



EUROPEAN POLICY BRIEF



EU-AZERBAIJANI RELATIONS: THINKING OF A CULTURE OF HUMAN RIGHTS IN A PARTNERSHIP RELATION

The policy brief reflects on energy relations between the EU and Azerbaijan and its implications for the situation with human rights and fundamental freedoms.

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INTRODUCTION

The situation of human rights and fundamental freedoms in Azerbaijan has been deteriorating as the country has raised its profile in the energy sector. The EU has been criticized for not sufficiently applying the principle of conditionality to Azerbaijan. This brief challenges the narrative that the EU is dependent on Azerbaijan in terms of energy supply, questions the relevance of conditionality in energy relations in a context when the EU's leverage has decreased with Azerbaijan's emancipation as an independent player in the energy world where market liberalization and move towards depoliticization has become key for enhancing the energy security of consumers. It further elaborates on how to support democracy for stability by disentangling interests from human rights policies with a long-term engagement on the societal level supported by enhanced political dialogue that reconciles at both levels respect for sovereignty and human rights culture.

AZERBAIJAN NOT VITAL FOR THE EU ENERGY SECURITY

The resource-abundant Caspian region, and more specifically Azerbaijan, became an important partner in the EU's energy security strategy. The aim is to decrease dependence on Russian gas, which became much more obvious as the EU enlarged in 2004, integrating Baltic and Central European states. The idea that Azerbaijani resources, if channelled to Europe, could help in the diversification efforts of supply sources gained weight in EU policy circles. The EU-promoted Nabucco pipeline project had conceptualized, for almost a decade, the idea of a southern gas corridor designed to diversify with the Azerbaijani gas supplies coming to the EU.

As such, the efforts to diversify on the supply side complement the internal policies to enhance the energy security of the EU. To-day the EU is much more energy secure than it was a decade ago. As a matter of fact, the geopolitical crisis that resulted from Russia's increasingly assertive regional policy hasn't triggered any profound energy crisis, unlike in 2006 and 2009. Amongst the EU internal policies, a number of approaches stand out: the energy efficiency directive, for instance, and more generally, the 3rd Energy Package with its parallel strategy of integrating and liberalizing European energy markets. Also internal liberalization of the gas markets and the inter-connection of the energy grids are of importance. The interconnection of energy grids has proven very effective in ensuring the security of supplies of European countries such as Slovakia, Hungary and Poland are highly dependent on Russia. In 2014, Ukraine, the transit country of Russian gas to Europe, could benefit from reverse flows from the EU.

EU gas consumption remained far behind forecasts. Energy efficiency proved effective in saving energy. The EU will nevertheless need additional supplies of gas. The indigenous gas production is swiftly decreasing. In 2025, the EU is expected to import two-thirds of gas consumption. The process of decommissioning of nuclear power plants, which gained pace after Fukushima, will increase the demand for gas as well. Furthermore, political upheavals since the Arab Spring curtailed gas supplies from Libya, Egypt and Yemen to the EU.

However, piped-gas has to increasingly face the competition of cheap LNG supplies that will affect the structure of trade, bringing more suppliers into the mix - as the United States is now self-sufficient in energy, and ready to export LNG to world markets - and making gas a more competitive commodity. Long term gas contracts regulating the exports of piped gas should be attractive and secure in a context when trade arrangements will shift toward short-term and spot transactions. Azerbaijan and the Caspian gas resources still matter for the diversification of supply.

AZERBAIJAN AS AN INDEPENDENT ENERGY PLAYER IS WILLING TO CONTRIBUTE TO THE EU ENERGY SECURITY

The southern gas corridor is at the corner-stone of the EU-Azerbaijani energy dialogue but is as of today much more an Azerbaijani project than an EU-owned project. The so-called southern gas corridor that will allow the export of Azerbaijani gas from the Shah Deniz 2 reserves to Turkey and the EU has finally become possible thanks to the Azerbaijani heavy investment in the Trans Anatolian Pipeline (TANAP) pipeline project.¹ The European Commission is actively working on facilitating the future connection of TANAP with the EU grid via the Trans Adriatic Pipe-line (TAP). TANAP will become the longest pipeline ever built on the Turkish territory.

