

TAP

Trans Adriatic Pipeline



ESIA Albania

Annex 10 – HRIA Summary and Main Findings

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Summary of Human Rights Impact Assessment

1 Background

This Human Rights Impact Assessment (HRIA) aims to identify human rights related impacts and opportunities that may arise from the proposed Trans Adriatic Pipeline (TAP) Project in Albania and to inform management decisions and actions.

The HRIA is part of TAP's commitment to fulfil its Corporate Responsibility standards, which includes respect for internationally-recognised human rights. It also seeks to inform TAP's compliance with a range of other commitments, including EBRD Performance Standards. The study has considered the potential impacts of the Project on the enjoyment of internationally recognised human rights, including those contained in the International Bill of Human Rights, the ILO Core Conventions, and other relevant international standards such as the European Convention on Human Rights.

The methodology for this impact assessment was developed building on work by the Danish Institute for Human Rights (DIHR), the IFC/IBLF and others in developing human rights due diligence tools for business. The HRIA was carried out with the guidance of independent external human rights expertise from the DIHR and was informed by consultation with representatives of potentially affected groups and other relevant stakeholders.

The HRIA should be read alongside two important parallel studies – the Environmental and Social Impact Assessment (ESIA) and the Land and Easement Assessment (LEA) which this report supplements. The ESIA and LEA cover parallel issues and which, in relation to land and social rights are the primary sources for impact assessment. The methodology for the HRIA was developed and refined to ensure that it complemented, rather than contradicted, these studies.

The most important output from the HRIA is the Human Rights Management Plan (HRMP), which consists of a list of mitigation measures required to avoid or minimise negative impacts and to optimise beneficial effects of the Project. The full HRIA can be accessed from the TAP website.

2 Methodology

While the development of a clear and logical methodology for any study or impact assessment is crucial, it was particularly so in relation to this study, being one of the first fully commissioned

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HRIA. The methodology was developed by the implementing consultants in full consultation with TAP, and with important input from the DIHR and the consultants working on the ESIA and LEA.

The HRIA has been developed in accordance with the following staged process

- *Baseline study* – The first stage consisted of a full analysis of the legal, policy and regulatory framework relevant to each rights category.
- *Review of project activities* – Project activities were assessed on the basis of their potential to affect the realization and enjoyment of human rights by relevant stakeholders.
- *Key issue identification* – Based on above, the key issues for detailed consideration based on the overlay of human rights baseline in country and project activities. This allowed for greater focus in terms of consultation, impact assessment and development of mitigation.
- *Stakeholder consultation* – Key stakeholders in Albania, based on their organisational responsibility, expert knowledge or representative status, were consulted on our assessment of key issues and likely impact and also to seek their views on mitigation steps.
- *Impact categories developed and impact assessed* – Based on the above, a range of impact categories were developed and evaluated against the following 4-point classification structure to determination predicted human rights impacts and their significance
- *Mitigation and management action* – Based on impact findings, mitigation steps were developed in order to minimize or reduce negative impacts and optimize positive impacts. A Human Rights Management Plan (HRMP) was subsequently developed.

In determining impact, a four-point classification structure was used:

- *Direction*: indicates whether the impact is positive, negative or neutral. Some impacts may have both positive and negative dimensions.
- *Magnitude*: indicates the degree of change in the realization of human rights and is generally a qualitative assessment, based on value judgments and broad determination.
- *Geographic extent*: indicates the geographic and administrative units that will be impacted. Some impacts may affect only individual households or particular subgroups of workers, whereas others may affect the local area of influence, regional area of influence, the entire country, or have a trans-boundary impact.
- *Project phase*: indicates the stage of the Project to which the impact applies, namely: construction, operations and decommissioning.

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3 Principle impact findings and mitigation actions

Based on the assessment of anticipated project activities on the baseline human rights situation, the HRIA identified the following key pre-mitigation impacts.

3.1 Labour rights of non-employee workers

3.1.1 Pre-mitigation impact

In the absence of appropriate mitigation, the use of labour subcontractors, particularly during the construction phase, will potentially have high-magnitude, short-term negative impact on the rights of workers employed by sub-contractors. Such workers may be outside the scope of TAP's direct responsibility, management and oversight. Further, there are high levels of informality and non-compliance related to employment in Albanian small and medium enterprises (SME). Such workers are at risk of discrimination, unfavourable working conditions and denial of access to a remedy. Conditions identified in the baseline study such as widespread informality, an under-resourced labour inspectorate, poverty and high unemployment suggest a high risk that SME contractors may draw upon a vulnerable workforce at the local, regional and national level. Workers employed directly by TAP are less likely to experience unfavourable working conditions and therefore the impact on decent working conditions is expected to be low.

