

Briefing: Ascent Resources' fracking activities in Slovenia

Fracking ISDS claim: Ascent Resources against Slovenia

UK based multinational enterprise Ascent Resources plc, together with its subsidiary in Slovenia, Ascent Resources d.o.o., and its contractor, Geoenergo, d.o.o., is working on hydraulic fracturing, also known as fracking, in a gas field near Petišovci, Slovenia.

Ascent Resources plc is an MNE headquartered in the UK. It is an independent oil and gas exploration and production company, headquartered in London and listed on AIM, whose principal asset is in Slovenia.

Ascent Resources d.o.o. is a fully owned subsidiary of Ascent Resources plc with headquarters in Lendava, Slovenia, and operations in Slovenia. Ascent Resources d.o.o. has a long-term contract on the implementation of joint operations with Geoenergo d.o.o. in the development of the Dolina gas and oil field in Petišovci near Lendava.

Geoenergo, d. o. o. is 50 % owned by Petrol d.d. and 50 % by Nafta Lendava d.o.o. The company is the holder of concession rights for the exploitation of mineral resources, crude oil, natural gas and gas condensate in the area of the Mura Depression.

Fracking is a technique designed to recover gas and oil from shale rock. The procedure is highly controversial from environmental and health perspective, mainly due to its use of a dangerous cocktail of chemicals, some of them carcinogenic, which may leak during drilling and contaminate groundwater and ground around the fracking site. The Petišovci site is located close the protected Natura 2000 and Biosphere Mura sites.

The activities that Ascent Resources plc has carried out in Petišovci in 2011 and plans to expand in the future have potential severe impacts on local environment and human health, but also contribute to global threat of runaway climate change. Ascent Resources plc, together with its subsidiary and contractor, has not taken adequate steps to consider and address potential environmental impacts, such as polluting (drinking) water (30-40% of the injected chemical enriched water will be absorbed at the fracturing level, hence it is not possible to exclude pollution by mixing of chemicals with water in aquifers and other water bodies), contributing to climate change, air pollution, adverse impacts on landscape and ecosystems (particularly in the nearby Natura 2000 and

Mura Biosphere sites), creation of dangerous waste (that is disposed at a site, where critical values of pollutants are significantly exceeded and the Environmental Inspectorate hence had to prohibit the operation of the waste disposal site due to excessive burdening of the environment), inducing seismicity and increasing radioactivity.

As a matter of fact, the impacts of hydraulic fracturing are deemed so hazardous for the environment and human health that some countries have put a full ban on this activity (e.g. Ireland, France and Bulgaria in the EU), while many countries have temporary bans or moratoriums on hydraulic fracturing in place (e.g. the UK and Germany).

Fracking activities in Petišovci happened in 2011 at a testing level, but now an expansion is planned. For the planned expansion, the project needs to obtain an environmental permit before proceeding with the expansion of activities. So far Ascent Resources has not obtained the permit. According to media reports, a police investigation is under way on whether Ascent Resources plc, together with its subsidiary and contractor, tried to influence the Agency for Environment of Republic of Slovenia in order to obtain the necessary permits at the moment. Media also reports that Ascent Resources plc, together with its subsidiary and contractor, created pressures on the Ministry of Environment and Spatial Planning, and Jure Leben, the environmental minister at the time. The minister resisted the pressure for some time, but shortly after the threats, Jure Leben resigned due to accusations of corruption in his previous post, but only after a strong media attack, which – according to media reports – is likely to have been created by the same PR agency that Ascent Resource plc and its subsidiary hired to support its media activities in Slovenia.

According to media reports, Ascent Resources plc was organising an active lobbying campaign from second half of 2018 till beginning of 2019 with the aim of pressuring the Ministry of Environment to complete permitting procedures without complications (without demanding environmental impact assessment and environmental consent) and in the shortest possible time. The lobbying activities were not implemented only by Ascent Resources plc representatives, or representatives of its subsidiary and contractor, but also by representatives of British diplomacy and government. British Daily Mail quoted statements by Ascent Resources plc that 'They received personal guarantees from "senior officials of the Slovenian Environmental Agency" to get permission'.