TANAP is among the Azerbaijani State Oil Company (SOCAR)'s most strategic investments capitalizing on Turkey's future position in world geography. The pipeline will enable Azerbaijan, for the first time, to sell its own gas through its own pipeline, at Turkey's western border with the EU, directly to European customers. The pipeline will supply 6 bcm of gas to Turkey and 10 bcm to the EU, which in fact represents only 2-3% of the EU's needs in gas. However, the pipeline bears more importance as it lays down the infrastructure for potential alternative supplies towards the EU: The pipe-line can carry gas from third countries. As a matter of fact, Azerbaijan is not dependent on eventual EU decisions to export its resources: the country will have the possibility to sell its gas to world markets from Turkey even if the TAP is not finalized.

¹ TANAP is an Azerbaijani project, as SOCAR holds 58% of the shares, the Turkish gas company Botaş 30% and BP 12%.

Azerbaijan has been exporting energy for a decade. The nation has experienced a strong growth rate, fuelled mainly by oil and gas revenues. In 2011 and 2012, for the first time in a decade, Azerbaijan experienced a strong growth deceleration, mainly due to a fall in oil and gas production. The growth rate of GDP was 5.8% in 2013, despite the overall vulnerability of the economy to oil price fluctuation. The share of the mining industry in the industry GDP was 39.2%.² Receipts from the mining industry amounted to 65.8% of the total budget revenues. Oil and gas are the main export products of Azerbaijan. Exports related to the oil sector amounted to 92% of total ex-ports. Since 2010 the State Oil Fund has been the main contributor to the state budget.³ In 2012 the share of the extractive industry in the government revenue reached 79%.⁴ In 2013 oil and gas revenues transferred to the State Oil Fund amounted to 16.7 billion USD and in 2015 to 9.3 billion USD. Eight foreign companies contributed approximately 71% of total government revenues for the year ending on 31 December 2013.⁵

The southern gas corridor is the artery that connects the country's economy to the world markets. TANAP is based on a Turkish-Azerbaijani partnership and aims at ultimately reaching the European markets. Turkey will receive gas supplies through TANAP in the second half of 2018. The bilateral Turkish-Azerbaijani dimension of the driving force behind the Southern gas corridor has gained more importance in the context of the current tensions affecting Turkish-Russian relations. The bilateral crisis has not yet had any negative effect on the supply of gas to Turkey, which can support the idea that energy and politics can be compartmentalized. Russian gas represented 54% of the Turkish gas market in 2015 (which represents 20% of Gazprom's income). Turkey is more actively seeking to decrease the share of the Russian gas, already decreasing for the last couple of years, in its market.⁶ Turkey will be looking at ways of increasing its supplies from Azerbaijan.

EU-AZERBAIJANI RELATIONS AND THE LIMITS OF THE NORMATIVE DIMENSION IN EXTERNAL RELATIONS

The Lisbon Treaty, which aims at strengthening the EU's capacity as an external actor, states '*the Union's action on the international scene shall be guided by the principles which have inspired its own creation*'. Official documents on the EU external relations have underlined the importance attached to values in the formulation and conduct of European diplomacy and have placed human rights at the center of European external relations with all partners, including the so-called strategic ones.⁷ The ENP Review Process⁸, launched to strengthen the effectiveness of partnerships established in the neighbourhood, introduced some degree of pragmatism based on the specificity of each local context. Interestingly, the words '*interests*' and '*sovereignty*' are equally emphasized in the documents resulting from the review process. The document underlines quite rightly the need for the EU to define more clearly its own aims and interests, while promoting the values upon which

² The State Statistical Committee of the Republic of Azerbaijan, "Statistic factbook", "GDP (annual)", 14 October 2014, http://www.stat.gov.az/source/sys-tem_nat_accounts/

³ State Oil Fund of Azerbaijan Republic ("SOFAZ") has been established as an extra-budgetary fund and functions as a legal entity having an independent management structure from the Government or the Central Bank of the Republic of Azerbaijan., <http://www.oilfund.az>.

⁴ <https://eiti.org/Azerbaijan/implementation>.

⁵ EITI, Azerbaijan report, 2013.

