund invested a significant amount: ALL 41 M for Museum of Photography Gjon Mili (equivalent of EUR 330,000) and also co-financed construction and equipment for the market in Korça for ALL 82,225,000 (equivalent of EUR 660,000). The specificity of the market support project is its co-financing feature. TAP paired with IADSA[44] and piggy-backed on the project already underway. The municipality retained and implemented the overall coordination role.

It should be mentioned that if Berat municipality administration had followed the same proactive approach, it could have engaged TAP to contribute to the construction of an alternative route that would have avoided TAP heavy trucks going through the UNESCO-protected city.[45]

The direct local (rather than national) impact of TAP works was quite limited and happened mostly through local people hired by Tirana-based national subcontractors. For example, in the municipality of Poliçan there were circa 50 locals who were directly employed, and no locally based subcontracting company. In Korça, TAP hired a local company to work on the social project (i.e., city market), but none on proper TAP works.

[43] The Territorial Development Strategy document, Korça Municipality, at: http://bashkiakorce.gov.al/site/articles.php?cid=254&t=Plane-dhe-Strategji

[44] Italian–Albanian Debt for Development Swap Program was a grant-scheme offered by the Italian government.

[45] This raises also the issue of the role, responsibilities and involvement of the Ministry of Culture.

In conclusion, there is a correlation among the amount of local content capitalized in an LGU with the socio-economic development of the commune: the more developed the municipality (economy, education, number of staff), the higher the number of projects or the amount of money invested. It can be deduced that for a small LGU to profit from LIPs going through its territory, it must receive assistance in identification of needs, preparation of projects, negotiation with LIP owners and on oversight as well. The central government did not assist the municipalities in their negotiations with TAP.

## *IV.3. Local content in Connectivity Agenda*

In a similarly large transport project going through Tirana and belonging to the Connectivity Agenda,[46] we noticed that the Project Grant Application form has taken quite extensively into account the LGU context, and other relevant documents such as Regional Development plans and Urban Planning Strategy. This is very important and relevant but one can argue it is because the project impacts Tirana municipality, and that this LGU has the political standing, the technical expertise and the manpower to follow it up. Small municipalities do not have the financial and human resources, or the expertise.

For comparison, we looked to see whether "local content" or a similar concept was present in the Connectivity Agenda project documents. In the Guide to Western Balkans Investment Framework,[47] we noticed the existence of social and environment sectors as target sectors for the WBIF investments, especially for WBIF investment grants. However, there was no particular data or information on anything resembling the TAP Social Investment Fund: i.e., a special budget line set up to accompany a specific Connectivity Agenda infrastructure project in transport or in energy aiming mitigate the project's social and environmental impact.[48]

Regarding the Connectivity Agenda project cycle dynamics, municipalities are invisible in the national mechanisms used during project identification. For instance, "*the Municipality of Shkodra – Adriatic–Ionian Corridor entry point in Albania from Montenegro – has not received any official information as of February 2019 from central government on the road track traversing their municipality*."[49]

And this was the same with TAP. LGUs were not represented in the Special Commission for the Follow up and Implementation of the procedures of expropriation for public interest of private properties, for the implementation of TAP.[50] We believe that their presence in that structure, at least as observer, would have been beneficial.

[46] Construction of the Tirana By-pass (Kashar-Vaqarr-Mullet): Detailed Design, Full ESIA and Tender Documents, Project Grant Application Form, WBIF Round 16.

[47] Guide to Western Balkans Investment Framework, WBIF Nov. 2018. Since 2014, the WBIF has been at the core of the Berlin Process – an EU initiative aimed at revitalizing the ties between the Western Balkans and the EU Member States as well as those amongst the Western Balkan beneficiaries. Until 2020, the EC plans to make available up to €1 billion financing for priority connectivity (energy and transport) infrastructure investments. To date, the WBIF has supported a total of 162 strategic investment projects.

[48] TAP has supported the farmers that have been impacted by the pipeline through a specific program called "Assistance for Livelihood & Transitory Support."

[49] "Berlin Process: Implementation of Connectivity and Institutional Governance," A. Hackaj & K. Hackaj, Tirana Connectivity Forum, CDI Publications 2019, at: http://cdinstitute.eu/web/wp-content/uploads/2019/04/CDI_Berlin-Process_April2019.pdf

[50] Order no. 223, dated 06.07.2016, on the Establishment of the Subsidiary Commission for the Follow-up and Realization of Public Private Property Ownership Proceedings, for the Implementation of the Trans Adriatic Pipeline Project, Ministry of Energy and Industry, Directorate of Concessions, Procurement, Expropriation and Privatization.

Regarding the consultation with local communities on CA infrastructure projects, neither the municipality of Shkodra nor the municipality of Durres (respectively the fourth and second biggest municipalities in Albania) had been contacted by any authority in charge of the Adriatic–Ionian Corridor (as of June 2019).

A Project Implementation Unit-like structure or agency that represents all impacted LGUs in regard of LIPs, that protects their interests and is established at the national level, may be an interesting option to palliate those challenges. Normally for issues that deal with economic development larger than the competencies of municipalities, the Regional Development Agencies were in charge (four of them covering all the territory of Albania). But only three years after the agencies were set up, they were restructured and put under the control of Albanian Development Fund, a central government structure. While this move contributes to closing the gap in technical expertise, by its structure and accountability lines it is still much closer to the central government that to local government.

Another issue has to do with the distribution of local content in each project cycle phase: planning, construction and operation. As argued previously, the higher added value is in the planning phase. But if one considers the subcontractors engaged during that phase in the Connectivity Agenda (CA) projects, it can be observed that they are all non-Western Balkans entities (with one exception). Maybe it is time to involve more local Western Balkan entities during the planning phase.

### Table 2. Subcontractors Engaged in the CA Planning Phase – Sept. 2019

- → **Technical Assistance (TA) for IFICO III – till 26.02.2020 most probably with an extension:** Deutsche Gesellschaft für Internationale Zusammenarbeit GIZ GmbH in consortium with Mott MacDonald Romania SRL (Mott has also been partner at IFICO II);
- → **TA for Infrastructure Project Facility 4 – completed:** COWI A/S, WYG International, Atkins Limited, WS Atkins International Limited, SAFEGE, SU-YAPI Engineering & Consulting Inc., TRADEMCO S.A., COWI d.o.o., COWI SNS;
- → **TA for IPF 5 – ongoing:** WYG International B.V. / COWI A/S / WS Atkins International Limited/ Ove Arup & Partners International Ltd / CeS.TRAd.o.o. / COWI SPRL / COWI AB / Systema Transport Planning & Engineering Consultants Limited;
- → **TA for IPF 6 – ongoing:** SAFEGE, EPTISA, PM Group, TRACTEBEL;
- → **TA for IPF 7 – ongoing:** Hill International NV, Hill International (Bucharest) SRL, GOPA Infra GmbH, GOPA International Energy Consultants GmbH, Planet SA, DB Engineering & Consulting GmbH, SYSTEMA Consulting LTD, Cestrad.o.o., TRENECON Consulting and Planning LTD;
- → **TA for IPF 8 – awarded:** COWI – pending official publication;
- → **TA for CONNECTA – (72 month) awarded:** Mott MacDonald Romania SRL, in consortium with WYG SAVJETOVANJE d.o.o, COWI A/S, CeS COWI d.o.o, TRENECON Consulting & Planning LTD, and SYSTEMA.

In the CA, the planning is financed by grants mostly provided by EU, and performed by external EU consultants contracted by DG NEAR (through WBIF, CONNECTA, JASPERS, etc.). It is also true that the EU-owned lead partners of those consultancies hire local staff to perform many of their duties. So, there is a certain local capitalization of knowledge transfer. However, we believe there is ample space for the EU procurement rules to reflect better the need to build up infrastructure planning and design local capacities in WB6 and increase the share of investments

that remains in the country. A start would be to make obligatory the partnership with local organizations in tenders regarding components of the planning phase of CA projects.

## *IV.4. Profiling "local content"*

Local content is materialized by the amount of involvement of subcontracted local enterprises, the directly induced and/or created local employment, and the additional knowledge / education / skills transmitted to locally hired people. Local content may result either from TAP's core activities or from its social benefits program.

Social benefits activities do not have a direct business rationale. They can be measured in: i) improvement of the cadastral system and registration of impacted properties, construction of schools, libraries, etc.; ii) enhancement of local roads; and iii) social investment targeted at remote communities along the pipeline route. Basically these benefits are not directly related to TAP core business.

Based on the above, we can profile the local content of a large infrastructure project as per TAP experience. So, TAP local content is the result of the investment made for the laying of the pipeline, the construction of pumping stations, and corollary activities, plus the consequence of a great part of social fund engagements in the communities. The local content can be identified by the residual benefits at the level of TAP partners (public or private actors) and/or by the impact of works in the territory. We can classify the local content via partners and/or in the territory according to the following criteria:

- *National vs. local level*: national-level actors are situated and act at the national level; local actors situated in the district or municipality (or lower) level.
- Resulting from *TAP core business vs. supported by the Social Fund*: TAP-induced local content derives from investments made for the laying of the pipeline, building different stations, and in general, is directly related to the pipeline core business. On the other side, local content supported and/or created by the TAP Social Fund may be in areas or sectors where there is no apparent or direct connection with TAP core business such as in local community support, health, education, culture, etc.

