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Nenskra Hydro Project – Update

On January 31, 2018 the EBRD approved a senior secured loan of 214 million USD to JSC Nenskra Hydro to finance the construction of a 280 MW Nenskra HPP in the Upper Svaneti region of Georgia. We would like to provide information about new consequences and developments that followed approval of the project.

Svan Declaration and lack of broad public support

Claims by project promoters that the Nenskra HPP project enjoys wide public support are at odds with the reality of the situation. From its beginning, the project has increased tensions within and among Svan communities in the region. Numerous strikes have been organized since January, 2018 both in Svaneti and Tbilisi to protest the dam. Due to an incident between the company and locals in Chuberi, the Salini Impregilo was forced to halt construction and leave the area.

The situation escalated so much, that on March 4, 2018 a general meeting of all Svan communities (Lalkhor) was called in Mestia, and issued a joint statement on the indigenous status of Svans and demanding not to implement any HPP or extractive projects without their free, prior informed consent. More than 3,000 signatures were collected in support of the declaration. It should be mentioned that according to recent census only 11, 000 people are living in Svaneti.



Photo from protest in April 21, 2018 Chuberi, Georgia



Protest in Mestia, March 2018

Construction without permit

On October 2, 2015 the Ministry of Economy of Georgia issued a permit to JSC Nenskra Hydro to construct the 280 MW Nenskra HPP project with the following technical parameters: 135 metre high and 870-metre-long rockfill dam with a reservoir area of around 400 hectares (182 mln cubic metres) on the Nenskra River and a 13-metre-high dam on the Nakra River in order to divert the Nakra River flow to the Nenskra Reservoir.

The supplementary package includes substantially modified technical parameters of the project – Namely, the height and length of the Nenskra River dam decreased to 130 metres and 820 metres, while the dam type changed to rock-filled with asphalt face. Technical parameters for the Nakra River derivation dam were changed from 13 to 8.7 metres in length, while the diameter of the derivation tunnel was reduced from 4.5 to 3.5 metres.

The Environmental Impact Assessment Law of Georgia¹ requires that in case of any technical changes in the project design a new environmental permit must be issued. The Ministry of Environment and Agriculture confirmed on March 20, 2018, that JSC Nenskra Hydro has not approached them to begin the screening procedure as it is defined in the Environmental Assessment Code, and was sent to the Environmental Inspectorate for further assessment

¹ <https://matsne.gov.ge/ka/document/view/3691981>

Fiscal risks

The confidentiality of the contract for the Nenskra HPP remains problematic. Although part of the contract has been disclosed, the information for a proper cost-benefit analysis is still missing. Therefore, in contrast to official documents published by the Georgian government on the Nenskra HPP, the International Monetary Fund fiscal transparency evaluation report on Georgia underlines specific threats to the fiscal stability of Georgia's budget and provides alarming data from the Nenskra HPP contract.

According to the IMF, "the main obligation is the government guarantee for a USD internal rate of return (IRR) of 12.5% on equity investments, which if not paid for could result in the government terminating the total contract, at a total cost of 800 million USD plus IRR on 180 million USD of equity (6.2% of GDP plus the IRR). Guarantee is provided in three levels should project revenues fall short, where the first would see regulated prices adjusted in the year following any shortfall (which would costs consumers, but not the government), the second where the Partnership Fund would play any shortfall, up to a maximum of 54 million USD (for which it receives a guaranteed fee of 2.5 million USD per year from the project), and third, should the government not top up any payments itself, would require the government to buy out the equity in the project (180

² Response Letter N2546/01 from the Minister of Environment and Agriculture; March 30, 2018

million USD) and assume the debt (620 million USD). This exposure is subject to exchange rate risk, and is not discussed separately in the SFR. Unlike most other PPAs, the government has also guaranteed against construction and hydrology risks (up to 30 million USD for the former, uncapped for the latter)". The IMF assessment, once again underlines the lacking transparency of decision making within the Nenskra HPP contract details. Additionally, it contradicts the main principles of the European Energy Community and EU energy directives that Georgia should be implementing in accordance with the EU Association Agreement.

Furthermore, the ADB Management informed the Board that due to significant cost overrun, and expected critical changes in contractual structure, the project is expected to be delayed substantially. In addition, anticipating changes of technical design, the ADB management has now put the preparation of Management Action Plan on hold which was requested by the Board on the bases of Compliance Review Panel report. These issues should be equally seriously be taken by EBRD and defer signing loan agreement



EBRD local office in Tbilisi; March 14, 2018

Compliance with Convention on Conservation of European Wildlife and Natural Habitats (Bern Convention)

In January, 2016 the Georgian government attempted to exclude all territories of the Nenskra and Nakra valleys to form part of the planned Nenskra project without providing any evidence that these areas are

less important in terms of biodiversity than the rest of the Svaneti region. This resulted in a complaint to the Bern Convention on the Conservation of European Wildlife and Natural Habitats for a violation of a

number of articles of the convention.

On March 19th, 2018 the Bureau of the Standing Committee to the Bern Convention reviewed the complaint regarding the reduction of the Svaneti 1 candidate site (Nenskra HPP proposed area) as an important case related to a reduction in the size of a candidate Emerald site. The project site was originally proposed to be included within the European system of protected areas as the 'Svaneti 1' Emerald site. The Bern Convention required numerous documents from the Georgian National Authority addressing the findings of the biogeographical seminar (Bern Convention November 2017), to allow the Bureau to make a determination on the case in September of 2018.

Conclusion

Taking into account the complexity of the Nenskra HPP project and its immense impact on indigenous communities, it is important that before the project continues with any further support of International financial institutions measures to:

- Ensure proper and transparent public participation process around the Nenskra ESIA package (November 2017).
- Ensure the project complies with national legislation.
- Ensure full contract transparency and a proper cost/benefit analysis for Georgia and specifically impacted communities.
- Reassess the contract compliance with EU Energy Community rules and propose appropriate recommendations.



Protest in front of the Parliament; April 14, 2018