

To:

Ms. Anoush Begoyan

PCM Officer

Project Complaint Mechanism

European Bank for Reconstruction and Development

One Exchange Square

London EC2A2JN

United Kingdom

Fax: +44 20 7338 7633

Email: pcm@ebrd.com

From:

Association Green Alternative, Georgia

Subject: Complaint on Tbilisi Railway Bypass Project (Georgia),
seeking project compliance review

28 February 2011

Dear Ms. Begoyan,

We would like to submit this complaint to the PCM regarding the Tbilisi Railway Bypass Project (approved by the EBRD board on March 9, 2010¹ and signed on March 17, 2010²) regarding the inadequate appraisal of environmental and social risks and inadequate mitigation measures in the final version of the project's Environmental and Social Impact Assessment (ESIA) and Environmental and Social Action Plan, as well as the project's Environmental Permit.

The project consists of the construction of a new section of railway that will bypass the central part of Tbilisi and avoid the transit of hazardous freight such as oil and oil products through the middle of the city. While the main goal of the project aimed at improving safety within the city of Tbilisi is welcome, we have been concerned about several assessment and management plan shortcomings that in our view undermine the overall project goals and

¹ The EBRD approved 100 million EUR for the project: <http://www.ebrd.com/pages/project/psd/2009/40173.shtml>

² Originally together with the EBRD, the European Investment Bank (EIB) also planned to finance the project. On April 13, 2010 the EIB approved 100 million EUR for the project. However, several months later the Association Green Alternative was informed by the EIB that the Bank cancelled its participation in the project following a request by the Georgian Railway Company.

may cause irreversible negative environmental and social impacts including negative impacts on the local population, the Tbilisi Reservoir, the quality of railway services, etc. The particular points of concern are developed further below.

Taking into account that the planned railway route goes through a densely populated area (the district of Avchala) and the visitors' zone of the Tbilisi National Park and that it passes 900 metres upstream from the Tbilisi Reservoir - one of the major city drinking water supply sources, stringent appraisal of environmental and social impacts ought to have been carried out and effective mitigation measures complying with the EBRD's Environmental and Social Policy ought to be in place. We hope that this complaint will help to address the issues of our concern on this particular project in a satisfactory way. Overall, we also hope that our effort will contribute to improvements in the quality of project assessment at the Bank. In particular we are concerned that many of the mitigation measures have not been examined in detail until a very late stage, and that several extra action plans should now be produced. Yet the project is approved, the preparation works have started, and we are concerned that if the action plans turn out to be unsatisfactory, it will be harder and harder as the project implementation goes on to ensure that effective action is taken.

We therefore ask the Project Complaint Mechanism to undertake a compliance review of the project and to verify, whether the project ESIA correctly assesses environmental and social risks and whether the proposed mitigation measures prevent effectively possible environmental and social damage along the proposed railway route. Additionally, we ask the Project Complaint Mechanism to examine several procedural issues outlined in the complaint.

We would like to emphasise that we have undertaken dialogue on the project both with the EBRD and the project sponsors in an effort to ensure that our concerns are dealt with. A list of the most relevant communications can be found at the end of this complaint. However these have not provided us with adequate assurances that the project is compliant with the EBRD's Environmental and Social Policy.

Assessment and mitigation of social impacts

Safety concerns

According to the project ESIA the railway will be constructed through the densely populated Avchala district using 18-20 metre high embankments. However, the final ESIA does not propose adequate safeguard measures for the population living along the route in the case of accidents. The only measures mentioned are:

3. *Investigation of the freight train derailment cases.*
4. *Adequate design solution to reduce the risks and possible impacts; Emergency Response Plan; Provide the relevant staff [staff??] with trainings and equipment. (p.216 ESIA)*

These are very vague and cannot be considered adequate in our opinion. As far as we have been informed, the only other document where legally binding mitigation measures could be present is the permit given by the Ministry of the Environment. The permit does include a requirement for the Railway company to provide a plan of additional measures for the problematic sections of the route, however no deadline is given, and the preparation works for the construction have started, while according to the Ministry of Environment, no plan has been submitted.

