

Policy Brief

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November 2012

The Real Cost of Turkmenistan's Hydrocarbons

- ▶ The EU has much to lose by normalising relations with Turkmenistan without first seeing key reforms;
- ▶ A policy of 'no-strings cooperation' with Ashgabat will lead to further entrenched authoritarianism as has happened in neighbouring Azerbaijan;
- ▶ A comprehensive foreign policy, led by the European External Action Service, will allow the EU to pursue a full range of strategic objectives, including normative transformation;
- ▶ EU energy diversification policy needs to be re-examined at the level of its strategic assumptions about the reliability, and viability of alternatives to Russian exports.

Introduction

The European Union is set to ratify a Partnership and Cooperation Agreement (PCA) with Turkmenistan, one of the most authoritarian countries in the world ranked on a par with North Korea. Ratification of the agreement, the basic contractual framework with third countries, would normalise relations after a 10-year freeze due to human rights concerns. The background to the EU's willingness to engage Turkmenistan is an interest in the country's vast energy resources and the push to achieve energy security through diversifying supply and reducing dependence on Russia.

Until now, the European Parliament has resisted giving its assent to the agreement despite pressure from the European Commission (Directorate General for Energy) and the European External Action Service (EEAS). The parliament's criteria for approval: basic reforms in five areas, including access to prisons, release of political prisoners and the registration of independent civil society organisations.ⁱ

With the ink barely dry on an ambitious Strategic Framework on Human Rights and Democracyⁱⁱ and following the EU's *mea culpa* to democratic actors in the Arab world, parliament is set to vote for the PCA as part of a deal with the EEAS, in exchange for rights to 'monitor' the PCA's implementation. There is a stunning disconnect in the debate both at the level of policy coherence and strategy. The EU's energy negotiations with Turkmenistan and neighbouring Azerbaijan or the ongoing commercial negotiations in the Caspian involving European companies are not formally dependent on signing the Agreement. It is also becoming increasingly clear that the project premised on obtaining Turkmenistan's gas, the Nabucco pipeline, will not reach fruition in the form originally proposed.

This policy brief addresses the problem of pursuing EU interests and values as mutually exclusive objectives. It examines the EU's current energy-based foreign policy towards the region, and argues that for the EU to remain a credible actor on its strategic and its normative agenda, it needs to develop redlines and objectives on human rights, even with hydrocarbon-rich partners like Turkmenistan.

Engaging Authoritarians without Conditions

Turkmenistan, home to the world's fifth largest gas reserves, is a desert country of five million people on the shores of the Caspian. It has been subject to successive one-man rules since independence in 1991. Even when compared with its poorly performing Central Asian neighbours its repressive political record stands out. It ranks alongside North Korea on issues ranging from press freedom to democracy.ⁱⁱⁱ All newspapers are state-owned and ICT communication is heavily monitored.^{iv} The country has no registered independent NGOs and individuals who speak out are persecuted. Prisoners disappear following closed and unfair trials^v into an opaque and medieval detention system to which not even the International Committee of the Red Cross has access. Numerous prisoners are held on politically-motivated grounds. Political detainees include the former foreign minister Boris Shikhmuradov, whose whereabouts are unknown; and prisoners of conscience include Sapardurdy Khadjiev and Annakurban Amanklychev, two journalists imprisoned after they set up meetings in the country for a visiting France 2 Television crew. Their co-defendant Ogulsapar Muradova, died in detention, purportedly a victim of torture.^{vi}

The education system, effectively dismantled under the former president, remains unreformed despite promises to bring it formally in line with international standards. Students are prevented from studying abroad and the *Rubnama*, a book by the former president, remains a core teaching text. An unofficial blacklist prevents citizens from leaving the country. The health care system is so corrupt that citizens who can afford it go to Iran for treatment. Médecins Sans Frontières (MSF), one of the few international NGOs allowed to work in the country, left after being hampered in its work and witnessing statistics being falsified “through systematic denial and manipulation; a system of smoke and mirrors reinforced by fear”.^{vii}

Normalising relations with a country like Turkmenistan poses specific problems for the EU, as a community founded on its commitment to rules and values. Despite wording in the PCA preamble to the effect, it is not clear that the authorities in Turkmenistan share common values with the EU. Article 2 (the Human Rights Clause) states:

“[r]espect for democratic principles and fundamental and human rights as defined in particular in the UDHR, the UN Charter, The Helsinki Final Act and the Charter of Paris for a New Europe...underpin the internal and external policies of the Parties and constitute an essential element of this Agreement”.