Because of detected external pressures by Ascent Resources plc on the Agency of Environment, the Minister of Environment at the time, Mr Jure Leben, demanded internal review of the permitting processes. The special commission of the Ministry of the Environment found several irregularities in the procedures for issuing permits that Ascent Resources plc and its subsidiary with contractor requested. The commission found out that the two procedures related to planned gas extraction in Petišovci violated the principles of autonomy and independence of the body and officials. The Commission has highlighted the fact that "foreigners do not find pressures on Slovene officials unacceptable and indisputable and are ready to repeat them". For this reason, the commission proposed an investigation whether in the permitting process for gas processing plant the principle that the investor must provide the best available technology was followed. It also proposed an analysis of the professionalism and competence of persons who produced documentation for device operators and the authorization process itself.

Joško Knez, director of the Environmental Agency at the time, resigned from his position, his resignation being a direct consequence of internal control at the agency's part when granting permits for gas extraction in Petišovci. Due to the pressures and threats inflicted by the project promoters to the Slovenian state authorities within the Ministry of Environment, the competent authorities, including the police, were notified and currently an investigation is ongoing. Minister of Environment was target of heavy threats and needed police protection at the time. Furthermore, media articles

raise allegations that Ascent Resources plc was involved in the media efforts to publicise the corruption affair of the Minister Leben, which led to his resignation from the post of Minister of Environment.

Ascent Resources plc and its subsidiary, Ascent Resources' contractor, Geoenergo, was and still is seeking exemptions on having to undertake environmental impact assessment and obtaining of environmental consent by claiming that hydraulic fracturing activities will not cause impacts on environment. Geoenergo was actively trying to avoid being subjected to regulations on environmental impact assessment and obtaining an environmental consent by renaming its activities from 're-stimulation of wells Pg-10 and Pg-11A with hydraulic fracturing' to 'maintenance of productivity in mineral extraction', claiming that a fracking well cannot be defined as a device according to the Environmental Protection Act, that the activity does not represent a change of intervention, that the activity will not pollute water and that the activity does not represent a significant intervention into environment.

Because of the Ministry's decision to demand environmental impact assessment and environmental consent, Ascent Resources plc threatened 'that if the permits are not forthcoming they will pursue a claim for damages against the Slovenian Government in the courts.' This threat is materialising now, with Ascent Resources officially [serving a notice of dispute](#) to start an investor dispute against Slovenia in a case that could see the country paying out tens of millions of euros in damages, under the controversial Energy Charter Treaty.

On November 8 2021 Ascent Resources announced that it has secured third party funding for its claim against the Republic of Slovenia¹. The company signed a binding damages-based agreement to pursue its claim against Slovenia. They also announce that they have signed a binding damages-based agreement with Enyo Law LLP, an arbitration and litigation legal firm who filed the Notice of Dispute and represented Ascent Resources in the pre-arbitration negotiations, to commence the arbitration proceedings against Slovenia. Enyo Law LLP will only be paid out of the proceeds of the arbitration in the event of a successful damages award or execution of a binding settlement agreement.

List of sources on Ascent Resources' communication about the environmental permit

1. Decision no. 35405-195/2017-34 on need for environmental impact assessment and environmental consent for Ascent Resources to undertake further hydraulic fracturing activities, which was issued by the Ministry of Environment on 8 March 2019. This decision contains relevant information on the project, as well as summarizes the communication between the Ministry of Environment and the company regarding the permitting issues. Available at: <https://www.arso.gov.si/novice/datoteke/040985-t5484457.pdf> (last access on 26 July 2019)

2. Information on planned operations of Geoenergo / Ascent Resources in Petišovci, which clearly indicates that the new operations will be expanded as opposed to the testing activities that were done on the two wells in 2011: 'The two new wells have not only confirmed the further commercial development potential of the field with state-of-the-art data acquisition and stimulation, but have also defined significant additional potential resource. Substantial additional reserves are likely to be confirmed by additional appraisal activity in the remainder of the field complex'. As Ascent Resources

¹ https://polaris.brighterir.com/public/ascent_resources/news/rns_widget/story/xz9d87r

claims that no expansion of operations is planned, this is an important piece of information, showing that Ascent Resources' claims are not true. Available at: <http://www.slovenski-plin.si/recent-operations.html> (last access on 26 July 2019).