⁶ Interview with İlham Şaban, oil expert and president of the Caspian Barrel, <http://caspianbarrel.org/>

⁷ *Human Rights and Democracy at the heart of EU External Action: Towards a More Effective Approach; Joint Communication of the EC, EU High Representative for Foreign Affairs and Security Policy, EU Strategic Framework and Action Plan on Human Rights and Democracy.*

⁸ 'Review of the European Neighbourhood Policy', Joint Communication of the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, JOIN(2015)50 Final, Brussels 18 November 2015.

it proclaims to be based, such as democracy, human rights, the rule of law and economic openness and constitutes the cornerstone of the EU's stability. The promotion of universal rights is one of the EU's interests since it contributes to stabilisation, which is defined as a main political priority. The concepts of differentiation and mutual ownership are of importance. Emphasis is given to the need to take into consideration the interests of the partner country: the partnership relationship should reflect the wishes of each sovereign country on the nature and focus of their relations with the EU according to the degree at which they would commit to EU rules and standards.⁹ This less interventionist approach can indeed open new avenues in the EU-Azerbaijani relations.

By the EaP Vilnius Summit in 2013, Azerbaijan expressed an interest in replacing the Association Agreement with the Strategic Modernisation Partnership Agreement, similar in nature to the EU-Russia Partnership for Modernisation project launched in 2010.

This model, unlike the association agreement, which is asymmetric, promotes a cooperation-oriented approach between equal partners with a more specific focus. The ENP Review of November 2015 emphasized the need for the EU to work with neighbours on energy security, diversification of energy sources, routes and supplies, and underlined that relations with Azerbaijan will be renewed on the basis of a new comprehensive legally binding bilateral agreement and underlined that the success of the Southern Gas Corridor also depends on a stable, secure and prosperous Azerbaijan.

Human rights and fundamental freedoms in Azerbaijan deteriorated over the last few years: NGO leaders, human rights defenders, and journalists faced growing intimidation, repression and criminal prosecution.¹⁰

The crackdown on civil society was significantly harsh while Azerbaijan was chairing the Committee of Ministers of the Council of Europe between May-November 2014¹¹. The new legislation on NGOs, which entered into force at the beginning of 2014, constrains the civil society organizations with administrative fines, unclear tax claims and use of bank accounts. Furthermore, many NGO leaders faced criminal investigation and arrests on charges of treason, tax evasion and illegal entrepreneurship.

The European Parliament has been very vocal on the abuses of human rights with the resolutions adopted on 18 September 2014 and a year later on 10 September 2015. This latest resolution has been the most critical stance the EU has taken on Azerbaijan. The EP re-iterated that the negotiations for a Strategic Partnership Agreement should be immediately put on hold as long as the government fails to take concrete steps in advancing respect for universal human rights, and to lay down the consequences of lagging behind reforms. The EP also called upon EU institutions to mount a strong and unified response to the crack-down on civil society. Furthermore, it directly named the Azerbaijani leadership.¹¹

The Azerbaijani government was taken aback by the resolution.¹² The leadership was expecting to be rewarded for its significant and decisive contribution to the Southern Gas Corridor, and not having '*opted to forge closer ties with the EU unlike other EaP countries which joined the Moscow led Eurasian Union*'. The general perception was that Azerbaijan was being targeted by '*an international smear campaign*'.¹³ Official comments from Azerbaijan highlighted the fact that the resolution passed narrowly and was adopted as a result of a '*fabricated lobbying campaign*' conducted by pro-Armenian groups in the EU. Azerbaijan suspended its participation in the Euronest, a parliamentary

⁹ Joint Declaration of the Eastern Partnership Summit (Riga, 21-22 May 2015), Mutual interests Summit participants reaffirm the sovereign right of each partner to freely choose the level of ambition and the goals to which it aspires in its relations with the European Union.

¹⁰ 'Azerbaijan and the EU: a Policy Dilemma', Institute for Reporters' Freedom and Safety, September 2013, www.irfs.org.

¹¹ Gerald Knaus, 'Europe and Azerbaijan: the end of Shame', *Journal of Democracy*, vol. 26, no 3, July 2015.

¹² The EP Resolution calls on "*the EU authorities to conduct a thorough investigation into the corruption al-legations against President Aliyev and members of his family revealed by the work of the investigative journalist Khadija Ismaylova*".

¹³ European Parliament attitude towards Azerbaijan is a 'threat' says MP, EUREPORTER, 22/09/2015. <https://www.eureporter.co/world/2015/09/22/euro-pean-parliament-attitude-towards-azerbaijan-is-a-threat-says-mp/>

assembly-type structure between the European Parliament and the Eastern Partnership countries.¹⁴ The general feeling within Azerbaijan-based civil society representatives is that the EU could not help but say that something is wrong in Azerbaijan and advised the leadership of the country to change the course. Also, there was a coming to terms with the fact that the EU cannot defend the human rights defenders in Azerbaijan.