Since Turkmenistan today does not meet Article 2 criteria, technically speaking this would require the EU to suspend it immediately under Article 94 of the agreement pending urgently needed reforms to Turkmenistan's basic laws.^{viii}

The geopolitics of energy security is the lens through which the EU sees the Caspian to the detriment of all else. Human rights, good governance and the rule of law is the first listed priority in the EU's Central Asia Strategy, yet the EU is willing to go further in its relations with Turkmenistan than with a country like Belarus. The approach is also inconsistent with the EU's neighbourhood policy framework put in place to reward reforms with closer relations, as well as more explicitly values-based assumptions in the posture of many EU actors towards Russia. The EU's insistence on “more for more”, barely reflected by its relationship with Azerbaijan, does not reach across the shores of the Caspian.

The debates around the agreement reveal the extent to which the EU is not a unitary actor in foreign policy. The European Parliament has held off from signing the PCA despite pressure from the EEAS to do so, citing basic reforms required in five areas: allowing the International Committee of the Red Cross to work freely in Turkmenistan; releasing all political prisoners and prisoners of conscience; abolishing governmental impediments to travel abroad (the blacklist);

allowing the functioning of independent civil society; and permitting the UN human rights bodies to operate freely in the country to monitor such progress. The Parliament's hitherto principled position upholds Article 2, and has also bolstered EU leverage, given that once the EU ratifies PCAs they are rarely, if ever, suspended.^{ix}

Parliament needs to stick to this position. To reverse it would undermine not only its own legal and political power to block agreements on human rights grounds, but also expose the extent to which energy security concerns are driving EU foreign policy, despite the recently reaffirmed commitment to the strategic value of human rights under the EU's Strategic Framework on Human Rights and Democracy.

'Away from Russia' - The Quest for Reliable Partners

The Russia factor remains a significant driver of the EU's strategy towards Turkmenistan and other hydrocarbon rich countries in the Caspian – notably Kazakhstan and Azerbaijan. The EU has a legitimate interest in diversifying away from dependence on Russian gas. An unreliable partner on political and commercial grounds, Moscow has a tendency to wield its 'energy foreign policy' stick, exhibits a poor record on human rights, rule of law and corruption, and chronically under invests in its energy sector. Yet this should not lead the EU into closer relationships with countries whose records on rights, rule of law and corruption are worse than Russia's.

There is a direct correlation between poor human rights records and political and commercial risk. As a totalitarian state answering to the whim of one man, with a bureaucracy characterised by frequent ministerial changes, arbitrary decision-making and institutionalised corruption, Turkmenistan is a poor partner for the European Union in both theory and practice. It is unclear that swapping Gazprom for the idiosyncratic foreign policy of Turkmenistan and its stultified state energy company makes sense in the longer term, either commercially or strategically.

This will also challenge EU diplomacy further down the line. How can it defend its strategic interest in the rule of law – as integral to the EU's core human rights concerns as it is to EU commercial and business interests – if it has accepted different rules as a *carte blanche* condition of its entry into those markets? At the diplomatic level, we have already seen how the EU's desire for Turkmen gas led to the endorsement of authoritarianism. For example, when then External Relations Commissioner Ferrero-Waldner went to the European Parliament in March 2009 to defend Turkmenistan's progress in order to back the rationale for an agreement.^x This effectively did the job of the Turkmen Mission to the EU, with her testimony to progress bearing little relation to the situation on the ground.

On the commercial side, as leading European companies have found to their cost, from Russia to Kazakhstan to Azerbaijan, political and economic risk are very much interlinked in the Former Soviet Union.^{xi} Such risk is only likely to be intensified in Turkmenistan's comparatively closed commercial terrain. Retaining the higher ground on rights and rule of law issues in political negotiations makes good political and commercial sense further down the line.

Does Energy Engagement Lead to Transfer of Norms?

Defenders of signing the PCA with Turkmenistan insist that diplomatic and commercial engagement without conditions will prompt further reforms. Yet an overview of EU engagement with hydrocarbon states on its Southern and Eastern borders suggests otherwise. In Libya, Algeria and neighbouring Azerbaijan the pattern has rather been to bolster the status quo. It is also unclear that there are mechanisms in place by which European commercial engagement can prompt reforms in these countries. The mid-1990s oil contracts signed by Western IOCs with Azerbaijan and dubbed "the contract of the century", followed by gas finds at Shah Deniz and other fields

have hampered effective and consistent EU diplomacy on issues of human rights by tying its foreign policy to energy security. All the while, the country's authoritarianism has entrenched as the participation of international actors in resource extraction, legitimises, or at the very least, funds the status quo.^{xiii}

Across the Caspian, Turkmenistan operates at a level of opacity unparalleled in the region. The state reportedly earns millions per day from its gas, US\$3 billion of which was infamously held offshore in a Deutsche Bank account. Money continues to be controlled by the Agency for Hydrocarbon Resources under the presumed leadership (and ownership) of the President.^{xiii} Turkmenistan's gas reserves fuel an energy-based rents system that is controlled by elites and security services. As with Azerbaijan, where an undiversified, energy-dependent economy benefited from the variety of interested players, the wider the range of competing bidders for Turkmenistan's energy resources the stronger the hand of the government and the less incentive to reform.