3. Ascent Resources' threat to claim damages from Slovenian Government in case of not obtaining a permit for fracking. Ascent CEO Colin Hutchinson is talking about the plans to claim damages from Slovenian Government. He says that if the permits are not forthcoming they will pursue a claim for damages against the Slovenian Government in the courts. Available <https://www.ascentresources.co.uk/2018/12/21/ascent-ceo-colin-hutchinson-to-claim-damages-from-slovenian-government/> (last access on 26 July 2019).

4. Ascent Resources' plans to react to the unfavourable decision of the Ministry of Environment with legal redress. The decision of the Ministry is called 'manifestly wrong decision contrary to EU law' and appeal to the Administrative Court in Slovenia is announced. Ascent Resources also plans to 'submit a claim for damages against the Republic of Slovenia for breach of EU law including for the unreasonably long time it took for the decision to be reached', 'seeking damages for loss of future income from the project which would have been expected to have been a multiple of the historic investment of some €50 million'. Available at <https://www.investegate.co.uk/ascent-resources-plc--ast-/rns/permitting-update/201906140700051797C/> (last access on 26 July 2019)

List of sources on Ascent Resources' improper lobbying of Slovenian authorities

1. Article about success of Ascent Resources' lobby activities. Article explains that the lobbying campaign of the British, who have been trying to obtain gas exploitation permits in Prekmurje for years, resulted in success as the CEO of Ascent Resources, Colin Hutchinson, informs the investors on the London Stock Exchange that "The progress we made in September gives us optimism. I believe we will get an Environmental Permit (IPPC) in a few weeks." Available at: <https://siol.net/posel-danes/novice/lobisticna-akcija-uspela-kmalu-do-spornega-dovoljenja-za-crpanje-plina-v-prekmurju-479827> (last access on 26 July 2019)

2. Articles about UK's and Ascent Resources' lobby activities with Slovene Government for permit for fracking in Petišovci.

- During his visit to Slovenia, British Foreign Minister Jeremy Hunt lobbied for a permit for ecologically controversial gas extraction in Pomurje. While the Environmental Agency is still deciding whether to authorize natural gas extraction in Petišovci, British Foreign Minister Jeremy Hunt visits Slovenia to discuss Ascent Resources' investment with the Slovene Foreign Minister Miro Cerar. Article also explains that for the last two years, the British state has helped Ascent Resources through its embassy in Slovenia. In mid-November 2018, British Ambassador Sophie Honey met with the Minister for the Environment and Spatial Planning, Jure Leben, just a few days after Leben ordered internal control over the operations of the Environmental Agency (Arso) in the planned gas extraction at Petišovci. The meeting with the ambassador ended with elevated tones. Since she was interested in when Arso would issue the permits and what the results of internal controls were, Leben reported this to the Slovenian Commission for the Prevention of Corruption. The British embassy later strongly denied that Sophie Honey would in any way attempt to influence the decision-making of the Slovenian authorities. Available at: <https://siol.net/posel-danes/novice/govoril-o-sovjetskih-vazalih-lobiral-pa-za-fracking-v-pomurju-491369> (last access on 26 July 2019)

- Colin Hutchinson's visit of Primer Minister Miro Cerar in February 2018 is reported, as well as meeting of Ascent Resources with 4 representatives of Ministry of Economy in July 2018. Available at: <https://www.vecer.com/novi-pritiski-zaradi-petisovskega-plina-6605592> (last access on 26 July 2019)

3. Article about suspicions of irregularities in permitting procedures for fracking. In October 2019, Jure Leben, Minister of Environment, introduced internal control of the work of the Environment Agency. A special committee is to examine in more detail the two procedures the agency conducted in connection with the planned gas extraction in Prekmurje. Available at: <https://siol.net/posel-danes/novice/preverjajo-sume-nepravilnosti-pri-dovoljenjih-za-crpanje-plina-v-prekmurju-481573> (last access on 26 July 2019)

4. Ascent Resources' pressures on the Minister of Environment and need for police protection of the Minister of Environment:

- The drama over Petišovci gas extraction permits and the British company Ascent Resources appears to be one of those classic tales of a conflict between one country's sovereign right over its environmental protection standards and the profit-making interests of the international capital, backed by neoclassical economics' arguments on the beneficial effects of any foreign direct investment on the local economies. However, this textbook ideological conflict was given another spin by an army of internet trolls, who sent a series of harassing messages to Slovenian government officials, including the Minister of Environment, which resulted in strengthening the Minister's police protection and an internal investigation into the procedures surrounding the issue of environmental permits by the Ministry's environmental agency (ARSO). With the British Ambassador also involved in lobbying for the British firm, three Slovenian political parties have also demanded that her involvement be investigated. Available at:

<https://www.total-slovenia-news.com/business/2649-ascent-resources-slovenian-fracking-drama-continues> (last access on 26 July 2019)

- More than 30 English emails were sent to the Environmental Agency last month, in which shareholders of English company Ascent Resources are pressuring employees of Environmental Agency to issue an environmental permit for gas extraction in Petišovci. Following the introduction of internal controls, pressures were also directed against Minister Leben, who also received threats through social networks. The Ministry provided all information to law enforcement agencies. Police have launched a criminal investigation and the minister is being protected by police. According to him, officers carry out checks on the house and other family members. A meeting was held at the Ministry of the Environment on 8 August 2018 between representatives of the British-Slovenian Chamber of Commerce, the Director of the Environment Directorate at the Ministry of the Environment, and representatives of Environmental Agency, more specifically employees in charge of the Petišovci case, were invited. The minutes of the meeting do not exist and the meeting was not reported to the Commission for the Prevention of Corruption. Available at:

<https://www.zurnal24.si/slovenija/zaradi-grozenj-varujejo-ministra-za-okolje-319921> (last access on 26 July 2019)

- Environment and Spatial Planning Minister Jure Leben has come under fire from the board of directors and angry shareholders of British company Ascent Resources due to the imposition of extraordinary control over obtaining permits for gas extraction in Petišovci. Available at: <https://siol.net/posel-danes/novice/razjarjeni-vlagatelji-iz-londona-grozijo-slovenskemu-ministru-482169> (last access on 26 July 2019)

- Article about reporting pressures on Agency of Environment to the competent authorities. Available at <https://www.vecер.com/petisovci-prijave-zaradi-pritiskov-na-drzavne-institucije-6608109> (last access on 26 July 2019)

5. Article about the findings of the internal investigation at the Ministry of Environment on irregularities in the Petišovci permitting processes. Available at: <https://siol.net/posel-danes/novice/projekt-petisovci-odnesel-sefa-agencije-za-okolje-482753> (last access on 26 July 2019)

6. Article about Ascent Resources' pressures to speed up the resolution about their complaint regarding the decision of the Ministry of environment. Available at: <https://siol.net/posel-danes/novice/hidravlicno-lomljenje-britansko-podjetje-odgovor-na-pritozbo-pricakuje-v-dveh-mesecih-493947> (last access on 26 July 2019)

7. Article about possible influence of Ascent Resources on the resignation of the Minister of Environment. Jure Leben left the position of Minister of Environment because of a scandal over an expensive model of train line Divača-Koper. The scandal was subject to two weeks of media bombing, which eventually lead to the resignation of Leben. While being Minister of Environment, he must have disappointed many interests. He tackled the issues of plastics and water monitoring, suppressed plans on hydroelectric power plants on the Mura River and lit a red light for gas fracking in Pomurje. As the British company Ascent Resources has invested more than € 50 million in Petišovci so far, Leben's strong dislike for the project has not gone unnoticed. If we allow speculation, the British, who hired the Pristop communications agency for helping them in Slovenia, had about 50 million reasons to have someone else as minister. For example, a minister who does not publicly disclose pressures on staff from the Environment Agency or does not report improper British ambassadors' lobbying to the Commission for the Prevention of Corruption. Available at: <https://siol.net/novice/slovenija/od-sendvica-do-jureta-lebna-nevarna-sarceva-igra-visokih-standardov-analiza-491457>