TAP subcontractors – i.e., partners involved in TAP core business – are almost all at the national level. Local-level benefits, except from employment, resulted almost exclusively from the Social Fund.

**Table 3. Profile of Local Content**

| | **National Level** | **Local Level** |
|---|---|---|
| TAP core business | Albanian business partners / subcontractors | Impact limited to unqualified employment and during construction phase |
| TAP Social Fund | Focused in affected communities and including big cities not impacted by TAP (Tirana and Korça) | Impact on social structures / activities |

## *IV.5. Lessons learned*

Working with TAP allowed municipality representatives to observe the impact that the political cycle has on quality of infrastructure (TAP procurement has not been affected by the election cycle). A resulting lesson was to forbid procurement of public works during electoral campaigns. "*Works must not be procured or accepted / inaugurated during electoral campaign times*," said one interviewee. "*Those roads are usually of worse quality*."

This assertion is corroborated by the observation of procurement list carried out by LGUs during an electoral year. From 1 January to 7 May 2019 (2019 being an electoral year), the Albanian LGUs (including municipal companies) opened public tenders totaling ALL 15,800,362,077. For the same period, the total amount in the previous year was only ALL 9,561,478,966[51] (or almost half of the electoral year amount). What compounds the problem is that it is expected that those works be procured, contracted, completed and handed over before June when the local elections are held. This concentration and short duration of project implementation times (to be finished before the voting date) raises many questions about the quality of those works and services.

The employment of locals by LIPs was also acknowledged as having only a short-term direct benefit. The unexpected long-term impact was behavioral: it was achieved by obligating locals to participate and go through the TAP hiring procedures. For many of them TAP has been their first hiring experience where the "pay-to-work"[52] practice was not applied.

TAP provided a point of reference for municipalities when dealing with private businesses. Interviewed municipal staff appreciated the "correctness," the professionalism – including the presentation of documentation (completeness and esthetics) – and the implementation procedures (respect for deadlines, official notifications, demands for approval, respect for standards, etc.).

At the central government level, the Swiss government through SECO funded a capacity-building and technical assistance project sub-contracted to Roland Berger GmbH consultancy. Its beneficiary was central level institutions (mostly the Ministry of Energy) and the assistance was focused only on legal component and policy-making, not on implementation on the ground. Its impact was crucial during negotiation of the HGA when reportedly the Albanian government obtained better terms translated into an EUR 70 M benefit.

If the government had directed that assistance to include also the local level, the benefits could have been higher and better distributed (i.e., negotiating a higher price for the olive trees that needed to be cut / displaced; more intervention in local infrastructure, etc.).

Some recommendations regarding the maximization of local content while designing and implementing an LIP are the following:

- Need to empower and reinforce the capacity of LGUs to benefit from infrastructure projects. Herewith a Project Implementation Unit (PIU) or agency that represents all LGUs in regard to LIPs should be established at the national level.
- Obligation for LIPs to plan an exit strategy to ensure sustainability of capacity-building component at the level of: i) local subcontractors: this may take the form of letter of reference

[51] Data retrieved from Open Data Albania: http://www.open.data.al.

[52] "Pay to work" can be qualified as the corrupt practice where a candidate pays an intermediary to obtain a job, thereby distorting the official hiring procedures in place.

for the, future joint works in other projects or countries, recommendation and assistance for follow-up, feedback on LIP-subcontractor experience, etc.; ii) municipalities: LIPs can contribute in equipping LGU urbanism department with IT equipment, can produce technical design of selected municipal infrastructure connected with LIP, etc.

At the local level it must be underlined that the biggest local content change happened in the mindset and ways of work, as well as in the partnership routines of TAP partners. This is the largest capital that remained in the country, and as such it must be “inventoried,” preserved and enhanced.

In future similar endeavors, the representatives of LGUs need to be present together with central government officials when negotiating a big contract, from the very beginning of the project. TAP has showed that central government cannot properly and always defend the best interests of weaker LGUs.

# CHAPTER V

# SECURING TECHNICAL, ENVIRONMENTAL AND LEGAL COMPLIANCE

# V. SECURING TECHNICAL, LEGAL AND ENVIRONMENTAL COMPLIANCE

## *Selected highlights*

- TAP and its subcontractors hired the best national experts and offered the best compensation packages in the market.
- TAP followed to the letter the national technical and legal procedures. It understood, adapted and subsequently used perfectly the features of the local institutional context at every stage and sector (parliament, government, ministries, LGUs, agencies, etc.), and the respective national and local policy-making and implementation cycle.
- TAP successfully: i) strictly respected technical and legal procedures; ii) set up an adapted local team that combined knowledge of the context with operability and presence on the ground; and iii) followed the project procedures itself, at every procedural and administrative step.

Coming into a country with no previous experience or expertise in the gas sector, TAP imposed its technical knowledge and world-class standards and technical procedures. In this process, it obtained the support of national authorities.

The pipeline and its stations were designed by TAP specialists, and implemented by foreign sector-specialized companies (SPIECAPAG, TERNA, etc.). This assured the application of the latest and most advanced technical standards in design and implementation.

## *V.1. Setting the standards with technical compliance*

With regard to the legal and technical permits, TAP introduced a single permit demand including both: i) the list and design of planned work interventions; and ii) technical designs for new national roads and bridges.[53] The Albanian government in turn provided a single "blanket" permit, the Complex Development Permit,[54] including the technical specifications and the building permits for all the bridges and the national roads identified by TAP as needing intervention.[55] This "blanket approach" saved a huge amount of time when compared with a piecemeal or one-by-one permit procedure.

[53] Company Information TAP AG, "A brief description of technical and topographic data for rehabilitation, repair and/or re-construction of 52 bridges and for Street #454, objects of the application file of TAP AG for obtaining a document Complex Development Permit" (In application of Decision 1, dated 8.04.2014, of the National Territorial Council, "ON THE APPROVAL OF THE COMPETITIVE DEVELOPMENT OPPORTUNITY FOR THE PROJECT TAP." Tirana, dated 26.04.2015.

[54] Complex Development Permit (National Territory Council, Decision 1, dated 08.04.2014).

[55] Ministry of Urban Development and Tourism, Institute of Construction, Technical Approach addressed to TAP AG Prot. No. 193 / Tirana, dated 27.12.2013.

All documentary evidence as well as interviews that we conducted pointed towards a very high quality of design, and of work delivery from TAP and its subcontractors.

Albanian Institute of Construction (AIC), in its technical opponent report regarding the interventions in bridges, has confirmed the quality of work done by TAP. In the case of bridges requiring light intervention, it is insightful to note that in all the 12 comments made by the AIC regarding assessment of bridge repairs for light and medium interventions, there are only positive comments on the quality of the work performed by TAP subcontractors.

Words such as "*appropriate, satisfying, correct, necessary, right way, detailed, just version, appropriate forecasting, respecting the conditions, clearly demonstrated, taken into consideration, fulfills the conditions, correct* or *clear*" are visible throughout the AIC report. This is another indicator of the high quality of interventions made by TAP subcontractors, and of TAP-contracted supervisors.

The same logic applies also for bridges requiring intensive intervention, this time with the slight addition of more technical terms such as "*conceptually right, economic sense, respecting structure Eurocodes, respects the limits, satisfying resistance limits*," and similar.

Most importantly, the very high quality of work delivered by local subcontractors for TAP indicates the degree of control and the power of accountability exercised by TAP towards its subcontractors. It very clearly demonstrates that Albanian subcontractors can implement very high quality construction works if the technical design is right and the supervision is strict. It would be interesting to compare those opponent reports with reports on works financed by promoters other than TAP – i.e., Connectivity Agenda, government-funded or PPP-financed – and implemented by same local subcontractors, to see if there are differences in the quality of work.

According to the director of AIC, TAP and its subcontractors have been very professional in inter-institutional cooperation. TAP teams have taken all the remarks of technical opponent report into account, and "*this does not normally happen with other constructors, especially the national ones*."[56] According to the AIC director, the only problems identified occurred at the beginning of the permitting process, as TAP needed the necessary time to become acquainted with local laws and regulations. This brings to attention the need for projects of such complexity to plan for an "acclimatization" period.

Some of the features of TAP's (and its subcontractors') interventions in infrastructure are the following:

→ High quality of technical design and of construction works: the design, permitting requests and implementation of infrastructure projects (mostly national roads and bridges) has been of very good quality, even if they have not been the cheapest by comparison with similar interventions done in Albania. The problem in Albania as identified by the director of AIC is that for works procured with public funding the Agency of Public Procurement that centralizes and/or oversees the tendering process customarily always selects the cheapest offer, not necessarily the best quality for the price. However, in some cases we have noticed that even though the technical design was perfect, TAP chose the most economic variant only good enough to serve its own needs during the works lifecycle[57];

→ Need for radical improvement of corporate governance in Albanian construction companies during project cycle management in infrastructure: most owners of Albanian companies also perform the day-to-day management of the companies. The problem is that these owners have neither the technical nor the managerial background and qualifications as they are

56 Interview with Agron Hysenbelliu, Director of Albanian Institute of Construction. Tirana, 15 November 2018.

57 The procurement rules had since been changed to better reflect the quality component.

mainly "self-made men."[58] As a result, very often it is the owner who decides about everything to do with the infrastructure project cycle: from tender preparation and acquisition, to contracting, legal and technical design, permitting, implementation and commissioning. "*If there is a problem, it is the owner of the Albanian company that will call me, not the technical director or the responsible for works*" stated the head of Urbanism for a municipality.