THE NAGORNO-KARABAKH CONFLICT, HUMAN RIGHT AND THE HYDROCARBON REVENUES

Energy can hardly give any political leverage either to the EU or Azerbaijan in their bilateral relations. Hydrocarbons revenues generated by the Azerbaijani exports impact regional security. Azerbaijan's military spending curtails confidence-building efforts in the settlement of the Karabakh conflict. The close energy partnership between Turkey and Azerbaijan created an inter-dependency relation that already includes a conditionality expressed by Turkish political support to Azerbaijan in the dispute over Karabakh.

Independently from its energy dialogue with Azerbaijan, the EU can try to pay more attention to the complex linkages between human rights, democracy and the Nagorno-Karabakh conflict. This protracted conflict can be an obstacle for democratization. The rhetoric of being at war can help to justify an authoritarian drive. Moreover, the Karabakh issue is a national priority both for the government and society. Furthermore, the incapacity of the international organization and of the EU to help settle the Nagorno-Karabakh conflict limits the outreach of the EU-promoted human rights culture. As Leila Alieva highlights, the position of the EU on the Karabakh conflict is perceived as unbalanced. The level of support expressed for the territorial integrity of Georgia and Ukraine is much higher than in the case of Azerbaijan.¹⁵ The activism of pro-Armenian lobbying groups at the European level triggers in return a defensive reaction from the Azerbaijani leadership and the society at large against actions that seem biased.¹⁶

A very large part of the revenues of the State Oil Fund are transferred to the state budget. A part of the non-budgetized revenue is spent on the improvement of the social conditions of refugees and internally displaced persons as a result of the Nagorno-Karabakh conflict, whose number reached 1 million according to Azerbaijan official statistics. This allocation amounted to 382.5 million USD in 2013, and decreased to 143 million USD in 2015, as 951.7 million USD were spent for the Southern Gas Corridor.

According to SIPRI, military spending in Azerbaijan registered the second-largest increase in the world over the previous ten years, as Azerbaijan started exporting its crude via the BTC pipeline. The country increased its defence spending tenfold between 2005 and 2009, and as of 2009 was spending nearly 2 billion dollars annually on defence. Azerbaijan accounted for 13% of all of Europe's arms imports over five years (2010-2014), behind only the United Kingdom. Azerbaijan imported 249% more arms in 2010-2014 than it did in 2005-2009.¹⁷ Military expenditure (%of GDP) in Azerbaijan was last measured at 4.76 (US \$3.8 billion) in 2014, according to the World Bank.¹⁸ The Minister of Finance of Azerbaijan, Samir Sharifov, justified the military build-up, saying '*Azerbaijan's armed forces need better equipment as Armenia continues its occupation policy in defiance of international law*'. He also announced that in 2015 the defence budget would increase again by 27% to 4.8 billion, exceeding Armenia's total budget.¹⁹

¹⁴ President Aliyev: European Parliament's resolution - piece of paper for Azerbaijan, 15.09.2015, tREND NEWS AGENCY. <http://en.trend.az/azerbaijan/politics/2433717.html>

¹⁵ Leila Alieva, The Eastern Partnership, the View from Azerbaijan, 19 May 2015.

http://www.ecfr.eu/article/commentary_azerbaijan3023

¹⁶ <http://www.eafjd.eu/eafjd-letter-to-european-council-president-d-tusk-on-eu-azerbaijan-cooperation.html>

¹⁷ SIPRI Factsheet, Trends in International Arms Transfers, March 2015 <http://books.sipri.org/files/FS/SIPRIFS1503.pdf>

¹⁸ <http://data.worldbank.org/indicator/MS.MIL.XPND.GD.ZS/countries/AZ?display=graph>

¹⁹ <http://www.silkroadreporters.com/2014/11/25/azerbaijan-defense-spending-hits-4-8-billion/#sthash.7ZtagZPc.dpuf>

Is Azerbaijan preparing for war against Armenia? Azerbaijan has a very clear interest in the preservation of stability. A new war between Armenia and Azerbaijan will seriously jeopardize international energy deals and national energy projects. The military build-up and the modernization of the armed forces and defence apparatus is part of the nation-building process and strengthening of the national sovereignty by enhancing its bargaining position. The defence expenditures obviously constitute a severe burden on the national budget and have a very negative impact on human development, since high defence spending diverts resources that could have been channelled for diversification of the economy and social wellbeing. Monitoring mechanisms for the hydrocarbons revenues indeed exist. The local expert community involved in the Extractive Industry Transparency Initiative (EITI) activities perceived a deterioration since 2009 in the dialogue they have with national authorities.²⁰ The governmental structures were more receptive to technical expertise and advice.