3.1.2 Mitigation measures

- Any selected contractor will have a formal induction to understand TAP's internal policies that will inform that service provider of their obligations to operate in compliance with all policies
- Each contractor will adopt and implement occupational health and safety (OHS) and Human Resources Policies and management systems consistent with TAP policies and standards
- TAP will develop a Social Compliance Monitoring (SCM) system for direct employees and those of contractors. The SCM will provide for the selection of contractors based on their performance on labour, health, safety, security and environmental issues; TAP will:
 - require contractors to comply with legislation, relevant environmental and social mitigation, as well as EBRD Performance Requirement 2
 - ensure that the same level of OHS measures (including health and safety training for workers) is maintained throughout the project irrespective of who is the formal employer of the worker
 - include mechanisms and indicators to enable monitoring of compliance by subcontractors

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- TAP will develop and implement a worker grievance mechanism procedure, which will be confidential, include a set timeline for responses, provide for a framework for decision making and corrective action and provide for the right of appeal. Employees of TAP contractors will have access to this mechanism, or an acceptable mechanism, operated by their own direct employer
- Contractors will be required to comply with TAP's Corporate Social Responsibility (CSR) policy. Contractors will be required to implement a governance system in accordance with TAP requirements regarding health, safety, security and the environment. TAP's Procurement Management and Strategy document (TAP-PRO-ST-0002) states that contractors will be screened on the basis of whether they are able to comply with the Project's requirements related to CSR including labour rights and business ethics.

3.1.3 KPIs

- Contractors report that induction has been received and identify key points of TAP policies
- Social Compliance Monitoring System approved and monitoring team hired
- Tender documents and contracts for contractors demonstrated to include requirements related to EBRD Performance Requirement 2
- Social Compliance Monitoring reports completed
- Interviews with management and contractors reveal understanding of OHS measures
- Accident levels recorded and reported in the SCM
- Audits of contractor performance demonstrate a high level of implementation of TAP policies and procedures
- Review of contractors policies demonstrate existence and implementation of policies
- In interviews carried out for the purpose of completing the SCM report, the results of which are summarised in that report, workers employed by subcontractors report that they understand their rights and how to complain through the grievance mechanism
- In the SCM there is a summary of worker grievances, to include the same information on grievances from non-employees workers.

Sub-topic	Direction	Magnitude	Extent	Project phase	Pre-mitigation Impact	Residual impact – post mitigation
Rights for non-employee workers	Negative	High	National	Construction	High (negative)	None

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3.2 Forced and child labour

3.2.1 Pre-mitigation impact

Practices giving rise to forced and child labour occur as a result of complex social issues. Child labour is linked to high incidences of poverty, low levels of education and low levels of quality employment. Many people require children to undertake jobs to support the family. Forced labour can occur in relation to human trafficking and exploitation of migrant workers; new migration routes attracting workers to Albania increase the possibility for labour exploitation. There is also a risk of trafficked sex workers being drawn to the work camps and work sites. This risk of non-enjoyment of rights related to forced and child labour is highest in the informal sector. Though TAP recruitment will take place through formal channels, some informal working on the margins of subcontractors and through the supply chain is expected. The degree of impact is relatively minor in terms of numbers of anticipated instances of forced labour, but high in terms of the severity of any instance.

3.2.2 Mitigation measures

- The CSR Policy serves as the overarching policy mitigation that sets high commitments to international standards, including EBRD Performance Requirement 2, which in turn requires adherence to ILO core conventions, including those on forced and child labour
- TAP will develop and maintain a Human Resources Policy that reiterates these values and provides clear terms and conditions for any working relationship; TAP will implement this policy in relation to all directly employed workers.
- All contractors and suppliers will be contractually obliged to take appropriate steps to ensure that there is no child or forced labour in areas within their direct control
- TAP will carry out regular reviews of compliance with labour standards, including restrictions on forced and child labour, in relation to all contractors and also direct suppliers
- TAP will liaise with relevant authorities to support monitoring of possible trafficked sex work and will introduce a zero tolerance policy on employees and contractors' engagement with trafficked sex workers
- In relation to non-trafficked sex workers, TAP will identify appropriate partner organisations, including relevant civil society, gender and government organisations.

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3.2.3 KPIs

- Audits of contractors and suppliers as part of SCM process reveal policies and appropriate standards applied in relation to child and forced labour
- No reports of instances of child and forced labour linked to the project, unless accompanied by clear remedial action plan based on international best practice
- Zero tolerance policy on employee engagement with trafficked sex workers adopted and in interviews carried out for the purpose of completing the SCM report, the results of which are summarised in that report, workers report understanding of policy
- Records of meetings with authorities on sex workers
- Recorded instances of trafficked sex workers and how they were addressed through remedial action plans
- Communication in SCM report of all instances of trafficked sex workers and the appropriate steps taken to remediate
- Communication in the SCM of contact made with organizations with expertise or representative capacity on the rights of sex workers, including disclosure of any relevant joint actions agreed.

