

Response to BHRRC / Just Finance International (JFI) - Environment Governance Institute (EGI)

EACOP and Tilenga projects:

Dear BHRRC team,

TotalEnergies thanks you for giving us the opportunity to answer the « Just Finance International (JFI)- Environment Governance Institute » rejoinder here below.

First of all, contrary to what we had thought and mentioned in our previous correspondence [TotalEnergies' response to Just Finance International's report - Business & Human Rights Resource Centre \(business-humanrights.org\)](#), we finally found the trace of emails sent by Just Finance International on October 27th and November 7th 2022. Due to technical issues, it regrettably appears that the emails sent were not recovered until the start of 2023. We can only apologize for this.

Regarding the points mentioned in the JFI/EGI rejoinder, please find here below our comments:

With regard to the JFI/EGI statement: *“our joint investigations with Ugandan civil society partners have found that the project-affected communities featured in our article say they are continuing to be forced into accepting unilaterally determined compensation, and still face constant threats of involuntary resettlement and land acquisition.”*

EACOP is a public interest project and thus the land acquisition process is ultimately backstopped by a mechanism whereby should PAPs not agree to the terms of the acquisition of land, then the Gov. of Uganda may deposit their entitlements with a Court of Law (and as such this would be ‘compulsory land acquisition process’ very similar to arrangements we have in Europe for Government public interest projects). With the agreement of the Governments, EACOP has engaged in a consensual manner with PAPs in accordance with good international practice such that they sign their compensation agreements without resort to any compulsory processes. EACOP does not use or tolerate any form of coercion or force, and always engages with PAPs respectfully. As per good international practice both legal advice and a grievance mechanism are available to the PAPs (and indeed civil society) to address any issues that might arise.

With regard to the JFI/EGI statement: *“TotalEnergies failed to respect the principle of free, prior, and informed consent (FPIC)”*.

This should be noted that, in relation specifically to FPIC, under human rights policy this concept applies to indigenous people. There are no groups recognized as indigenous people in Uganda. In Tanzania there are several vulnerable groups self-identifying as Indigenous People along the pipeline route.

EACOP has consulted closely with the four of them impacted by the Project - the Akie, Taturu, Barabaig and Maasai to meet all IFC PS 7 substantive requirements in preparation for land access. EACOP approach to engagement with these groups includes:

- Ongoing consultation and engagement since November 2019,
- Engagement of a Tanzanian indigenous peoples’ specialist to undertake more culturally specific engagements and facilitate the discussion and negotiation of key agreements,

- Ongoing support through NGOs trusted by the traditional leaders and communities including the Pastoralist Indigenous Non-Governmental Forum (PINGOs Forum), Parakuiyo Pastoralists Indigenous Community Development Organization (PAICODEO) and Ujaama Community Resources Team (UCRT),
- Negotiation and signing by the traditional leaders of The EACOP Framework for Vulnerable Ethnic Groups self-identifying as Indigenous Peoples in October 2021,
- Re-routing of the pipeline alignment in specific locations to avoid cultural sites and landscape features that Vulnerable Ethnic Groups self-identifying as Indigenous Peoples identified as having cultural or spiritual significance,
- Negotiation and signing of a Free Prior and Informed Consent (FPIC) Agreement between EACOP and the Akie Community of Napilikunya in July 2022 – the first of its kind in Tanzania,
- Negotiation and signing by the traditional leaders of The EACOP Plan for Vulnerable Ethnic Groups Self-Identifying as Indigenous Peoples September 2022,

With regard to the JFI/EGI statement: *“Project-affected men and women have emphasized to JFI and local partners that their rights to health, decent housing, and adequate standards of living continue to be violated.”*

Please note that we strongly refute these accusations. Many of these allegations pre-date the time when EACOP actually occupied any land (only in 2021 for specific areas in Tanzania, and 2nd Feb 2023 for the first Priority Area in Uganda). Most of the main right of way will only follow in 2023. Consequently, EACOP has not done anything, other than in these specific areas at the dates mentioned, to prevent PAPs to live on and use their land and indeed has encouraged them to do so.

We repeat that we have grievance mechanisms with effective remediation in place. In the event that you become aware of a complaint, we invite you to contact us and refer them to those mechanisms. Moreover, if partner organizations wish us to look into individual cases, we would be happy to do so.

In the JFI/EGI rejoinder we have noted that you also mentioned that: *“It appears that TotalEnergies and the EACOP Consortium have not adequately developed and implemented environmental and social due diligence measures to identify and remedy the irreversible environmental and social impacts of the pipeline...”*

TotalEnergies reiterates that this project is major for Uganda and Tanzania and commits to do its utmost to make this exemplary project in terms of transparency, shared prosperity, economic and social progress, sustainable development, environmental accountability, and respect for human rights.

Concerning EACOP and its associated upstream facilities, a third party Environmental and Social due diligence has been carried out, lasting more than 2 years, against the 8 IFC Performance Standards. It finds no ‘red flag’ and that EACOP is either compliant, or on track to be compliant in a timely manner commensurate with the advancement of the project, across its activities.

With regard to the resolution of the EU parliament, please also note that TotalEnergies expressed their reaction in a press release dated Oct 10th, 2022. *“If, as one might expect within the framework of contradictory debate respecting the fundamental principles of the institutions of our democracies, TotalEnergies had been consulted prior to the passing of this resolution, the Company could have informed the Parliament the inaccuracy of many elements which are based on serious and unfounded*

allegations. Unfortunately, it is now too late for this contradictory debate to take place as the European Parliament adopted this resolution without even hearing the Company.”

There were also repudiation statements made by the Ugandan and Tanzanian Authorities.

In the JFI/EGI rejoinder, you also state that : *“According to the EACOP consortium’s [Resettlement Action Plan](#), nearly 25,000 individuals in Uganda are affected by the EACOP project and over 200 households need to be resettled. TotalEnergies’ contradicting estimates of the actual number PAPs contradicts the 18,700 Project Affected Persons mentioned in the company’s response to Just Finance International.”*

There is some confusion in this statement.

The 18700 Project Affected Persons are the total number of PAPs (broadly corresponding to households, although they can be other institutions) aggregated across the Tilenga Upstream project, EACOP Uganda and EACOP Tanzania. For EACOP in Uganda there are 3648 PAPs of whom 203 are physically displaced. The remainder are economically impacted, meaning the project impacts structures, land, crops and trees in full or in part.

With regard to the JFI/EGI statement mentioning that: *“The EACOP consortium must also respect the cultural beliefs and customs of Indigenous communities throughout project implementation such as by providing compensation for the destruction of graves and the cutting down of holy trees. Local communities have reported that they have not always received compensation for the loss and damage to these spiritual sites, despite their great significance.”*. EACOP is carrying out culturally appropriate grave and shine relocations, compensating cultural heritage sites and providing relocation support in a manner adapted to the customs of each affected person. EACOP also uses the services of archaeologists and cultural heritage specialists.