In this scenario, without clearly pre-defined red lines, the EU could find itself a diplomatic hostage to its interests in the country; leveraged by, rather than gaining leverage through, its engagement. In Turkmenistan, as elsewhere, the EU needs to set out clearer expectations together with its strategic objectives if its partnerships are to become fruitful investments. Benchmarking the relationship through concrete steps undertaken by both partners is a start, but such benchmarks need to be closely monitored by the EU, its expert community and local civil society actors.

Lessons from Nabucco: Dangers of an Energy-Driven Foreign Policy

The PCA is largely a diplomatic sideshow to discussions that are taking place elsewhere. These are energy negotiations relating to ambitious geo-strategic projects, of which Nabucco, backed by Germany's RWE energy company, together with Austria's OMV, Turkey's BOTAS and leading Hungarian, Bulgarian and Romanian stakeholders, has been the main standard-bearer. Discussions over the EU's 'Southern Energy Corridor' have mostly taken place between EU energy officials and the government in Baku, but the real decisions are made principally in the boardrooms of leading European energy companies.

The European Commission has backtracked from its early diplomatic backing of Nabucco following complaints by other European-backed competing consortia and due to the political and commercial challenges to the Nabucco project. Successive visits by European Commissioners Ferrero-Waldner and Oettinger, and President Barroso have been taken as a promotion of Turkmenistan to partner status with no conditions attached. In addition to MoUs on energy this approach culminated in an Intergovernmental Agreement with Azerbaijan and Turkmenistan in September 2011 on a Transcaspian Pipeline. The EU's success in getting the broad agreement obscures the fact that Turkmenistan remains non-committal, Turkmen-Azerbaijani relations remain fractious and so a Nabucco-like project routed across the Caspian from Turkmenistan would seem a less likely prospect in the face of Russian and Iranian opposition than a pipeline involving other potential gas exporters.^{xiv}

A narrow energy-driven agenda risks leading the EU into blind alleys, while broader strategic opportunities are being missed elsewhere. For example, Iraq, currently engaged in democratic institution-building (in which EU member states have invested) and with a relatively open-door policy, might well be a safer bet and better fit for a strategic and long-term EU energy diversification policy. Yet, for now, EU diplomacy still centres on Turkmenistan as a significant option, despite serious doubts about its viability. And while the EU has been pursuing this policy it has not been talking about human rights and rule of law improvements in Turkmenistan, let alone setting out a vision of how its values may be part of a longer-term relationship with the country.

At the macro-level a thirst for energy has led the EU into a high-stakes geopolitical game. It has staked its legitimate interest in energy diversification on courting an aloof, unreliable and unsuitable partner and on a commercial project which was always politically and commercially in question.^{xv}

The EU is in danger of undermining the strengths of the more comprehensive (and strategic) approach to policy-making it has undertaken in its enlargement and neighbourhood policy. As the world becomes increasingly multi-vector, a union operating as a community of laws founded on norms and values has a strategic interest in pursuing its values agenda *alongside* its commercial interests. With the EU still recovering from evidence of double-standards following the Arab Spring, pursuing a foreign policy in the Caspian premised only on narrow interest and government-to-government contacts makes the EU vulnerable to similar charges. In the Turkmen case the price of the promised cooperation has already been high: it has meant the EU has stayed silent on continuing repression, whilst its willingness to engage without conditions leaves the EU open to the charge that it will sacrifice its normative agenda for an energy fix.

Conclusion and Recommendations

This policy paper highlights the extent to which an energy diversification strategy premised on a partnership with Turkmenistan is a non-strategic option for the EU. A re-examination is needed of the assumptions driving its 'away from Russia' logic on which many of its energy security debates (particularly in the European Parliament) are hinged. In the case of Turkmenistan, it is time to end the grand illusion that the PCA will unlock the country for EU energy companies and deliver European energy security. Whilst the PCA is an opportunity for the EU to re-establish a broader framework for action, it should not be given away cheaply.

At the same time, the agreement's high symbolic value means the EU has more to lose in credibility as well as on policy coherence than it has to gain in practice by going ahead at this time. The EEAS and the European Parliament need clearer signals that Turkmenistan is willing to become a more meaningful partner for the EU and European companies, including on human rights and rule of law principles.