Not only does this omission fully undermine the main reason for the project (the safety of Tbilisi's population) but it also fails to comply with PR 1 (point 9) on the Environmental and Social Appraisal of the EBRD's Environmental and Social Policy:

"Greenfield developments, or major expansions of activities, with potentially significant and diverse adverse environmental or social impacts, such as those listed in Appendix 1, will require a comprehensive environmental and/or social impact assessment, to identify and assess the potential future environmental and social impacts associated with the proposed project, identify potential improvement opportunities, and recommend any measures needed to avoid, or where avoidance is not possible, minimise and mitigate adverse impacts. This assessment will include an examination of technically and financially feasible alternatives to the source of such impacts, and documentation of the rationale for selecting the particular course of action proposed."

At the same time, the underestimation of safety issues together with the underestimated effects of the project on drinking water and the impact of the quarrying on the health of the communities described below, violate PR 4 (point 7) on Community Health, Safety and Security:

"The client will identify and evaluate the risks and potential impacts to the health and safety of the affected community during the design, construction, operation, and decommissioning of the project and will establish preventive measures and plans to address them in a manner commensurate with the identified risks and impacts. These measures will favour the prevention or avoidance of risks and impacts over minimization and reduction."

Cumulative impacts, deterioration of living conditions and property depreciation

The current railway line passes through the district of Avchala, as will the new one. This will create a situation where some people will be living very near to both the new railway line and an old one which will stay in service for passenger traffic. In addition to the extremely vague accident prevention and response provisions in the ESIA, the project does not address either these cumulative impacts of the proposed and existing railway routes on the living conditions of the Avchala population or property depreciation and compensation measures for the local people caused by construction of the new railway route (Smell of the transported oil and oil products will make it impossible for local population to live along the new route). In some cases the houses are only 10-15 metres away from the proposed new line. This in our view creates non-compliance with the EBRD Environmental and Social Policy in two ways: First, that people whose properties are very near to the new line, but that will not be directly purchased or demolished, do not seem to be being offered compensation for the negative impacts on their properties (see below on Resettlement) and second, that the cumulative impacts of the old rail line plus the new rail line on some of the inhabitants of Avchala were not studied in the ESIA, which did not fully succeed in its aim *"to identify and assess the potential future environmental and social impacts associated with the proposed project, identify potential improvement opportunities, and recommend any measures needed to avoid, or where avoidance is not possible, minimise and mitigate adverse impacts."* (PR 1, para 9).

We would like to note that the response of the Georgian Railway Company to our communication which lists only the issues already discussed in Chapter 6.2 of the ESIA, does not provide an adequate answer to the aforementioned concerns of inadequate safeguard measures, deterioration of living conditions and property depreciation issues.

Resettlement Action Plan

According to the EBRD Board Document for the project, presumably written around February 2010:

"The Resettlement Action Plan (RAP) is currently under preparation by an independent consultant, which will address the land acquisition and resettlement issues including a timetable to complete this process. The RAP will be subject to the Bank's review and approval." (p.11)

Alarming, however, the compensation process has started and some affected people in the Patara Lilo and Avchala districts have already received compensation for their land and properties, yet neither the Resettlement Action Plan for the project, nor any summary of it, is available to the affected people. We are not even certain that a final version is finished or approved. An EBRD response from 14 December to a request for the disclosure of the RAP stated: *"While we would certainly not object to the final ESAP and RAP being made available to your organisation, this is a decision that needs to be made by Georgian Railway since they are the legal owners of both these documents, and we would therefore encourage you to contact them directly in this respect."* This appears to imply that the RAP does exist, but we cannot be sure.³

In any case, the local people of Avchala, Patara Lilo and Didi Lilo districts do not have any official information regarding displacement and compensation issues. This comes as a violation of PR 5 (20) on Land Acquisition, Involuntary resettlement and Economic displacement of the EBRD Environmental and Social Policy:

"The client should summarise the information contained in the RAP for public disclosure to ensure that affected people understand the compensation procedures and know what to expect at the various stages of the project (e.g., when an offer will be made to them, how long they will have to respond, grievance procedures, legal procedures to be followed if negotiations fail)."

Assessment and mitigation of environmental impacts

Impact on Drinking Water Supply

The proposed railway route crosses several gorges and runs 900 metres from the Tbilisi Reservoir, one of the major city drinking water supply sources.