→ Importance of internal controls. Another feature of Albanian companies is that with their structure being so centralized, top management and the owner do not abide by the internal controls (that is, if there is any internal control function in the company).

→ Payment of qualified staff. A key bottleneck to competitiveness and growth in the region is the lack of a workforce with the right skills for the labor market.[59] TAP and its subcontractors offered significantly higher stipends as compared with the local expert market. This made it possible for TAP to attract the best Albanian specialists and engineers, and so maintain their high commitment and high quality work. An unforeseen impact of TAP high salaries was the misbalancing of the market when other actors – state or private – planned to enter it. For example, TAP recruitment policy impacted the set-up standards of ALBGas. The newly established state-owned company was not able to attract the best and brightest Albanians employed by TAP – even as TAP was closing down – due to the significant difference in salaries between what ALBGas was offering and the stipends offered by TAP (and its subcontractors).

## *V.2. Health and safety norms: Enforcing their application, and changing employee behavior*

Throughout all the interviews with local actors, the exceptional importance of the Health and Safety (H&S) policy of TAP emerged as one of the most striking features. All the local actors had an overwhelmingly positive opinion and attitude on this TAP policy.

TAP used its health and safety norms to build up an image of itself as a law-abiding model company. It even enforced these norms through its subcontractors in a cascaded system. Moreover, it successfully used the strict respect of industry safety norms to spillover very high standards in non-core areas such as increased awareness of road accidents, and to promote the image of safe and responsible employer / investor. As a result, TAP managed to create an exceptional H&S track record in Albania even when compared with EU member countries such as Greece and Italy. The Albania State Inspectorate of Labor and Social Services confirmed that TAP and its subcontractors correctly respected the safety and health requirements during work.

Concretely, TAP set up a pioneering system of defining and imposing top-notch H&S norms, classified and implementable by its size, involvement and impact on the ground. TAP Quality, Health, Safety and Environment (QHSE) Policy was set out as a corporate strategic document, displayed in all TAP locations, and included in all TAP contracts with subcontractors as an annex making it a contractual obligation.[60]

Procedurally, the policy was translated into a QHSE Management System manual and into annual activity plans. Those documents identify and document key QHSE activities and allow for progress

[58] Their prior educational and/or professional background has no connection with sector of activity of the company.

[59] 2018 Economic Reform Programs of Albania, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Turkey, Bosnia and Herzegovina and Kosovo, The Commission's Overview & Country Assessments, p. 17.

[60] Information and data on TAP QHSE policy have been drawn from the document "Health and Safety: A Journey to Zero," produced by TAP (Appendices M and N).

monitoring; identify and communicate relevant legal requirements and the best applicable standards; develop and apply the QHSE-related management systems; specify minimum standards to be applied to all projects and office locations; and set out expectations for subcontractors that align with TAP values on QHSE.

From an internal organization point of view, QHSE was the responsibility of TAP country managers, of the Head of Human Resources at the corporate level, and at the level of project country manager. At the corporate level QHSE took direct inspiration from TAP values, to be then translated into policies, plans, strategies and procedures. The next level came down to project plans covering the technical specificities of each work component as applied to the nature of works on the ground.

The last level was the enforcement of QHSE through TAP subcontractors. That was based on contractual obligations and was implemented through a specific QHSE plan for each contractor complete with implementation procedures and monitoring modalities.

It is interesting to note the focus on "attitudes and behaviors" of the TAP Health, Safety, Security and Environment policy. The focus on absorption of rules and procedures by all TAP personnel has been encouraged by the involvement of TAP top management and public show of their commitment in a visible and practical manner. Face-to-face contact and discussion with employees at all levels of hierarchy has been encouraged and was an integral part of TAP Health & Security policy.

On top of establishing world-class standards on Health & Security and minimizing the negative impact of project implementation on employees, subcontractors and other third parties, this development is extremely important to understand how an LIP can change individual and organization behavior in the host country. In a very large measure, TAP has been able to define norms and standards, transmit them, implement, enforce, and finally embed Health & Security values to its employees and subcontractors. This behavioral change has been detectible in all the individuals and organizations that have worked for TAP. Relevant Health & Security awareness has been detected in LGU staff, its subcontractors and other community members along the TAP pipeline, including municipality employees and villagers.

This achievement raises three issues with regard to unintended spillovers of Connectivity Agenda LIPs in the Western Balkans:

- First, capacity building at the subcontractor level is a very important component of overall LIP impact in the host country, as witnessed by the implementation of Health & Security norms and standards by TAP subcontractors;
- Second, can WBIF replicate TAP success with QHSE and embed the enforcement of EU QHSE norms and standards through EU Connectivity Agenda projects?
- Third, how can LIP projects and experience be used to transmit EU procedures, norms, standards and finally European values from the EU to the WB6 environment in a sustainable way? Can this be standardized and replicated in other Connectivity Agenda projects?

## *V.3. The case of archaeological findings: Changing local perception*

As work progressed through rich archaeological areas, TAP and/or its subcontractors regularly sent notifications to the Albanian archaeological body in charge, each time its works were planned

to go through pre-identified archaeological sites,[61] to obtain the necessary digging permits. In cases when archaeological artifacts were found, the work would stop immediately and the respective archaeological bodies would take over and do the follow up (the same practice with the same standards has been implemented by Devoll Hydropower as well – another energy LIP).

TAP had exclusive rights on management of archaeological findings (stored near Maliq city). A local company specialized in archaeology was contracted to do the archeological diggings and the administration of archaeological findings. At the time of the completion of our study, they were finishing i) a final study, including the cataloguing of findings, and also working on ii) reconstruction, restoration and preparation of an archeological museum in Korça. TAP is also considering the restoration of the Mosaic of National Museum in Tirana.[62]

The archaeological component of TAP's impact is relevant because it provides another example of the local content built in immaterial capital: i.e., in sensibilization of locals and enforcement of procedures. More specifically:

- While Albanian construction companies consider archeological findings as a "problem or a burden", TAP was prepared *ex-ante* to deal with archaeological findings and factored in their eventual existence by planning for adequate financial and time modifications. The TAP experience now serves as best practice for Albanian authorities in charge;
- TAP has provided best-case practice to the Institute of Cultural Monuments regarding the application of the archeological protocol during works. Most importantly, the Institute's regional directors now are aware of what they should do when this happens in their territory. TAP experience has been a kind of on-the-job training for them;
- Villagers / citizens of TAP-impacted areas have been sensitized about the importance of archeological artifacts and the procedure that should be followed when they stumble upon such finds, as well as the risks incurred by not declaring them;
- Local businesses that have been exposed to TAP practice are sensitized on the very high costs of changing the project *ex-post* and of the fines that are applicable when not declaring archaeological findings. As a result, scoping and alternative plans for how to deal with archaeological findings is now a reality for many serious local companies.

## *V.4. Navigating the permitting work stream*

One of the most challenging tasks of TAP has been the navigation of permitting procedures in Albania, as illustrated by the "permitting work stream" (see Figure 4 below). Preparation of relevant documentation, submission and permit acquisition has directly conditioned the work progress and consequently the costs of the project.

From the very beginning and before HGA approval, TAP identified the following permit categories:

- *National Sector Plan approval and/or Integrated Sectorial Plan* that integrated the TAP route into Albanian territory planning. Those documents condition the many subsequent permits needed for the pipeline infrastructure and/or its development. They constitute a legal requirement for the further permitting process for any kind of infrastructure as it directly impacts the development of land plots needed to carry out work on the pipeline, on supporting stations, on auxiliary installations and on access roads. The process requires the

[61] Interview with Ms. Rudina Zoto, Director of the Albanian Archaeological Agency. Tirana, 15 November 2018.

[62] Interview with Ms. Arta Dollani, Director of the Institute of Cultural Monuments (ICM). Tirana, 15 November 2018.

involvement of central government, of impacted local governments and of various agencies in charge, and foresees extensive activity on public consultation and the subsequent hearing procedures;

- *environmental permits*, in-depth Environmental & Social Impact assessment and secondary permits concerning public disclosure in environment and social sectors. For example, public approval is required prior to logging activities or pasture removal. Those processes require Environmental and Social Impact Assessment (ESIA) and are received once the project design for access roads is completed;
- *infrastructure permits* for the intervention/construction of access roads (technical appraisal and approval). This step requires prior approval of the ESIA and the obtaining of land access contracts before the permit application is submitted to authorities, and in any case before the permit is issued. This is the process that suffered the most from bottlenecks and delays due to the many problems with land ownership in Albania.

All in all, the TAP team identified 25 steps in the permitting workflow in Albania. It must be noted that "construction works" (or breaking ground) can happen only after 17 earlier permitting steps have been successfully accomplished.

After the HGA took effect, those permits included approvals from the National Council for Archaeology, permits for pasture removal and logging, crossing authorizations (roads, telephone, electricity, water, etc.), water abstraction permits, sanitary issues, water supply and waste water discharge, fire and safety certificates, infrastructure development permits, compound development permit, safety certificates before installation, calibration certificates, etc.

