

Briefing for the EIB Board of Directors for the seminar with civil society on 30 January 2017

Nenskra hydropower plant project, Georgia

For more information

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Introduction

The European Investment Bank (EIB) is considering a loan for the 280 megawatt (MW) Nenskra hydropower plant project (HPP), together with the two other international financial institutions: the European Bank for Reconstruction and Development (EBRD) and the Asian Development Bank (ADB). The Korean investor K-Water will build the project on the territory of a proposed 'emerald' site in the Upper Svaneti region. The Nenskra project joins a majority of the 35 hydropower plants planned in Svaneti that will be situated in the proposed emerald sites. It will impact the Chuberi and Nakra communities, where 400 hectares of land (95 per cent of which is covered by forests) owned traditionally by these communities will be flooded. The project also poses geological risks.

Concerns about the Nenskra project and its inadequate assessment of risk, as well as public engagement, have been raised with the IFIs on several occasions. This paper provides an update on recent developments since September 2016.



Planned HPPs in Upper Svaneti region

Demands of Chuberi and Nakra communities

One of the key concerns about the project is related to the lack of communication and an underestimation of the project's risks. Despite assurances from the IFIs that these would be addressed with a so-called 'supplementary package' to be released in July 2016, the document has yet to be disclosed and is delayed several months. While the IFIs claim that additional studies are underway and will be incorporated within the supplementary package, locals argue that since the summer, neither any research works in the valley to study environmental and social issues nor public consultation meetings have been organised. According to villagers, the only research happening in the valley was some drilling works at the project site and since October, the project company stopped drilling and fired a majority of the employees, including local villagers.

Frustration within the two communities is growing. Locals plan to resume protests against the project and continue to reiterate their demands of the company:

- To provide an assessment of project alternatives that does not require flooding of the gorge;
- To carry out a cost benefit analysis of the project for the country, region and the community;
- To conduct an independent review of the geological risks by independent experts, not commissioned by the company, and to provide information;
- To arrange open public hearings on the project and to invite all the interested stakeholders including independent experts, national and international NGOs;

If these demands are not met, the communities plan to hold protest rallies and not allow any construction works.



The Svans and indigeneity

As the release of the supplementary package is delayed, it remains unclear as to whether the banks plan to apply provisions of their safeguard policies related to indigenous people. Initial information from the EBRD suggests that it does not plan to treat Svans as an indigenous group, while the position of other IFIs is unclear.

While Svans are not recognised officially as an indigenous group, they represent an ethnic subgroup that maintains its own language, laws, traditions and customary ties to the land. They rely on subsistence agriculture, animal grazing and forestry. The harsh living conditions and isolation have created a strong sense of community cohesion and sociocultural integrity. We strongly believe that Svans display characteristics of indigenous people as defined by the environmental and social policies of the IFIs and thus should be treated as such for the purposes of the project's analysis.

If the Nenskra project proceeds, it will impact a number of economic activities for Svan in Chuberi and Nakra, in particular forestry, animal grazing and subsistence agriculture. It should be noted that the project already has had a drastic impact on locals. Access to pastures located within the project site was restricted for the locals, and the prohibition of logging and access to forestry by the government significantly impacted the income of communities and is actively used as a point of leverage to influence the position of locals towards the project representing clear violation of the rights of locals.

Complaint to the Bern convention

On 24 October 2016, Green Alternative submitted a complaint to the secretariat of the Bern Convention about the Nenskra project. The impacted area of the project falls within the territory of a proposed 'emerald' site (GE0000012 Svaneti 1), which was evaluated at the Emerald Biogeographical Seminar 27–29 May 2015 in Tbilisi. The site was proposed for conservation because of a number of important habitats and species identified in the appendices of the convention (including IUCN Red Book endangered species like the Western Tur). In the beginning of 2016, national authorities excluded a certain number of territories from the initially proposed site, including territories where the HPP is currently planned, without justifying their decision.



At the end of 2015, the project received a construction permit in spite of having failed to follow “the necessary protection and conservation measures in order to maintain the ecological characteristics of the candidate emerald sites until their full inclusion”¹. According to a response from the Bern Convention secretariat, the bureau plans to assess this complaint at its first annual meeting for 2017 in March, and it has requested the official position of the Georgian authorities.

Energy Community and confidential contracts

On October 14, 2016, the Energy Community ministerial council approved Georgia’s application to join. Membership in the Energy Community is an important step towards EU integration, as the Georgian energy sector must now be a competitive,

¹ <https://wcd.coe.int/ViewDoc.jsp?p=&id=1859645&Site=&BackColorIntranet=B9BDEF&BackColorIntranet=FFCD4F&BackColorLogged=FFC679&direct=true>

transparent and accountable system in order to integrate with the pan-European energy market. While the ratification of the Accession Protocol by the Georgian Parliament is still pending, the existing practice of signing contracts between the government and private companies, as well as issuing permits and defining tariffs solely by the Ministry of Energy, will continue to be problems and challenges for Georgia in pursuing the requirements of Energy Community membership.

The Nenskra project proves this point, as the contract with the project sponsor is confidential. Despite the assurance of the company² that negotiations are still underway and parties plan to disclose the contract after finalization, we are concerned that a construction permit and preparatory works were launched already in 2015 without clarity about the roles distribution among the parties. With project costs estimated at USD one billion, it is unclear how high tariffs have been set to ensure a return on investment and how issues of land ownership are being resolved. As a resettlement action plan and the aforementioned supplementary package have not been disclosed, contract details remain unclear.

Conclusion

As the Nenskra project shows, the EIB lacks proper mechanisms to mitigate against the risks of threats, attacks and reprisals to community members, human rights defenders, and civil society organizations for criticizing or opposing a project or otherwise speaking out (or being perceived to have spoken out) against a project.

For these reasons we ask the EIB to suspend consideration of the Nenskra project. The EIB should ensure that Free Prior Informed Consent is a requirement for all land and natural resource based investments. This must include the recognition that there can be no responsible investment in a large-scale project where communities do not have the right to express freely and assert their opposition when their lands are affected.

² The CEO of the JSC “Nenskra Hydro”; dated by May 31, 2016;