



# CRUDE ACCOUNTABILITY

## Comments to the EBRD Draft Azerbaijan Country Strategy

28 March, 2019

Crude Accountability and The Center for Economic Research (Azerbaijan) are pleased to submit comments on the Draft Azerbaijan Country Strategy, as part of the civil society consultative process on the Azerbaijan Country Strategy Review Process. We congratulate the EBRD on integrating critical issues such as greening and diversification of the economy, and for presenting a sober political assessment which highlights the challenges and risks of working within such a repressive government framework. At the same time, we would like to underscore key gaps in the analyses, and issues that need to be strengthened to ensure investments in Azerbaijan lead to positive outcomes related to the Article 1 mandate.

### Oil and Gas

We welcome the EBRD's commitment to diversification of the economy, but believe that movement away from the entire hydrocarbon sector, and not just oil, is needed to diversify the economy in any meaningful way. In 2018, the oil and gas sector contributed 41.5 percent to Azerbaijan's GDP. As natural gas prices continue to increase, diversification from natural gas is critical for the Azerbaijani economy.

In 2018, oil production levels remained the same as in the previous year, but commodity gas rose by 5.8% compared to 2017. According to projections over the next 4 years of implementation of the new country strategy, natural gas output will increase rapidly due to development of Shah Deniz 2.<sup>1</sup> Azerbaijan's gas output in the 2020s will comprise (i)

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<sup>1</sup>Let's not exaggerate: Southern Gas Corridor prospects to 2030, page 4.

<https://www.oxfordenergy.org/wpcms/wp-content/uploads/2018/07/Lets-not-exaggerate-Southern-Gas-Corridor-prospects-to-2030-NG-135.pdf>

production from Shah Deniz stages I and II; (ii) production from current and prospective PSAs; and (iii) production from fields wholly or mainly owned by SOCAR.

Further, movement away from natural gas development and transportation, as well as oil, is critical for the greening of the economy, and to meet Azerbaijan's Paris Agreement commitments. It is an enormous misconception that natural gas is a clean energy source. Natural gas can be considered a 'cleaner' fuel only when it is burned, and does not leak from the source or distribution systems. [Methane](#), which makes up 95% of natural gas, is 34 times more potent than CO<sub>2</sub> over a 100-year period, and 86 times stronger than CO<sub>2</sub> in trapping heat over 20 years. If natural gas leakage amounts to even 3%, it is the same with respect to GHG emissions as burning coal. While fugitive methane is difficult to calculate, in 2009 the US Environmental Protection Agency reported nation [leakage](#) from extraction and transportation to be at 2.4%. And this is in the US, with relatively accountable and efficient systems. In Azerbaijan, where corruption reigns and fossil fuel production fails international accountability standards such as EITI, one can only guess what the fugitive methane levels may be. Azerbaijani natural gas is not clean, and the EBRD should not invest in natural gas, but instead use its resources to develop renewable energy sources in the country.

**Recommendation: The EBRD should commit to diversification not only from the oil sector, but from the entire hydrocarbon sector, including natural gas and all hydrocarbon service related sectors.**

## **Political**

Overall, the political assessment annexed to the Draft Country Strategy presents a realistic image of the governance situation in the country, and we commend the EBRD for this analysis. However, several issues are missing. Before highlighting the gaps in the political assessment, however, we are deeply concerned about the methodology for the inclusion of the political assessment in the County Strategy.

The Country Strategy focuses primary on economic directives, and includes economic benchmarks by which to measure progress. Unfortunately, the political assessment does not appear to be integrated in any meaningful way into the actual Draft Country Strategy. We strongly urge the Bank to use the political assessment in Annex 1 of the Draft Country Strategy to establish political benchmarks to track progress and calibrate investments. Without a meaningful role in the country strategy, the political assessment is a futile exercise that does not impact in any way the mandate established by Article 1.