For the *infrastructure works on roads and bridges*, just to obtain the Compound Development Permit for a single access road (there were 18 such roads slotted for TAP interventions, on top of the 52 bridges), TAP had to provide between 26 to 28 technical and legal documents for each road. This list included the ownership certificate for the concerned plot, local detailed plan, plan of connection of bridge structure with the local infrastructure, works and supervision plan, technical design, fire protection plan, bill of quantities, geological engineering study, hydro-geological study, seismological engineering studies, EIA, approval from regional environment protection agency and from forest authorities, certificate from Institute of Cultural Monuments, certificate for areas destined for tourism, technical assessment of Construction Institute, etc.

For the *laying of the gas transmission pipes*, for the construction phase alone there were seven different permit stages required: i) Compound Development Permit Phase 1; ii) Compound Development Permit phase 2 – access roads services; iii) compound development permit phase 2 – bridges and next package of access roads; iv) Compound Development Permit phase 2 – (temporary objects) – pipe yards and camps; v) Compound Development Permit phase 2 – onshore installations and block valve stations; vi) Compound Development Permit – offshore section; and finally vii) Compound Development Permit – compressor station session.

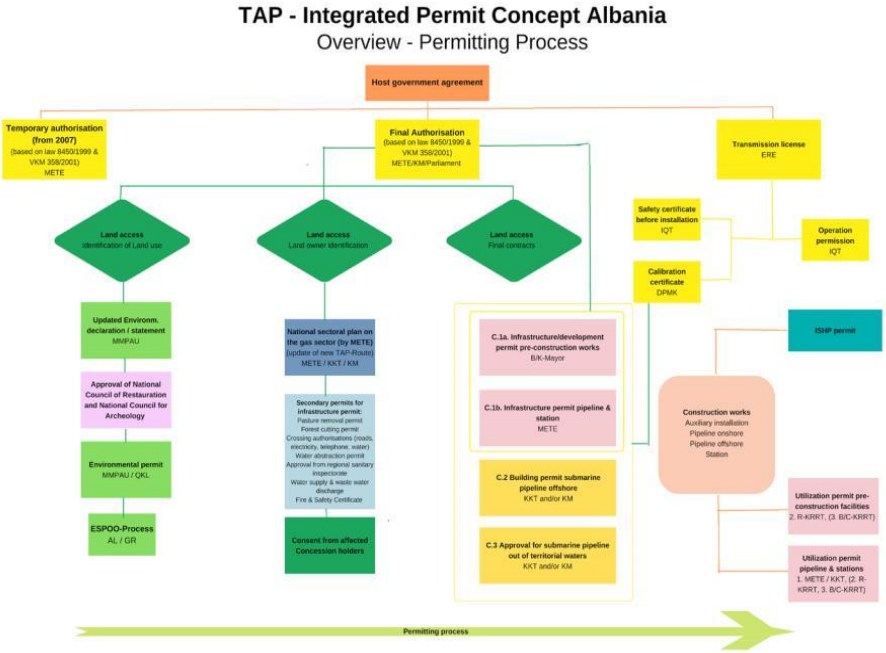
To save time, facilitate the procedures and speed up the process, the Albanian government made the legal arrangement for TAP to bundle the individual permits together. TAP AG received an Environmental Permit that that covered all the pipeline construction sites, camps and other facilities. Moreover, the ESIA procedure and Environmental Permit were carried out together in a single procedure. Hence the Environmental Permit[63] received by TAP in April 2014 was considered equivalent to the ESIA procedure and was valid for the whole duration of TAP construction works in Albania.[64]

[63] SPIECAPAG Enterprise, TAP Onshore Pipeline Construction – Request for tree felling permit. Tirana, 20 September 2016.

[64] Ministry of Economy, Trade and Energy, Project Management Unit, "Capacity Building for the Development of Large Gas Infrastructure with the Private Sector", Advisory services capacity building for large gas infrastructure developments in Albania with the Private Sector. Tirana, 9 November 2011.

The Blanket Complex Development Permit (National Territory Council, Decision 1 of 08.04.2014) covered access roads and bridges; temporary roads, camps and pipe depots; digging for pipes and other work for valves; installation at sea; and compressing stations.[65]

**Figure 4. TAP – Integrated Permit Concept Albania**




In conclusion, Large Infrastructure Projects have to interact with a large number of actors, at many levels of government representing many sectors, and many local structures. Navigating through them is a challenge for the LIP owner and the promoter, and requires first-hand knowledge of local context.

The process of permit acquisition was among the most intense and time-consuming of TAP's interactions with the country administration. The permitting workflow included application for and acquisition of the concession permits, environmental permissions, different approvals needed for the projects and construction sites, on top of the licenses to operate and to supply gas.

To simplify that very complex system and gain time, the government of Albania issued "blanket permits" to TAP: i.e., permits that covered many works at the same time (rather than one by one), grouped different processes in one, and also extended the timeline of their validity.

65 Ministry of Energy and Industry, Change of the Trans Adriatic Pipeline Project Sectorial Plan (TAP) Change 2 (On the Meeting of the Commission for the Assessment of Claims at MEI). Tirana, 6 December 2016.

# CHAPTER VI

# INTERACTION WITH CENTRAL AND LOCAL GOVERNMENT

# VI. INTERACTION WITH CENTRAL AND LOCAL GOVERNMENT

## *Selected highlights*

- TAP and its owners engaged in early involvement and establishment of ties at the highest political level with host country
- Albanian government considered this project as strategic, and crucial for the energy security for the country. The government took a very active approach defending and promoting the project, assuring the support of crucial geopolitical actors such as the EU Commission and the US.
- During the whole project duration, the government maintained its engagement and commitment up to the ministerial level (highest level of sector executive powers).
- TAP "filled in all the empty spaces" (institutional governance imperfections, whether technical, procedural or institutional) in the Albanian state system regarding the new gas sector, sometimes de-facto doing the job of certain executive levels.
- TAP efficiently managed to maintain constant attention from the highest political level of decision-making, combined with occupying the middle ground of policy execution by providing support or filling in functional gaps that resulted from incompetence or frequent changes in administration.

## *VI.1. Working with the central government institutions*

From the beginning TAP promoters received an attentive ear from the Albanian politicians. The government supported TAP through lobbying, adopting the necessary legal framework and facilitating the implementation of the project. Nevertheless, TAP – being a big project in a new sector – met with institutional problems notwithstanding the political will to help.

To address the gaps in national legal context on gas sector, the government produced the appropriate legal instruments whenever needed and promptly followed up their implementation (for example see Decision 281, of 1.04.2015[66]). This was also illustrated previously at the technical level as in the case of blanket permits for works.

A feature of optimal TAP collaboration with central government was the very quick procedure and prompt turnaround time for the treatment of TAP dossiers by the Albanian administration. Also,

[66] Prime Minister Edi Rama, Decision on Some Amendments and Addendum to Decision no. 281, dated 1.4.2015, of the Council of Ministers, "On the provision of the Trans Adriatic Pipeline AG (TAP AG) company, through the use of land surfaces affected by TAP project road construction."

there was frequent direct correspondence between the Minister of Energy and Infrastructure, and TAP management.[67]

Another tactic used by TAP to leverage its political clout was to "cc" the Minister on every request submitted to an LGU. This form of correspondence helped put pressure on LGUs to deliver. Even if the Minister didn't stand a realistic chance to follow up the many issues, TAP would make sure the Minister knew if and when there were problems downstream. Even the TAP subcontractors – i.e., Spiecapag - put the Minister in cc when writing to lower levels of hierarchy in the executive branch. These data give an overall view of an "easy track access" for TAP to the highest level of decision-making at the Ministry of Economy, Trade and Energy (METE). This modality proved necessary and conclusive, and needs to be foreseen and properly structured for similar strategic projects.[68]

While the legal context or the permitting flow were important but relatively easy to identify, the un-preparedness of institutions to deal with TAP could be discovered only through learning by doing. Very soon TAP identified "missing links" in local institutions, designed a way to deal with this, and proposed to relevant authorities how to remediate. In some cases, it even took over the cost of such intervention (as with the placement of TAP staff in IPRO offices).

The other means of getting the attention of central government authorities was for TAP to push the government to appoint someone to coordinate intra- and inter-institutional relations on issues impacting the project. For example, in relation to mining permits, hydrocarbon activity and hydropower concessions crossed by TAP, TAP management demanded that the Ministry of Energy and Transport appoints a "focal point for communication." The same solution was also applied by subcontractors such as Spiecapag.

With regard to TAP interventions in roads and bridges, the infrastructure list was defined as based on TAP needs.[69] With hindsight, it may safely be stated that the Albanian government could have been more forthcoming in negotiation when planning infrastructure interventions that were not directly used by TAP but had particular added value for the communities TAP went through.

## *VI.2. Between central and local government: The case of local roads*

As mentioned above, the impacted LGUs were not involved during the planning of interventions in the national infrastructure situated in their territory. As a consequence, there were local problems caused by TAP heavy machinery, most visible in bridges situated on the national roads. This illustrates the absence of coordination among the national and local government levels when identifying the needs of the impacted LGUs.