Over the medium term a debate is needed about whether it is in the EU's *interests* to engage countries like Turkmenistan without conditions being spelled out in the sphere of human rights, rule of law and good governance. Such discussion will require the EEAS to have a clear lead on strategic issues relating to energy and trade policy and also to the EU's values agenda. Such policy development will need an acceptance that human rights are firmly part of the EU's strategic policy mix rather than mere public diplomacy rhetoric. The recent development of the EU's Strategic Framework on Human Rights is a first positive step in this direction. In the meantime, the EU needs to speak out consistently and more often about rights abuses and basic expectations in Turkmenistan. Not doing so, and continuing to court its leadership unconditionally, sends the signal that once again double-standards are operating when it comes to EU policy on human rights in resource-rich countries, and that what the EU commits to on paper bears no relation to practice. As the Arab Spring demonstrated, the strategic risk of the EU of losing its normative added-value in its relations with third countries should not be underestimated.

RECOMMENDATIONS

To the European Parliament:

- ▶ send a clear signal that the EU will not engage Turkmenistan without conditions, by withholding its ratification of the PCA and restating publicly the key steps to be taken by the government;
- ▶ revisit the debate about EU relations with hydrocarbon states, and the relationship between normative position-taking and strategic interests at the country level as well as at the level of EU energy and human rights policy coherence;
- ▶ address issues of policy incoherence in the EU's relations with countries in its Eastern neighbourhood, particularly its approaches to Russia and Central Asia and the assumptions driving them.

To the European External Action Service:

- ▶ restate publicly, along with the above, the key steps to be taken by the government of Turkmenistan as a pre-requisite to forging a deeper bilateral relationship;
- ▶ call for the immediate and unconditional release of political prisoners incarcerated under the former president including as a priority human rights activists Sapurdurdy Khadjiev and Annakurban Amanklychev, as well as dissident Gulgedy Annaniyazov, as a first step and gesture of goodwill.

ⁱ The benchmarks include those set by the European Parliament in October 2006, reiterated in February 2008 and April 2009: Allow the International Committee of the Red Cross to work freely in Turkmenistan; release all political prisoners and prisoners of conscience; abolish governmental impediments to travel abroad; allow free access of independent NGOs and permit the UN human rights bodies to operate freely in the country to monitor such progress.

ⁱⁱ EU Strategic Framework and Action Plan on Human Rights and Democracy, Luxembourg, 25 June 2012. Available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf.

ⁱⁱⁱ See, for example: Reporters Without Borders Press Freedom Index 2011, and Freedom House's Nations In Transit.

^{iv} See, 2012 OSCE Human Dimension Implementation Meeting, written intervention by International Partnership for Human Rights et al, at:

http://www.iphronline.org/uploads/9/0/2/7/9027585/final_eng_turkm_hdim_submission_sept_2012.pdf.

^v Human Rights Watch submission to UN Human Rights Committee, March 2012.

^{vi} <http://news.bbc.co.uk/2/hi/asia-pacific/5346114.stm>.

^{vii} See MSF report, "Turkmenistan's Opaque Health Care System", April 2010.

^{viii} Article 94 of the PCA COM (97) 693 FINAL "if either Party considers that the other Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures".

^{ix} In the case of Uzbekistan there was a partial suspension: technical level meetings were cancelled.

^x See Benita Ferrero-Waldner, Commissaire pour les Relations extérieures et la politique de voisinage, Déclaration de la Commission: Turkménistan – Accord Commercial Intérimaire, Strasbourg, 25 mars 2009.

^{xi} Examples range from the BP-TNK venture in Russia where there were reported visa pressures on oil executives to the recent pressure on BP by the Azerbaijani president over production on its ACG field.

^{xii} See by the same author: "EU relations with Azerbaijan: More for less?", May 2012.

^{xiii} See "The private pocket of Berdymuhkamedov: oil, gas and the law", Crude Accountability.

^{xiv} Iraq has the 6th largest gas reserves in the world and together with oil will also be a substantial energy player.

Notwithstanding its own problems: namely the need to complete domestic electrification first, its post-conflict status and the need to agree a national hydrocarbon law, Iraq's democratic direction and relatively open policy means that it might be a safer bet – as well as a better fit – for a strategic and long-term EU energy diversification policy.

^{xv} Nabucco in its original conception was geopolitically challenged by factors relating to the Caspian littoral agreement, the opposition of Iran and Russia, and tension between Turkmenistan and Azerbaijan over offshore gas fields, as well as Turkmenistan's own attachment to Russia (and now China) through existing agreements. The westward linkage via a Transcaspian Pipeline is being challenged on the grounds of its commercial viability.

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