

European ECA Reform Campaign

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Briefing Note

04

The Ilisu Dam Project Europe's money would move Turkey away from the *acquis communautaire*

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The tip of the minaret is all that would remain visible of the ancient town of Hasankeyf beneath the waters of the Ilisu reservoir. Picture: John Wredford

At the beginning of October 2006, three European export credit agencies (ECAs) are expected to decide whether or not to finance one of the world's most controversial infrastructure projects. The Ilisu Dam proposal is a decades-old plan (previously rejected for ECA financing in 2002) to build a hydroelectric power plant on the River Tigris in the Kurdish region of South-east Anatolia, Turkey. Going ahead with the project would mean displacing tens of thousands of people, destroying a significant cultural heritage, and increasing the potential for serious conflict over water resources with neighbouring Iraq and Syria. All the available evidence suggests that the project utterly fails to meet European Union standards, and that a number of EU and international laws and policies, including the European Convention on Human Rights, are being violated – thereby moving accession candidate Turkey away from the EU *acquis*. Given Turkey's faltering progress in implementing the political criteria for EU membership,¹ it is critical that the European Commission takes action now to investigate the Ilisu project in full.

Export credit agencies (ECAs) are governmental or quasi-governmental departments that use tax-payers' money to help companies invest and export overseas. ECAs typically provide financial backing in the form of guarantees, insurance or direct loans. Their purpose is to protect companies against the commercial and political risks of not being paid while operating abroad. ECAs underwrite roughly 10 per cent of global exports from large industrial countries. The European ECA Reform Campaign works to achieve binding environmental, social and human rights guidelines for ECAs.



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This twelfth-century bridge over the River Tigris, in the town of Hasankeyf, is amongst the treasures that would be submerged. Picture: John Wredford.

Background

The Ilisu Dam achieved international notoriety when it was first considered by European companies and export credit agencies in 2000. By 2002, concerns about its deficiencies in planning and its extensive social, environmental and cultural impacts, together with controversy over the project's failure to adequately take account of the region's long history of conflict and human rights violations, became so serious that the business consortium seeking ECA support eventually collapsed.

Now, however, the Ilisu Dam is back on the agenda. In November 2004, a new consortium of companies – led by Austrian Andritz AG (former VA Tech), and joined by with Alstom Switzerland and German construction company Züblin – was formed to build the discredited dam. Applications for export credit guarantees have been filed with the governments of Austria, Germany and Switzerland in order to reduce the financial and political risks associated with the project. A decision by these governments is pending and is likely to be taken at the beginning of October 2006. An analysis of the new impact assessment and resettlement plan by international experts has shown that the underlying flaws and inadequacies leading to the project's original failure have not been addressed.

Widespread failure to meet EU and international laws and standards

Environmental impact assessment

The Environmental Impact Assessment (EIA) commissioned by the consortium is inaccurate, incomplete and in some cases

contradictory – and utterly fails to meet the international standards established for impact assessments.² This is critical since, as part of the accession process, the EU must monitor progress in the transposing and implementing of environmental legislation. As early as 2004, the Commission stressed that 'all new investment projects [in Turkey] should comply with the EU environment acquis'.³ Recently the European Parliament has been even more explicit and called 'on the Turkish government to apply the EU environmental standards to projects that are expected to result in possible damage to the environment, such as the ... Ilisu Dam, which could result in the destruction of historically important landscapes'.⁴ This gives the European Commission an essential role to play in ensuring that the Ilisu Dam complies with the EU Directive on Environmental Impact Assessment, which is currently not the case.⁵

Resettlement action plan

Also in dispute is the adequacy of the project's Resettlement Action Plan (RAP). Between 50,000 and 78,000 people – mainly ethnic Kurds – are expected to be directly affected by the project, and it remains uncertain how their livelihoods will be restored. According to Amnesty International and many other international experts, the resettlement plan that was drafted by the Turkish

Expropriation under emergency legislation already under way

In spite of the inadequacy, shortcomings and uncertainties of the resettlement plan and the fact that a decision to grant export credits is still outstanding, the expropriation of property in the project area is already underway. Turkey has begun driving people from their homes and land invoking Article 27, a clause in the state's expropriation law that is intended only for use in national emergencies or defence.⁷ The resettlement process for an infrastructure project that has been in planning for a number of decades can hardly be described as a national emergency situation. The use of Article 27 by Turkey to drive locals off their land undermines citizens' fundamental rights. A number of court cases are currently being prepared by affected people in the region challenging this blatant abuse of emergency powers.