[67] Ministry of Energy and Industry, "A request for submission of additional documents for a change in the National Sectorial Plan for the TAP Project" No.6208 / 1, Tirana, dated 11.11.2015.

[68] Ministry of Economy, Trade and Energy, Project Management Unit, "Capacity Building for the Development of large gas infrastructure with the private sector," Advisory services capacity building for large gas infrastructure developments in Albania with the Private Sector. Tirana, 9 November 2011.

[69] Company Information TAP AG, "A brief description for 19 roads the object of the application document of the company TAP AG to complete the complex development option document for that road." (In implementation of Decision 1, dated 08.04.2014, of the National Territory Council, "On the approval of the competitive development opportunity for the TAP project").

The absence of this coordination was also very visible during the permitting procedures. The needs of local government were not given priority. Neither the central government units nor the Albanian Road Agency properly scoped the impact of TAP in the local areas and the way TAP heavy machines would impact the local infrastructure.

TAP and its contractors had to use local roads to access remote work locations. However, the agreement with the Albanian government regarding TAP interventions covered only national roads. The Albanian government – through the Albanian Road Authority – consequently gave its permission and license to intervene (adapt, construct and/or repair) only for national roads, whether existing or new. Interventions in local roads, which are under the competency of local governments, were not included in the initial agreements between TAP and the Albanian government.

At this point it must be noted that TAP was exempted from the tax on Impact in Infrastructure, which is normally paid to the municipality. This issue was legally covered in the agreement with the central government, but the road damage was done at the local level. On the other side, central government did not took into accounting additional budget for the LGUs to palliate the eventual damage of TAP works.

Local roads immediately suffered from the heavy vehicles used by TAP. The first complaints from villagers concerned the damage inflicted by TAP heavy vehicles on their local roads. As a result, there were cases where TAP had to urgently intervene. However, the permits for intervention in local roads must be delivered by the municipality (which is the owner of the local roads). That situation exposed a common paradox impacting LIPs in Albania. In many cases the municipality does not legally possess its infrastructure assets, local roads included.

In the case of the municipality of Poliçan, to overcome this situation and allow TAP to intervene in the damaged local road, the LGU adopted ad-hoc solutions. Following a decision of the Municipality Council (as the legal owner of public goods in its territory), the municipality gave the authorization to carry on works by classifying the situation as an “emergency” and thus allowing for the works to start (based on Public Procurement Law).

In Korça municipality, the same phenomenon appeared and was dealt with similarly. TAP’s use of the rural access roads damaged them. Alerted by the villagers, the authorities informed TAP which repaired the roads (and, reportedly, in many cases improved them further).

The damage done by TAP heavy machinery to local and national roads and the indifference of national institutions to deal with the damage, was a regular concern for the municipalities where the national road went through. For example:

- regarding national roads, the requests of municipalities for re-asphalting and partial intervention or in-depth repair of national roads were not taken into account by TAP. The municipality of Poliçan related that TAP brought forward two arguments sustaining its decision: first, that the cause was not its lorries (even though the roads and bridges showed signs of damage recorded after a national moratorium prohibiting the use of local stone quarries); and second because the request should come from the national authorities that have competency on national roads, i.e. the Albanian Road Authority, and not from the impacted municipality;
- regarding local roads, after the villagers protests, and after receiving a request by the municipality, the damage was swiftly corrected and repaired. For example, in Poliçan TAP constructed three new bridges thereby connecting eight villages. TAP justified its initial non-intervention by stating it did not have any legal obligation to intervene.

In conclusion, TAP acknowledged the LGU problems progressively. Many requests for intervention in infrastructure were received from municipalities as well as from villagers. Quite

often they reflected the interests of a certain group. While it may be said that not all the requirements of the LGUs were accepted, all of what was agreed in writing was implemented correctly by TAP. The SIF was the main source of funding for these investments, as based on TAP criteria. Other times they did not fit into the Social Funds selection methodology and were not financed.

# CHAPTER VII

# BUILDING A POSITIVE IMAGE

# VII. BUILDING A POSITIVE IMAGE

## *Selected highlights*

- TAP has built the image of a company that respects the host country. The word used by interviewed staff to describe company's stance was "humble," and this was clearly stated in TAP's Code of Conduct.
- TAP has had a proactive strategy in promoting its image and contribution in the country. It has invested wisely in creating the "good investor profile," and discretely maintained it.
- Most of the Albanian media while presenting TAP in Albania, used ready-to-publish materials prepared by TAP.

National media played a big role in the way the Albanian audience perceived TAP. It shaped their opinions and thus is a strong indicator of the general feeling of the general on different TAP-related events throughout the country.

In Albania, 215 km of the pipeline go through the regions of Korçë, Berat and Fier. Given their population and the fact that this was the first time Albania participated in such a large-scale energy project, TAP earned itself a wide berth in the Albanian media, especially once the Albanian government signed the agreement with TAP AG in 2013. The purpose of this analysis is to understand how the media covered TAP. [70].

## *VII.1. Tone, frequency, story type, sources and interactivity*

In this chapter, we identified and analyzed the content of news articles regarding TAP published in Albania. The timeframe covered is seven years, from July 2011 to June 2018. In an effort to sample the information and organize it coherently, four private media outlets were selected for study: i) Top Channel TV, a television station with a national and regional audience; ii) Gazeta Panorama, a newspaper with a national audience; iii) Revista Monitor, the only economy magazine with a national and local audience; and iv) albeu.com, an online news website with a large regional and national following.

The selection criteria for these media outlets was based on the number of publications they had on TAP, audience following, as well as their credibility and relevance in the Albanian public. A total of 1,116 articles and TV programs were selected and analyzed, of which 129 were TV programs, 269 came from online-only media, and 718 were online content published in the specified newspapers and magazine. More specifically we analyzed the following variables:

- *Tone of article*: whether TAP is portrayed as beneficial, disadvantageous or with no significant effect;
- *Frequency*: the total number of articles published in selected media within the timeframe of the study;

[70] Special thanks go to Leonita Mullabazi for her input in that section

- *Story type*: the total number of stories in each these five categories: News, TV News, Interviews, Opinion/Editorials and Analytical articles;
- *Sources*: whether the source of information provided is specified or not for credibility purposes, allowing us to determine where the media got their information on TAP;
- *Interactivity*: the total number of identified comments and shares on social media, and tone of each comment selected for analysis;
- *Relationship between TAP and media*: TAP's transparency policy regarding its PR and outreach activities, and media policy.

The methodology used to conduct this selective study is separated into three parts. First was an analysis of frequency, story type, source of information and tone. For this, all articles with the word TAP in their title or body text were selected for study. Second was an analysis of interactivity, composed by considered comments collected from the social page of each media outlet. The third part analysed TAP's transparency and willingness to cooperate with the media, and aimed to shed further light on the source of information. For this, interviews with journalists from each selected media outlet were conducted.

A qualitative and quantitative content analysis on news articles (TV and online), was complemented with the list of actors, together with the context in which they were mentioned. Five categories of media publications on TAP were the most frequent. Most of the published articles are short written news stories. TV News is the next most common type of story. The length of these stories is never more than 3 minutes and the content is more or less the same as that of a written news story, with added images of route maps, construction sites, etc.

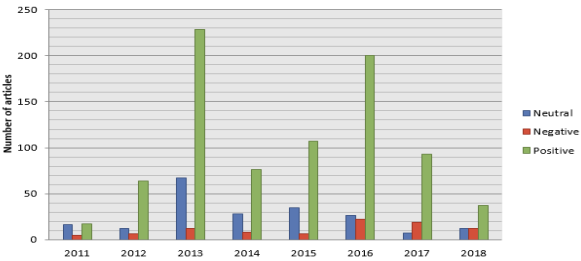
*a) Story type*

**Figure 5. Media Categories Covering TAP**


Interviews are mostly conducted with state officials or TAP individuals as representatives. The Opinion/Editorial category is comprised of articles written by Albanian writers, journalists, professors or individuals with a special interest in Albanian politics. As for analytical articles, they mostly consist of economical articles published by Monitor Magazine.

*b. Frequency and tone of article by year*

**Figure 6. Number of Articles per Year**



The graph chart above shows that the peak for news articles published on TAP was the year 2013, when the government of Albania and TAP finalized the Host Government Agreement. 27% of all news articles were published in this year. 74% percent of articles published in 2013 had a positive tone, mentioning approximately 30 benefits that this project would bring to Albania, with a special emphasis on:

- employment opportunities;
- encouragement for foreign investment;
- expected social and environmental investments by TAP;
- political stability due to new strategic role gained as part of Europe's energy matrix;
- positive impact of TAP-generated taxes on national growth; and
- a new energy supply for Albania over time.

A low 4% of articles published in 2013 had a negative tone, and mentioned concerns such as: i) land expropriation, ii) Albania's costs as a transit country (possibility of roads damaged by heavy machinery), and iii) environmental damage, etc.

Twenty-two percent of all news articles were published in 2016. This was the second most productive year regarding the number of publications, and was the year TAP started construction in Albania. It was also the year with the highest number of published articles (22) with a negative tone. These mostly consisted of:

- local communities complaining about roads damaged by heavy machinery,
- dissatisfied TAP employees,
- incidents of theft of construction materials by TAP workers, etc.