The rhetoric of being at war provides the grounds for authoritarian policymaking and works against transparency and accountability. The worsening of the economic and social conditions as a result of the production decrease in hydrocarbons revenues can dangerously lead to a popular irredentism for the lost territories in the Nagorno-Karabakh conflict. Furthermore, Azerbaijan highlights in its public diplomacy effort and political messaging the increasing asymmetry in the power balance between Azerbaijan and Armenia. These messages in the context of a very poorly monitored ceasefire regime and highly unstable zone of contact increase the sense of security and the feeling of being strangled in Nagorno-Karabakh and Armenia.²¹

CONCLUSIONS AND RECOMMENDATIONS

1. Decoupling between energy relations and human rights promotion

The EU-Azerbaijan energy relations are interest-based. The dependency narrative is unfounded. Azerbaijani relations are important though not vital for the EU energy security. Azerbaijan has become an independent actor in the field of energy and is further developing its capacity through a close partnership with Turkey. Energy should not be considered as a political leverage in the bilateral relations, and if considered can hardly be an effective one.

The EU should strengthen the market component in its energy dialogue with Azerbaijan in order to contribute on one hand to its own energy security and on the other support the economic transformation within Azerbaijan.

2. Considering the Turkish-Azerbaijani energy partnership in the context of regional security

Energy relations between Azerbaijan and Turkey set a close relationship that verges increasingly towards interdependence. The ongoing crisis with Russia has made gas supplies from Azerbaijan all the more important for Turkey. Azerbaijan capitalized on Turkey's geographical location to access outer markets. This relationship is, however, interacting with the dynamics of the Karabakh conflict since it has been based on the conditionality of Turkey's support to Azerbaijan in the dispute. Both countries have an interest in security and stability in the region, which is the main requirement for the further development of the energy partnership.

3. Support for the gradual development of a human rights culture

The Strategic Partnership agreement proposed by Azerbaijan can provide the grounds for a constructive engagement and for support to the gradual development of a human rights culture. In this regard it is important to:

²⁰ Azerbaijan joined the Extractive Industry Transparency Initiative (EITI), a voluntary initiative, supported by a coalition of companies, governments, investors and civil society organisations, in 2003 and volunteered to become a pilot country in the implementation of the initiative.

²¹ <https://en.eadaily.com/news/2015/10/26/aliyev-and-sargsyan-may-play-the-karabakh-card-inter-view-with-tom-de-waal>

- Avoid that the promotion of a human right and democracy culture be perceived as a struggle with a perceived political finality, a fight for institutional or regime change;
- Reconcile respect for sovereignty and human rights culture: the 1975 Helsinki Act, which reconciled recognition of borders, sovereignty and opened a pathway for the pro-motion of a human rights culture can be seen as a source of inspiration;
- To develop ways of tackling the Karabakh conflict in the context of human rights;
- In a context when the EU's image has been tarnished by its mishandling of the refugee crisis, to promote and defend the universality and indivisibility of all human rights also at home.

4. A long-term approach through engagement at the societal level

The continuation of the political dialogue re-mains important since it paves the way for enhanced societal interactions by:

- Focusing more specifically on youth and further developing the student exchange programs: The Azerbaijani leadership is also prioritizing youth. A part of the revenues of the State Oil Fund is allocated to the '*State Programme on the Education of the Azerbaijani Youth abroad*'. It should be of relevance to think jointly on how to prevent youth from feeling alienated once back home by supporting the integration mechanisms and interaction with decision-making structures;
- To establish an EU-Azerbaijan partnership for technical and societal development by focusing on vocational training and skills development programs and look at ways to channel funds to civil society;
- The EU should better communicate the pragmatic nature of its engagement with Azerbaijan;
- To continue working on the visa facilitation program.

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