project developers is deeply flawed and does not even come close to meeting the relevant internationally recognised standards. With no comprehensive budget for income restoration or compensation measures in place, no adequate resettlement sites available, and no clarity as regards the number of affected individuals – many of whom have been neither informed nor consulted about the project, let alone consented to it – the project is in clear breach of World Bank policies on involuntary resettlement and environmental assessment, as well as relevant OECD and World Commission on Dams guidelines. A former World Bank consultant and resettlement expert who reviewed the Ilisu resettlement plan concluded that ‘international lenders intent on consistency with accepted international policies and standards cannot regard this RAP ... as ready for decision making on granting export risk guarantees.’⁶ Revisions to the RAP, published by the consortium in June 2006 have failed to address the RAP’s shortcomings.

Human rights violations and regional conflict

The region in which the Ilisu Dam is to be built has been, and continues to be, characterised by repression of the Kurdish people, who form the majority group there. Since 1984, the region has experienced armed conflict between the Turkish state and Kurdish

guerrillas. It is estimated that 4,000 villages have been destroyed in the last two decades, that approximately three million people have been displaced, and almost 40,000 have died. Significantly, since June 2004 the region has seen a return to armed conflict. In March 2006, 10 people were killed in street riots; and in September 2006, 11 people, seven of whom were children, perished in a bomb exploded by an anti-Kurdish group in Diyarbakir, the town that will have to host the bulk of the people displaced by the dam. The European Parliament recently noted with concern that ‘the resurgence of violence in the South East of the country ... followed by a large-scale rise in military operations, constitute a serious threat to peace, stability and democracy in Turkey’.⁸ It further expressed concern about ‘the renewed increase in the number of reported cases of torture and ill treatment, especially in the South East, by law enforcement officials and the impunity often enjoyed by those officials’⁹ and observed that ‘a great many civil society representatives are at present still being tried and are subject to intimidation every day’.¹⁰ The failure to take this political conflict and these human rights violations adequately into account has been a central point of contention since the project’s outset and still remains unaddressed. In this culture of violence, repression and neglect it is hard to see how a just project outcome, based on free and fair consultation, would be possible. To go ahead with plans to build the dam under these conditions invites almost inevitable breaches of the European Convention on Human Rights, which Turkey ratified in May 1954, as well as Article 6 of the Nice Treaty on European Union.¹¹

Water resources: fuelling conflict with Syria and Iraq

Water is expected to become a major cause of international conflict in the future, making the control of water flows a critical resource issue. Together with other dams planned as part of the South-east Anatolia Regional Development Project (GAP), the Ilisu Dam could reduce summer flows in Syria and Iraq below historic levels with the possibility of the water drying up completely during drought periods.¹² This has very serious potential for fuelling tensions, and possibly conflict, over control of water resources in the Middle East. Yet no political agreements on water sharing between Turkey and either of its downstream neighbours exist – and Turkey’s failure to consult with them over the dam’s impacts constitutes a clear violation of international law, including two UN Conventions (aiming to prevent significant negative environmental impact across borders)¹³ and the EU Water Framework Directive.¹⁴ The

Ilisu Dam threatens archaeological treasure

The ancient town of Hasankeyf, of immense cultural significance to many Kurdish people, became the focus of international attention when plans to submerge it beneath Ilisu’s reservoir first surfaced. The town is a rich treasure of Assyrian, Christian, Abbasid-Islamic and Ottoman history in Turkey and was awarded complete archaeological protection by the Turkish department of culture in 1978. Numerous cultural experts and activists, both in Turkey and abroad, have appealed to the national authorities and the foreign companies to save Hasankeyf. The design of the dam, however, has not been altered to prevent the submergence of the city. Current ‘salvation’ plans for Hasankeyf merely provide for the removal of selected architectural components to a museum in advance of inundation. Since the medieval period, the town has also been a pilgrimage centre for many Muslims, attracting as many as 30,000 pilgrims every year.





Set among steep cliffs along the river banks, Hasanköy's settlements are said to date back as far as the seventh century BCE. Picture: John Wredford.