Sub-topic	Direction	Magnitude	Extent	Project Phase	Pre-mitigation Impact	Residual impact
Forced and child labour	Negative	Moderate	National	Construction Operation	Medium (negative)	None
Forced and child labour in supply chain	Negative	Moderate	National	Construction Operation	Medium (negative)	None

3.3 Equality and Non-discrimination

3.3.1 Pre-mitigation impact

Given the structure of discrimination and exclusion in the country, and the likely influence of the Project, it is not anticipated that the Project will have any significant impact on the country baseline. Unequal treatment of women and minority groups as well as harassment and social marginalisation exist throughout the country and are fundamental problems that can influence and be influenced by any large infrastructure project. TAP has the greatest capacity to impact upon the baseline situation regarding equality in matters of employment, yet TAP will have an

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essentially transitory effect on jobs. The HRIA still proposes some action plans on discrimination to support an enhanced positive impact.

3.4 Civil and political rights related to security

3.4.1 Pre-mitigation impact

It is anticipated that there will be local recruitment of security personnel for the project and that some of these may be armed. TAP has not yet determined the size and capacity of security forces, but such forces will retain the use of force, which if not appropriately managed and explained to stakeholders, can lead to violations of the right to life, to liberty and security of person as well as fair trial and due process guarantees. It is worth noting that there are limits in Albanian law on the proportion of private security in relation to police that may be hired in a given area, as identified during the baseline study. Freedom of expression may also be impacted in light of the potential for criticism related to the Project to be restricted or sanctioned under Albania's laws against defamation.

3.4.2 Mitigation measures

- To implement the Voluntary Principles on Security and Human Rights, TAP will adopt a policy and related procedures on security services provision in accordance with the Voluntary Principles. TAP has committed to this in its CSR Policy. Assessments of potential security providers will investigate the professional experience and record of any potential security contractors. This risk assessment will include formal consultation with government representatives and other stakeholders that may have previously worked with the contractor
- TAP Policy on Security Services provision (in accordance with Voluntary Principles) and Code of Conduct are to be delivered and explained to all security contractors during formal induction and training
- TAP will appropriately disclose its security policy and all security arrangements;
- TAP will carry out periodic checks on all security contractors, and
- TAP will implement a Third Party Grievance Mechanism to solicit complaints from all stakeholders. This mechanism has already been developed by TAP.

3.4.3 KPIs

- Training records demonstrate that all security staff working on the project has received training on:
 - legal standards related to security activities

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- Appropriate standards of conduct, including TAP policies and procedures
- Use of weapons, where appropriate
- Conflict resolution
- In interviews with selected relevant stakeholders, a majority answer affirmative to a question asking whether TAP has a security policy that it applies to its security contractors. The relevant proportion of stakeholders answering affirmative to this question should be reported in the annual SCM report
- SCM report states that all security contractors have been subject to periodic assessment and review.

Sub-topic	Direction	Magnitude	Extent	Project phase	Pre-mitigation impact	Residual impact
Right to life and security of person	Negative	Moderate	Regional	Construction Operation	Medium (negative)	None
Freedom of expression and assembly	Negative	Low	Regional	Construction Operation	Low (negative)	None

3.5 Transparency

3.5.1 Pre-mitigation impact

A project of the size and influence of TAP creates many new socio-economic opportunities, but also injects a large amount of resources that can be mismanaged and give rise to potential for bribery and corruption. The impacts of royalties, taxes and profit sharing are by definition a positive impact to net economic contribution, but these elements can contribute to a decrease in transparency around how such sources of income are used. Non-transparent payment of taxes, particularly in the extractive industries, has led to corruption and lost public benefits when revenues are not paid transparently and monitored.

3.5.2 Mitigation measures

- TAP has already developed a comprehensive Code of Conduct that contains transparency and anti-bribery provisions that cover all activities related to the Project development. TAP references its Code of Conduct in other governance documents, including “Engagement with Government and Public Officials” (TAP-GEN-PO-0005).

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- TAP will develop a policy on public disclosure of defined tax and other payments made to Government and other public bodies, based on the an independent audit of such payments, and
- TAP will implement Third Party Grievance Mechanism to solicit complaints from all stakeholders. This mechanism has already been developed by TAP.

3.5.3 KPIs

- All contractors report that they have been briefed on TAP Code of Conduct and these figures are reported in the SCM report
- Public statement by TAP on transparency and revenue payment
- All complaints on transparency of payments categorised and described in the SCM report.

Sub-topic	Direction	Magnitude	Extent	Project Phase	Pre-mitigation Impact	Residual impact
Transparency	Negative	Moderate	National	Construction Operation	Medium (negative)	Minor (positive)

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Date 01/2013

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