In 2014 and 2015, the years leading up to the start of construction, 23% of all news articles were published. Common topics during this timeframe concerned TAP's Social and Environmental Investments in Albania, such as:

- community training,
- facility reconstruction,
- road rehabilitation, etc.

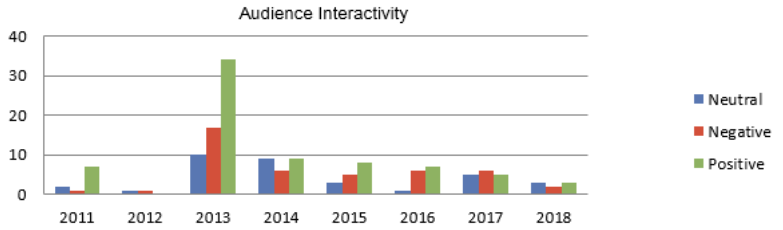
The years 2011 and 2012 together accounted for 10.7% of all news articles published. These two years are characterized by articles mostly informing the audience about what TAP was, whether or not it was going to be approved as a project in competition with NABUCCO, and again, the many future benefits it would bring to Albania.

It is worth mentioning that we noticed a general theme of short, one-dimensional, repeated information across all the years, with very few in-depth articles published. There is little detailed information about TAP's activities such as land expropriation. As the community of land-owners is among the groups most directly affected by the project, it was only natural that they would have a voice in the media, but no interviews with the affected people were published. If we compare this to Italy and Greece where TAP is also being constructed, this topic is given significantly more coverage, whereas in Albania it is merely mentioned as a mild concern.

Another point worth mentioning is that even though TAP is recognized as an economically advantageous infrastructure project for Albania, there is no specific information about the exact economic benefits in the longer-term. We also found a considerably high number of publications – 33 - quoting TAP directly from its website, with no journalist interference in the document.

*c) Interactivity*

**Figure 7. Frequency per Year and Tone of Audience Interactivity**




In total, 158 readers' comments were selected for analysis. Comments that were deemed irrelevant and not directed to TAP were dismissed. An ongoing trend we noticed when analyzing this variable is that the readers' comments were most often conditioned by the type of news story they had just read. If the news article had a positive tone, so did all the comments below. The same phenomenon occurs with negative comments. A lack of information is felt throughout the entire comment section, a lack of constructive opinions, and a large number of one-line comments. In total, 357 "shares" were identified in each social media page for articles regarding TAP.

*d) Source of information*

From the analyzed news articles (N=1,116), 37.5% of articles had a specified source of information whereas 62.5% do not. Thus, more than half of the news articles have no specification about where the information has been extracted from. This unfortunately is a reoccurring phenomenon in Albanian media, especially when it is converted into online content )thus it is unlikely that there is a direct link between TAP and this phenomenon).

However, when looking at the specified sources, findings 50% of the sources specified are TAP representatives and 3% of the news articles come directly from TAP's website, 38% contain information retrieved from national or international institutions (Ministry of Energy and Infrastructure, International Monetary Fund, Bank of Albania, etc.) or state representatives, and 8% refer to foreign media publications (CEE Bankwatch, Deutsche Welle, Le Monde, Kathimerini, AzerNews), etc.

Most articles citing TAP representatives or national institutions as sources have a positive or neutral tone, with very few exceptions (such as the Bank of Albania, which released information about alleged decrease of foreign investments after TAP). With foreign media publications as sources, news articles are neutral or negative, with a few exceptions of positive-toned articles.

## *VII.2. TAP interaction with the Albanian media*

TAP's interaction with the Albanian media is represented mostly through the TAP AG website[71]. It is often identified by its shareholders: BP (20%), SOCAR (20%), Snam S.p.A (20%), Fluxys (19%), Enagás (16%), and Axpo (5%), as listed on the website. The company is also represented by its contractors and subcontractors such as ABKons, Statoil, and Spiecapag as the most frequently mentioned, as well as individuals in executive positions in the company such as U. A.

[71] https://www.tap-ag.com

(former CEO of TAP), I.B. (TAP managing director), W.P. (President of TAP), I.I. (Director at TAP), etc., who are mostly brought up in interviews. Out of 56 identified interviews, 24 are conducted by the Albanian media with a TAP representative. TAP AG also has its official website.

The TAP AG website is a very comprehensive informative tool about everything related to TAP. It contains basic information about the project such as the expected timelines, the route map, the affected communities in the country, compensation principles; as well as project opportunities for individuals, companies, and communities; information on the grievance mechanism; details on media inquiries, etc. The website also contains news from 2003 to 2018, with information on the project's activities for each year.

Activities from within the TAP AG Company figure in several news articles in 2015. TAP AG's Social and Environmental Investments have also attracted media attention to the company. Among the many such investment activities depicted in the Albanian media are mostly the Social Fund ones such as the donation of equipment to Çorovoda Hospital, bridge renovation in Çorovoda, rehabilitation of the "Thanas Ikonomi" school in Fier and the "7 Dëshmorët" school in Roskovec, offering internship programs for students, participation in campaigns such as the "100 Trees" tree-planting campaign in Tirana, and building panoramic platforms over Osumi Canyon.

When compared to similar energy infrastructure projects such as the Devoll Hydropower Project (which consists of two hydropower plants constructed in Banja and Moglicë), a similarity can be noted in the mention of benefits. For both projects, the most-mentioned strength is the attraction of foreign investments and the economic benefits in Albania. When it comes to frequency, media publications are more consistent than those concerning the Devolli Project, although news articles regarding Devolli provide details that articles on TAP do not. For example, the exact long-term benefits of Devolli are specified: it will allegedly increase electricity production by 17%. In the case of TAP, such details are not provided and the construction of a local gas network is still shown as a faraway project, with no practical plan in place.

## *VII.3. The negative coverage*

TAP has not been immune from fake news, especially in online media. A news website called "lajm-shqip.com" published several news articles criticizing TAP and its activities. These articles accused TAP of poor worker treatment such as insufficient pay, long hours, inadequate food, etc. The names of the author and the person making the accusation are included but a short Google search reveals these names have been used in other random news articles totally unrelated to TAP, from the same news website. Upon further inspection, a visible bias towards a former Albanian Prime Minister was noted. Politically biased media is not a rare occurrence in Albania, and its primary focus is to condemn every project the government in charge undertakes. It is thus likely that such was the case with these particular news reports.

As mentioned above, the topic of land expropriation due to pipeline construction has not been sufficiently elaborated in Albanian media, especially seeing that this is a major community concern in the cities of Berat, Fier and Korçë. It is interesting to see that foreign media and NGOs have accorded great importance to this topic. In 2017, NGO Bankwatch carried out a follow-up fact-finding mission in Albania to monitor the construction of the pipeline, conduct interviews with the affected community, and inform about applicable international standards. They came to the conclusion that the affected community in Albania is confused and not well enough informed on the available grievance mechanism even though there has been a high degree of discontent. A small number of articles referring to this study have been published in Albanian media, yet no investigative journalism has been conducted to shed more light on this issue.

Support and financing of community-related projects are some of the many activities depicted in the Albanian Media (partial renovation of Çorovoda Hospital, bridge renovation in Çorovoda, rehabilitation of the "Thanas Ikonomi" school in Fier, rehabilition of "7 Dëshmorët" school in Roskovec, offering Internship Programs for students, participation in different campaign such as the "100 Trees" tree planting campaign in Tirana, building panoramic platforms over Osumi Canyon).

## *VII.4. Lessons learned*

After a systematic analysis of data obtained on media content, we observe the following:

- The number of news articles with a positive tone (73%) overwhelmingly exceeds those with a negative tone (8%) throughout the entire studied timeframe. Eighteen percent of the articles published had a neutral tone;
- The number of media publications were consistent through the years of 2011–2018, with 2013 as the most productive year. Twenty-seven percent of all media publication regarding TAP occurred during that year;
- Source of information was not specified in most of the analyzed media publications. When it was specified, more than half the time the source was a TAP representative, or the TAP website;
- Audience interactivity was low and most of the interaction expressed support. Diversity is missing when it comes to story type, with 79% of the publications being news stories. Analytical articles are mostly in the economic sector, and the interviewees in interview articles are mostly TAP representatives (managing director, president, etc.);
- Audiences most frequently targeted by the Albanian media coverage on TAP are: i) youth in need of jobs and internships (with subjects such as growth of employment opportunities); ii) local citizens in the areas of Fier, Berat, and Korçë (focused on topics such as increase of land value or the additional taxes paid during the years of construction); iii) politically conscious population (focused on topics such as the new strategic role gained for Albania); and (iv) economically conscious population (with analytical articles on the economic effects of the project for the country), etc.

TAP is by far the biggest infrastructural project Albania has undertaken during the last 25 years, and it has greatly impacted the country's economy. The kind of attention it has received and the media space it has been accorded in Albania are only natural. In the vast sea of online information posted every day, articles about TAP could be seen on every Albanian website, television, magazine, and entertainment program. These facts can be interpreted with the realization that the Albanian media mostly views TAP as a positive event of great interest and great effect in the country.

That being said, the stories in Albanian media seem a little one-sided, mostly seen through the eyes of TAP AG and national institutions, rather than from Albanian citizens or the communities affected by this project.