European Union is party to both Conventions and any acceding country is equally obliged to observe the rules set out therein. The implementation of the Water Framework Directive by Turkey has even been identified as a 'short-term' priority for Turkey's alignment to the EU *acquis*, to be accomplished by the year 2003/2004.¹⁵ However, in its 2005 regular report on Turkey's accession, the Commission notes dryly that 'no development in transposition of the Water Framework Directive can be reported' and that the 'development of transboundary water cooperation, in line with the ... Directive and international conventions to which the Community is a party is at a very early stage'.¹⁶

Conclusion and recommendations

As part of its accession process, Turkey offers investment opportunities to European companies and governments. The extent to which Turkey is willing to accommodate these companies has already been made clear in the Host Government Agreement for the ECA-backed Baku–Tbilisi–Ceyhan (BTC) pipeline (see FERN's project factsheet on the BTC pipeline).¹⁷ During the development of this pipeline, a number of companies and governments took economic advantage of the region's atmosphere of political repression. The handling of the Ilisu Dam project is a litmus test of whether the European Union takes its commitments to corporate social responsibility and human rights seriously and enforces the relevant criteria of the accession agreements accordingly. However, the coming weeks will also be a test case to 'ground-prove' the ECAs' commitments to bring business in line with the sustainable development objectives that their governments aspire to.¹⁸

If European companies, ECAs and governments choose once more to look the other way as major human rights violations accompany the resettlement process for the Ilisu Dam, the credibility of the EU's commitments to fundamental rights and sustainable development will be seriously undermined. It is hard to see how the EU would be in a position to exert pressure on the Turkish authorities to improve its environmental, social and human rights record, while its own Member States provide material and financial support to a destructive project like the Ilisu Dam. (For a list of the laws and guidelines that the project contravenes, see the Annex below.)

With the help of European companies and investors, the revival of the Ilisu Dam project moves Turkey away from the *acquis communautaire*. Fact-finding missions in 2004, 2005 and 2006 found that people in the region felt that what has happened to them has remained largely unacknowledged by the European press and EU officials. The general feeling of affected communities was that changes enacted by the Turkish government were predominately superficial gestures to satisfy EU requirements for accession and brought about little real change at home.

We recommend:

- **To the European Commission**, as guardian of the *acquis* and overseer of the accession process – to act to ensure that this project will only be implemented if it meets relevant European Union standards. At the moment, all available evidence suggests that this is not the case.
- **To the European Parliament** – to ensure that the Ilisu project is monitored as part of the EC's regular report on Turkey's accession and to conduct Parliamentary hearings on whether European corporate involvement in the project breaches undertakings to promote Corporate Social Responsibility at EU level.
- **To the Finnish Government**, currently holding the EU Presidency – to remind the Austrian and German governments and ECAs both of their commitments to policy coherence and of their obligation to abide by the World Bank Safeguard Policies¹⁹ and to assess the extent to which derogating from such policies threatens the ECAs' current competitive level playing field.
- **To the governments and export credit agencies of Austria, Germany and Switzerland** – not to extend export credits, guarantees or other public financing to the Ilisu Dam.



ANNEX

Ilisu Dam: contraventions of international laws and guidelines

Already the planning of the dam appears to be in violation of:

- *Article 6 of the Nice Treaty on European Union*, which sets out the EU's foundation on the principles of liberty, democracy, respect for human rights and fundamental freedoms;
- *The European Convention on Human Rights and Fundamental Freedoms* (signed by Turkey in May 1954) – in particular those obligations which protect against the unjust expropriation of property;
- *EU Accession Partnership between the European Union and Turkey* (of May 2003) – in particular with respect to the failure to meet the EC Directive on Environmental Impact Assessment and the EC Water Framework Directive;
- *Directive 97/11/EC on the assessment of the effects of certain public and private projects on the environment* (EIA Directive) – inter alia through the failure to consult and inform the public concerned and to allow a reasonable time for the public to express an opinion, as well as through the failure to meet transboundary requirements;
- *Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment* (SEA Directive) – notably for the inadequacy of the EIA and for the failure to allow the public concerned to express its opinion on the draft plans for the GAP development programme;
- *Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment* – through failure to provide for public participation in decision-making relating to the environmental impacts of the GAP development programme;
- *Directive 2000/60/EC establishing a framework for Community action in the field of water policy* (Water Framework Directive) – specifically the part that concerns transboundary co-operation;
- *Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora* (EC Habitats Directive) – through irreversible and severe impacts on species and natural habitats classified as of European Community importance;
- *Directive 79/409/EEC on the conservation of wild birds* (EC Wild Birds Directive) – through negatively affecting four protected 'important bird areas' (IBAs);
- *UN Convention on the Non-Navigational Uses of Transboundary Waterways*, to which the EC is a party – through Turkey's failure to notify, consult and negotiate with Iraq and Syria, its downstream neighbours.
- *UNECE Convention on Environmental Impact Assessment in a Transboundary Context* (Espoo, 1991), to which the EC is a party – through Turkey's failure to consult with Iraq and Syria on cross-border impacts;
- *World Bank Operational Policy on Projects on International Waterways* (OP 7.50) and the *Procedure on Projects on International Waterways* (BP 7.50) – for failure to fulfill obligations to notify downstream states, as well as *operational policies on involuntary resettlement* (OP 4.12), *environmental assessment* (OP 4.01), *natural habitats* (OP 4.04) and *cultural heritage* (OP 4.11);
- *OECD Recommendation on Common Approaches on Officially Supported Export Credits and the Environment* – for failure to comply with referenced World Bank Safeguard Policies;
- *OECD Statement on Export Credits and Hydropower Projects* (2005) – for failing to meet all relevant World Bank Safeguard Policies.
- *The policy principles and strategic priorities of the Recommendations of the World Commission on Dams and the guidelines of the International Hydropower Association* (IHA) – inter alia through the failure to conduct adequate assessment of alternatives, and the failure to consult and conclude benefit sharing arrangements with affected communities.



END NOTES

01. 'The Commission has concluded in its Progress Report that the pace of change slowed last year, that implementation remains uneven and that significant further efforts are required as regards fundamental freedoms and human rights'. Committee on Foreign Affairs, European Parliament, *Report on Turkey's Progress towards Accession*, September 2006. Hereafter: *European Parliament Progress Report 2006*. At the time of writing the report has been passed by the European Parliament Committee on Foreign Affairs and is expected to pass the vote in the plenary session on 27 September 2006.
02. For a comprehensive review of the EIA see: ECA-Watch Austria/EvB/WEED, *Ilisu Dam Project: Statement on the Updated Environmental Impact Assessment Study and the new Resettlement Action Plan*, February 2006.
03. European Commission (2004), *2004 Report on Turkey's Progress Towards Accession*.
04. *European Parliament Progress Report 2006*.
05. Directive 97/11/EC on the assessment of the effects of certain public and private projects on the environment.
06. Micheal Cernea, *Comments on the Resettlement Action Plan for the Ilisu Dam and HEPP Project*, February 2006.
07. Ministerial Council Decree 2006/10642 published on 12 July 2006 allows expropriations to begin on the basis of Article 27 of the Turkish Expropriation Law.
08. *European Parliament Progress Report 2006*, p. 6.
09. *Ibid.*, p. 9.
10. *Ibid.*, p. 12.
11. 'The EU is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States'
12. Philip Williams & Associates, Ltd., *A Review of the Hydrologic and Geomorphic Impacts of the Proposed Ilisu Dam*, February 2006, p. 4.
13. The UN Convention on the Non-Navigational Uses of Transboundary Waterways and the 'Espoo Convention' on Environmental Impact Assessment in a Transboundary Context.
14. Directive 2000/60/EC establishing a framework for Community action in the field of water policy.
15. European Council, *On the Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership with Turkey*, May 2003.
16. European Commission, *Turkey 2005 Progress Report*, November 2005.
17. The legal contracts for the BTC pipeline between BP and the three host nations (Azerbaijan, Georgia and Turkey) exempt BP from all relevant local environmental and social law and permit the company to block any new laws affecting the pipeline over the course of its life. For more information on the BTC pipeline see: FERN (2005), European ECA Reform Campaign, Project Factsheet, Issue 1: *The Baku-Tiblisi-Ceyhan Pipeline: Exporting an 'environmental time-bomb'*.
18. OECD Updated Recommendation on Common Approaches on Environment and Officially Supported Export Credits, February 2005.
19. As part of an initiative to provide better financial incentives for the export of renewable energy projects, the OECD issued a statement on export credits and hydro-power projects in which 25 OECD countries, including Austria, Germany and Switzerland as well as the European Commission state that all dams should, as a minimum requirement, comply with the World Bank Safeguard Policies. http://www.oecd.org/document/41/0,2340,en_2649_34169_35688937_1_1_1_1,00.html

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