**Recommendation: The EBRD should adopt political, as well as economic indicators to be included in new Azerbaijan Country Strategy.**

## 1. Independence of the Judiciary

The political assessment must highlight the grave situation with the judiciary, which lacks any independence. In 2017, the Azerbaijani authorities began to systematically eliminate the independent legal profession as an institution. According to the 2017 Azerbaijan Country report of the US Department of State, judges do not function independently of the executive branch despite the constitutional provision for an independent judiciary. The report states that many verdicts frequently appeared predetermined and allegations of torture often go uninvestigated.<sup>2</sup> In 2018, a law was adopted that would disbar over 90% of practicing lawyers in Azerbaijan, leaving an estimated 934 government approved attorneys for the country's 10 million people.<sup>3</sup> This ratio is 18 times lower than the European average, and by far the lowest of any Council of Europe member.<sup>4</sup> Until this law came into effect, registered lawyers who had not passed the bar, which is a highly politicized and corrupt process, were entitled to represent clients in all non-criminal courts.<sup>5</sup> Currently, disbarred lawyers cannot advocate in court. This has presented major problems for human rights defenders, who rely on independent lawyers for defense.

The lack of independence of the judiciary has led to a severe problem of political prisoners in the country. While President Aliyev pardoned 51 political prisoners in March 2019, Amnesty International claims that at least 74 more unjustly jailed activists, journalists and opposition figures remain behind bars<sup>6</sup>. The pardon does little to change the atmosphere of repression and attacks on independent civil society in the country, and prisons are often seen as revolving doors that are dependent on international pressure and multilateral negotiations.

**Recommendation: Independence of the Judiciary should be included as a risk to the strategy implementation, and should be assessed and included accordingly with benchmarks for investment priorities.**

## 2. Corruption

Secondly, the levels of corruption in Azerbaijan across all levels of government must be carefully noted and assessed when considering a strategy for investment in the country. Transparency International ranks Azerbaijan 152 out of 180 most corrupt countries in the

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<sup>2</sup> <https://www.state.gov/documents/organization/277385.pdf>

<sup>3</sup> <https://freedomhouse.org/report/nations-transit/2018/azerbaijan>

<sup>4</sup> Azerbaijan Moves to Drastically Cut Number of Lawyers, Mike Runey, Eurasianet, 7 November 2017, <https://eurasianet.org/azerbaijanmoves-to-drastically-cut-number-of-lawyers>

<sup>5</sup> Azerbaijan Moves to Drastically Cut Number of Lawyers, Mike Runey, Eurasianet, 7 November 2017, <https://eurasianet.org/azerbaijanmoves-to-drastically-cut-number-of-lawyers>

<sup>6</sup> <https://eurasianet.org/azerbaijan-releases-more-than-50-political-prisoners>

world.<sup>7</sup> The Azerbaijani Laundromat, exposed by OCCRP in 2017, revealed a scheme that implicated many European politicians and laundered \$2.9 billion over two years through European financial institutions.

It is also important to note that while Azerbaijan established its national Extractive Industries Transparency Commission following suspension from EITI, it falls gravely short of EITI standards. The national EITC engages only with civil society organizations that have obtained registration. Severe restrictions on freedom of association is exactly why, however, the country was suspended from the international EITI, a global standard for revenue transparency. Independent civil society critical of the government cannot obtain registration, and thus cannot independently monitor revenue transparency in Azerbaijan via the EITC.

Further, it is deeply concerning that the EBRD chose to include the appointment of the first lady as the first vice-president as an indicator of progress on gender issues, instead of a bright red flag of corruption. The 2016 Constitutional referendum consolidated power in the hands of the President, and created the new post of First Vice President, to which he appointed his wife, Mehriban Aliyeva in February 2017. This is not an indicator of gender inclusiveness in politics. This is a blatant demonstration of nepotism and corruption, in an effort to consolidate power even further. This disregard for the rule of law and democracy should be recorded as a warning and an attack on the principles enshrined in Article 1 of the bank, instead of as a gender issue.