# Annex 1.

## MAIN TAP-RELATED COMPONENTS OF POLICY AND LEGAL FRAMEWORK

### A. ALBANIAN CONSTITUTION

The Albania Constitution is the highest law of our country and prevails over national legislation and international agreements. It stipulates the following:

- Requires institutions to maintain "a healthy and ecologically adequate environment for the present and future generations."
- Regarding labor: "Everyone has the right to earn the means of living by lawful work that has chosen or accepted him. He is free to choose his profession, workplace and system of professional qualification. Employees have the right of social protection of labor."

### B. HOST GOVERNMENT AGREEMENT

**Host Government Agreement (HGA):** Law No.116 / 2013 "On the Ratification of the Host Government Agreement between the Republic of Albania, acting through the Council of Ministers and Trans Adriatic Pipeline AG, relating with Trans Adriatic Pipeline (TAP Project), as well as, the Agreement between Albanian Republic, represented by the Council of Ministers and Trans Adriatic Pipeline AG, relating with Trans Adriatic Pipeline (TAP Project)."

***Authority:*** Albanian Parliament

Council of Ministers Decision No. 86 dated 8.2.2017 "On approval, in principal, the amendment agreement between the Republic of Albania, acting through the Council of Ministers and Trans Adriatic Pipeline AG, relating with host government agreement" (this is still a draft law).

### C. INTERGOVERNMENTAL AGREEMENT

**Intergovernmental Agreement (IGA)**: Law No.104 / 2013 "On the ratification of the Agreement between the Republic of Albania, Republic of Greece and Republic of Italy for the Trans Adriatic Pipeline (TAP Project)."

***Authority:*** Albanian Parliament

### D. NATIONAL LAWS/CMDS AND PERMITTING

***National Importance for Territory Planning***: Decision No. 2, dated 20.12.2012 "On the establishing of TAP project as the Issue of National Importance for Territory Planning."
***Authority***: National Council of Territory
(Proposed by METE and initiated by NATP, as per the legal regulations in territory planning.)

***National Sectorial Plan for TAP Project (NSP for TAP Project)***: Decision No. 1, dated 04.07.2013 "On the approval of National Sectorial Plan for TAP project."

***Authority***: National Council of Territory
(Initiated and developed by METE with substantial input from TAP AG.)

***Decision of National Council of Territory No. 1, dated 05.04.2016*** "On changing the National Sectorial Plan for Trans Adriatic Pipeline (TAP project)" *(Now is done third change of NSP).*

***Decision of the Council of Ministers No. 62, dated 27.1.2016*** "On the approval of the implementation of the simplified procedure for amending the Sectorial Plan for Trans Adriatic Pipeline (TAP Project) approved with Decision No. 1, dated 04.07.2013 of Albanian National Council of Territory 'On the approval of National Sectorial Plan for TAP project.'"

***Environmental Permit*:** Environmental Permit for TAP Project, issued on 3 April 2013, as per the Albanian legislation in force.
***Authority***: National Authority of Environment

***Environmental Declaration for NSP for TAP Project***: Environmental Declaration for TAP project, approved by the MoE on 4 April 2013, following the Environmental Strategic Assessment and the National Sectorial Plan for TAP Project as being planned by METE
***Authority***: Ministry of Environment

***Approval of TAP project relating to archaeological sites***: Circular Decision No. 272, dated 30.08.2013 on the approval of TAP project, by the conditions that certain archaeological surveys, excavations and rescue, as well as monitoring activities should be performed as per the legislation in force.
***Authority***: NCA (National Council of Archaeology)

***No-objection for culture heritage***: Letter No. 671/1 of 30.09.2013 on no-objection from the Institute of Cultural Monuments regarding the culture heritage impacts by entire TAP project.
***Authority***: Institute of Cultural Monuments

***Compound Development Permit***: Phase 1 for the TAP project approved by the Albanian National Territory Council with Decision No. 1 dated 08.04.2014 "On the approval of Compound Development Permit – Phase 1 for the Trans Adriatic Project (TAP)."

This is one of the most important permits granted to TAP AG by the Albanian authorities, as it authorizes TAP AG to start its construction activities in Albania. This permit for the entire TAP pipeline system was followed by a second phase, during which the Compound Development Permit by the Ministry of Energy and Industry was issued on an incremental basis for different sections and phases of the TAP pipeline system development in Albania.
***Authority***: National Council of Territory Planning
***In the second phase***: Ministry of Energy and Industry

***Compound Development Permit for access roads and bridges of TAP Project – First Package***

The Trans Adriatic Pipeline AG (TAP) on 3 July 2015 announced the start of construction and rehabilitation work on access roads and bridges along the pipeline's route in Albania.

At the end of 2016, Trans Adriatic Pipeline (TAP) AG completed the first phase of road infrastructure rehabilitation in Albania, comprising the upgrade of approximately 58km of access roads, construction of two new bridges, and refurbishment of 40 bridges. Works lasted one and a half years and were conducted by the joint venture formed by Gener 2 Sh.p.K and Sicilsaldo S.p.A.
***Authority***: Ministry of Energy and Industry

TAP AG needs to acquire permits related to the construction and operation for various sections of the Project (i.e. access roads, bridges and next package of access roads, camps and pipe yards, onshore installation and block valves stations, offshore installation, compressor stations).TAP and its Contractors are responsible for obtaining the permits required for construction and operational

activities. TAP has developed and provided to its Contractors a Permits Register that lists the permits required and identifies who is responsible for obtaining them.

***Compound Development Permit for access roads and bridges of TAP Project- Second Package***
***Authority***: Ministry of Energy and Industry (actually MoIE)

***Trans Adriatic Pipeline (TAP)*** ESIA for Albania, was approved by the Ministry of Environment, Forests and Water Administration in April 2013. The Environmental Permit was subsequently granted by the Environmental National Agency.

TAP officially submitted its Environmental and Social Impact Assessment (ESIA) for the Albanian section to the National Licensing Centre in Albania on January 2013, for approval by the Environmental National Agency- Ministry of Environment, Forests and Water Administration.

***Authority***: Ministry of Environment, Forests and Water Administration, Environmental National Agency, National Licensing Centre

Decisions of Environmental National Agency (ENA) on PEIA (Preliminary Environmental Impact Assessment):

No. 32 date 18.08.2015 of (Identification No. 431, on Access Road # 444_i Ri and Identification No. 432 of Mineral Concession No. 1577 in Ura Vajgurore).

No. 26 date 27.06.2017 of (Identification No. 445 on project deviation in the Orizaj area).

The Ministry of Energy and Industry (actually MoIE), in the framework of drafting the National Sectorial Plan for TAP project (NSP for TAP Project), has implemented the ***Strategic Environmental Assessment*** for the TAP project and the Minister of Environment has issued the ***Environmental Statement No. 2950 dated 24.04.2013***.
***Authority***: Ministry of Energy and Industry (actually MoIE), Ministry of Environment, Forests and Water Administration

***Approval by the National Council of Archeology*** for all sections of the TAP project on 30.08.2013 and ongoing.

TAP assisted Albania in the development of ***National Gas Master Plan –Council of Minister Decision No. 87 date 14.02.2018*** "On the approval of the natural gas sector development plan in Albania and identification of priority projects"; Law No. 102/2015 "On Natural Gas Sector".

## E. RELATED NORMATIVE ACTS

***Decision of the Council of Ministers no. 105, dated 4.2.2015*** "On the approval of changing the status, from agricultural land to land for construction, for plots affected by the construction of the TAP AG transit route (subsidiary) of TAP AG".

***Decision of the Council of Ministers no. 527, dated 27.9.2017*** "On Expropriation, Temporary Use and Placement of Permanent Servitude of Passage for Public Interest on Certain Property, Private Property Affected by the Work Corridor (Access Roads) and the Gas Pipeline System (micro-tunnel), part of the Trans Adriatic Project (TAP).

***Decision of the Council of Ministers no. 1081, dated 18.12.2013*** "On establishment of the Inter-Institutional Group for the Coordination of Work in Implementing the TAP Project in Albania".

## F. SUPPORTED PROJECT OF SWISS GOVERNMENT

***The project "Capacity Building Project for Large Gas Infrastructure Developments with the Private Sector I"***. The capacity building project for large gas infrastructure development with the private sector had the following tasks:

- **Support government to negotiate the necessary agreements:** Enable Albania to negotiate fair Intergovernmental Agreement(s) (and related intergovernmental instruments) with other countries up- and downstream along the pipeline, such as Italy and Greece, on the construction and operation of large gas infrastructure such as TAP (Trans Adriatic Pipeline), as well as a Host Government Agreement(s) with private sector partner(s);
- **assistance in devising an appropriate domestic regulatory framework** for the successful implementation and operation of the project, namely in the following key areas: a) domestic gas regulations; b) tax and fiscal policy; c) health, safety and environment regulations; d) acquisition and registration of land and property rights (review of existing regulations);
- **support for the completion of any other relevant commercial and regulatory activities** that directly impact on the successful development and implementation of relevant projects;
- **support the Project Management Unit** (PMU) within METE with the coordination of all experts and government authorities, devise a work plan and schedule for the Project in order to ensure timely delivery of such work plan.