**Recommendation: Corruption is a real threat to investor confidence and must be included as a risk to strategy implementation.**

### 3. Multilateral Organizations

We are concerned that the Draft Country Strategy indicates that cooperation by Azerbaijan with relevant international organizations has increased. Despite superficial engagement with some institutions, Azerbaijan has actually been suspended and downgraded from two important organizations for failure to cooperate. On March 10, 2017, the Government of Azerbaijan withdrew from EITI after failing to meet the institution's criteria for engagement.<sup>8</sup> Withdrawing from EITI instead of working to address shortcomings and gaps in implementation demonstrated a lack of commitment to multilateralism and respect for international norms and standards.

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<sup>7</sup> <https://www.transparency.org/country/AZE#>

<sup>8</sup> <https://eiti.org/document/azerbaijans-notice-of-withdrawal>

In June 2017, the Open Government Partnership extended Azerbaijan’s inactive status for a period of one year, due to “unresolved constraints on the operating environment for NGOs.”<sup>9</sup> After Azerbaijan failed to meet a set of recommendations to address its commitments to the multilateral organization, the OGP Steering Committee further extended Azerbaijan’s inactive status in December 2018. Continued failure to achieve certain implementation benchmarks will result in permanent suspension of Azerbaijan from OGP.<sup>10</sup>

**Recommendation: Both the Azerbaijan Country Strategy and the Annex on Political Assessment should include Azerbaijan’s demonstrated lack of commitment to multilateralism, as well as governance related conclusions from EITI and OGP into its political benchmarking.**

### **Greening the Economy**

We are pleased that the EBRD chooses to support “Green Economy Transition and Regional Connectivity” as a main priority of the new Country Strategy. Azerbaijan is party to the UNFCCC and submitted its first Nationally Determined Contribution (NDC) plan in January 2017. The NDC states that “... as a developing country Azerbaijan has already provided its contribution to the global efforts to cope with climate change and has chosen its development direction towards low emission development that requires more financial resources.” Despite this, the Azerbaijani economy is heavily dependent on oil and gas, and the current government has not demonstrated real interest in diversifying away from hydrocarbons into the renewable energy portfolio. In fact, in January 2019, President Aliyev ordered the liquidation of the State Agency for Alternative and Renewable Energy Sources. Further, in managing the hydrocarbons sector, Azerbaijan does not appear to have norms and standards governing pollution. The EU report “Air Quality Governance in the ENPI East Countries National Pilot Project – Azerbaijan” states that “... the most striking feature of Azerbaijani law is the lack of clearly defined: (1) standards for ambient levels, (2) modern (i.e., European) norms for the discharge amounts and concentrations of pollutants from enterprises, (3) regulations to control mobile source air pollution and (4) clearly defined measurement standards for ambient and discharge monitoring.”<sup>11</sup> This, combined with the methane leakage involved with natural gas development described above, makes investments in anything but green renewable energy dangerous for the people and environment of Azerbaijan.

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<sup>9</sup> Azerbaijan to Maintain its Inactive Status in the Open Government Partnership, Open Government Partnership, 29 June 2017, <https://www.opengovpartnership.org/about/news-and-events/azerbaijan-maintain-its-inactive-statusopen-government-partnership>

<sup>10</sup> Azerbaijan Suspension Extended; Bosnia and Herzegovina and Trinidad and Tobago Designated Inactive in OGP, Open Government Partnership, 11 December 2018, <https://www.opengovpartnership.org/about/news-and-events/azerbaijan-suspension-extended-bosnia-and-herzegovinaand-trinidad-and-tobago>

<sup>11</sup> <https://europa.eu/capacity4dev/file/22147/download?token=DzJUlvLE>

Without the necessary legislation for pollution, and the liquidation of the national body for alternative energy, Azerbaijan has demonstrated no interest in mitigating climate change and transitioning to a green economy. In this political climate, the EBRD cannot support the hydrocarbon sector and associated sectors, and instead should focus only on renewable energy.

**Recommendation: In greening the economy, EBRD should focus solely on green renewable energy sources such as solar and wind, and refrain from investing in any natural gas or natural gas related sectors.**

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