***Law no. 58/2015 dated 28.5.2015*** "On the ratification of the agreement between the Council of Ministers of the Republic of Albania and the Government of the Swiss Confederation for Financial Assistance Grants for the project "Project for Capacity Building for Large Gas Infrastructure Developments in Albania II" (6.6 M Eur).

The project aims to address capacity building needs and enable the GoA to realize the potential benefits of the implementation of TAP and the development of an Albanian gas market. To achieve these ambitious objectives, a consortium of consultants and experts led by Roland Berger has been mandated to support the Ministry of Energy and Industry (MEI) over the next four years in the scope of the project.

- Capacity building (MEI expert, ERE, AlbPetrol, AKPT and other institutions)
- AlbGaz Establishment (legal basis)
- HPP Vlora (Feasibility study for the pipeline which will connect the Vlora HPP with the exit point of TAP project in Fier)
- To continue the preparation of technical rules in the gas sector

***Contributed***: Ministry of Energy and Industry (actually MoIE), Ministry of Finance, and Ministry of Foreign Affairs.

**G. OTHER REFERENCES / STUDIES:**

- "We have no other option" Fact Finding Mission report, July 2016;
- Land lost but not forgotten (Impacts of the Trans – Adriatic Pipeline on the land and livelihoods of farmers in Albania November 2017 – CEE Bank watch Network;
- Trans Adriatic Pipeline Site Visit Monitoring Report: Executive Summary April/May 2017 – Ramboll Environ;
- The trans-Adriatic Pipeline project: identified non-compliance with the Equator Principles, Counter Balance, Feb 2017;

- The Trans Adriatic Pipeline - An opportunity or a scam in the making for Albania? Counter balance, Written By Re: Common – July 2016;
- Trans Adriatic Pipeline (TAP) - international – By: Bank Track and Counter Balance Created on: Feb 20, 2017 Last update: Apr 24, 2018;
- The Economic Impact of the Trans-Adriatic Pipeline on Albania. A report for TAP AG. Oxford Economics;
- ALBANIA –IMF Country Report No. 17/ 374 of December 2017;
- The Protection of Critical Energy Infrastructure Against Emerging Security – NATO Science for peace and Security Series D: Information and Communication Security – Vol.43.

TAP Commitments on Health, Safety and Environment (HSE)- TAP's commitment to health and safety recognizes that the project has a duty of care to its host communities, workforce, and shareholders. TAP is highly aware of its responsibilities and duties towards the project's shareholders and stakeholders and is committed to complying with internationally recognized health, safety and environmental standards and the use of best practice. The HSE policy is applicable to all TAP activities (including all construction activities) and all personnel working for the Project.

TAP has also developed and committed to the following policies:

1) CSR Policy (TAP-HSE-PO-0002) - In the Trans Adriatic Pipeline the long term success of the company is based on building and maintaining the social license to operate. TAP will achieve this by developing enduring relationships with the stakeholders at international, national, regional and local levels and working with them to sustain broad community support.
2) Code of Conduct (TAP-GEN-PO-0001) - "Living Our Values" (TAP-GEN-PO-0001) which is an important document designed to preserve and foster the integrity and reputation of TAP and to help its employees and others who work for TAP to engage in proper business conduct.
3) Corporate Security Policy (TAP-HSE-PO-0010)
4) Quality Policy (TAP-QRM-PO-0001).
5) The Trans Adriatic Pipeline (TAP) ESIA - TAP's commitment to the environment. - The objective of the ESIA is to assess potential impacts of the pipeline project on the environment, cultural heritage and socio-economic development and to propose measures in order to avoid, reduce or mitigate negative impacts.

ESIA - Amendment 1 – TAP's ESIA Amendment number 1 in Albania describes a reroute in the onshore pipeline and the design of a new access road. The route adjustment has been made to avoid a mining concession area near Ura Vajgurore, Berat (L1577) and to ensure the project bypass the licensed quarry mining land. The new access road is located in the central eastern section of the pipeline, in the Ostrovicë Mountains. In August 2015, the NAE approved TAP's ESIA Amendment 1 package.

The ESIA Amendment number 1 also considered two new access roads and rerouting at the mining concession area near the Ustie village, along the national road Poliçan - Çorovoda. However, since preparation and submission of the ESIA Amendment in May 2015, it has been determined that these three modifications to the project are no longer required due to changes in project design.

ESIA - Amendment 2 - The Second Amendment to TAP's ESIA in Albania describes two changes in the project compared to the 2013 status. The first change relates to an adjustment of the route in the Potom area, located in the central and eastern part of the pipeline. The second change

refers to the construction of a new access road (AR 460-3). In December 2015, the NAE approved TAP's ESIA Amendment 2.

ESIA - Amendment 3 - The third Amendment to TAP's ESIA in Albania describes six changes in the project compared to the 2013 status. The changes include four re-routings, a new access road (AR 405-1) and a micro-tunnel near Çorovoda. The four re-routings (Polene, Verzhezha, Mbrakull and mine concession L1437) as well as the Çorovoda micro-tunnel are located in the Skrapar and Poliçan regions, while AR 405-1 is located in the Berat area. During March-May 2016, the NAE reviewed and approved the ESIA Amendment no.3

ESIA - Amendment 4 - Due to geohazard structures in a number of onshore sections, TAP had to reroute the pipeline. In June 2017, the NAE approved the ESIA Amendment no.4, consisting of four adjustments to the route. Three re-routes, (Tërpollar, which also includes a temporary access road and a camp, Osojë and Orizaj) are in the Skrapar area, while the Sqepur re-route is located in Ura Vajgurore.

All changes are designed to minimize impact on the environment and the community. ESIA surveys and related reports prepared by an independent environmental expert reinforce these changes are fully in compliance with Albanian environmental legislation and EBRD Performance Requirements.

The number and the date of the decisions of the National Agency of Environment for every EIA Amendment can be found on the official website of the National Agency of Environment at http://akm.gov.al/

TAP has an existing E&S management system in place. Environmental & Social Management Plan (ESMP) - The main objective of ESMP is to provide a framework for the implementation of the measures identified in the impact assessment Section 8 to avoid, mitigate or offset adverse impacts and to minimize and manage risks on the environment, construction and operation staff and the local population from Project activities. The Plan will propose measures oriented to increase positive effects of project implementation.

**Other Relevant Documents**

6) Stakeholder Engagement Strategy for Trans Adriatic Pipeline – TAP AG: TAP-HSE-ST-0009, composed by:
   - Stakeholder Engagement Action Plans (SEAPs)
   - TAP's Stakeholder and Consultation Database (SCD)

7) TAP Human Rights Policy - TAP has undertaken Human Rights Impact Assessments (HRIAs) as outlined in the TAP Code of Conduct (Section 5.1). The HRIAs complement the separate ESIA which cover issues such as land usage, hazardous materials safety, and environmental effects. The HRIAs identify and assess the potential impacts of the project on a range of internationally defined human rights, including the International Bill of Human Rights, the International Labour Organisation (ILO) Fundamental Conventions, and the European Convention on Human Rights. They also identify impacts in relation to other standards with which TAP is aligned. These include the European Bank for Reconstruction and Development (EBRD) Performance Requirements, the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Companies, United Nations Guiding Principles for Business and Human Rights and the Voluntary Principles on Security and Human Rights.

**L. Project ESCH Standards and Specifications**

The Project is committed to meeting the requirements of:

- National environmental and social laws and regulations applicable to the Project in host countries
- Applicable EU legislation
- Applicable international conventions.

**TAP has also adopted the following standards**

• EBRD Performance Requirements (PRs 1 through 6 and 8 through 10) as per EBRD's Environmental and Social Policy (2014): https://www.ebrd.com/who-we-are/our-values/environmental-and-social-policy/performance-requirements.html

• EIB Environmental and Social Practices and Standards (2013): http://www.eib.org/attachments/strategies/eib_statement_esps_en.pdf

and http://www.eib.org/attachments/strategies/environmental_and_social_practices_handbook_en.pdf

• IFC Performance Standards (PS 1 through 6 and 8) (January 2012): http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbffd1a5d13d27/PS_English_2012_Full-Document.pdf?MOD=AJPERES

• IFC EHS General Guidelines (2007)

• IFC Industry-specific Guidelines

• the IFC EHS Guidelines for Onshore Oil and Gas Development (2007)

• the IFC EHS Guidelines for Offshore Oil and Gas Development (2015) The Equator Principles III (2013) OECD Common Approaches (2012)

• Contractor Control Plans that focus on separate ESCH themes, each detailing ESIA commitments and the required Contractor documentation (Environmental and Social Implementation Plans (ESIP's)) to implement the commitments and supporting processes.

• Design and construction specifications/ standards: o specification for erosion protection measures o specification for reinstatement o specification for bio-restoration o specification for construction noise and vibration assessment o specification for acoustic survey and monitoring station – operate phase facility specification.

**Asian Development Bank (ADB)** - ADB standard on Displaced Persons and Economic Displacement http://www.adb.org/site/safeguards/policy-statement

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**IMPLEMENTING LARGE INFRASTRUCTURE CONNECTIVITY PROJECTS IN THE WESTERN BALKANS:**
THE CASE OF TRANS ADRIATIC PIPELINE IN ALBANIA


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