Due to the underground streams that run towards the reservoir, in the event of the spillage of even half a tank of oil, approximately 50 percent of the volume of the Tbilisi reservoir could be contaminated, leaving 25 percent of Tbilisi's residents without drinking water and around 20,000 hectares of agricultural arable land without irrigation⁴.

According to the response of the Georgian Railway Company to our enquiry, in order to protect the Tbilisi Reservoir from contamination the company will undertake additional engineering works for the Kvirikoba Khevi Gorge. This is confirmed by the ESIA, which states that the river will run through a tunnel at the point where the railway crosses it. However, the final ESIA does not describe adequate safeguard measures⁵ for around 30 other

³ If it has not been finalised and the resettlement/compensation process has started, this would point to a violation of PR 5 (para 15) on Land Acquisition, Involuntary resettlement and Economic displacement of the EBRD Environmental and Social Policy, as there can be no point in having a Resettlement Action Plan which appears only after some of the resettlement and compensation process has taken place:

"In the case of transactions as described in paragraph 7 that involve physical displacement of people, the client will, based on environmental and social impact assessment, develop a Resettlement Action Plan, that covers at a minimum, applicable requirements of this PR, regardless of the number of people affected."

⁴ ESIA of the project; paragraph 6.1.4.1 "Potential Impacts on Surface Water";

⁵ ESIA of the project; 6.1.1 Potential Impacts on Surface Water and Groundwater "Tbilisi Sea" Page 126 "Prevention of leakage of oils or other harmful substances spilled on the surface to the Tbilisi Sea and their collection in reservoirs with the purpose of future cleaning

ravines along the route apart from this one, that would avoid contamination of the Tbilisi Reservoir. Although these are mostly dry there are underground streams relatively near the surface at various points. In the text of the ESIA, the only measures mentioned for other sections apart from the Kvirikoba Khevi Gorge are:

- prevention of leakage of oils or other harmful substances spilled on the surface to the Tbilisi Sea and their collection in reservoirs with the purpose of future cleaning;
 - a concrete ditch can be arranged along this section, in depressions – arrangement of concrete covered reservoirs can be considered.
- prevention of tipping of oil tanks;
- protection of groundwaters from oil pollution.

However these are very vague and it is not clear whether these measures will actually be undertaken, as the ESAP part of the ESIA states only the following unclear measures:

- Proper technical solution for protection of the Kvirikobiskhevi river from the possible spills of hazardous substances;
- Proper technical solution for prevention of leakage of oils or other harmful substances spilled on the surface to the Tbilisi Sea and their collection in reservoirs with the purpose of future cleaning.
- Proper technical solution prevention of tipping of oil tanks.

Moreover, it is also unclear if these measures would be enough for avoiding contamination because there is no written specification in the ESIA describing the width or depth of the ditch along the route in order to fully ensure protection of the Tbilisi Reservoir in case of accidents.

In addition according to an ecological analysis of the Georgian Water and Power company (GWP)⁶, due to the underground streams in this area feeding the Tbilisi Reservoir these potential negative impacts mean that the preferred route does not fulfill requirements for environmental safety, and therefore additional studies need to be carried out to find a safer alternative.

These issues are also part of an additional action plan to be prepared by the Railway Company as part of its environmental permit. However preparations works for the project have begun and according to the Ministry of the Environment the plan has still not been carried out.

When asked about these issues, EBRD staff seemed confident that the mitigation measures being undertaken would be sufficient, however we do not believe this to be the case. If this is so, this would represent non compliance with the Environmental and Social policy of the EBRD⁷.

Impact on the central water pipeline for Tbilisi

The final ESIA of the project does not describe implications of the new railway route on the central water pipeline for Tbilisi which is located directly under the proposed new route of the Railway in Avchala district where Georgian Railway Company plans to construct 18-20 metres high embankments.

According to the local population The pipeline is in very poor condition and from time to time it bursts and as a result floods the nearby houses. If the project is implemented (Construction, Exploitation) it may worsen the condition of the pipeline and cause drastic negative impacts on people who are living along the route. Unfortunately the ESIA has not studied this issue - a violation of PR 1 para. 9 on Environmental and Social Appraisal of the EBRD's Environmental and Social Policy:

"Greenfield developments, or major expansions of activities, with potentially significant and diverse adverse environmental or social impacts, such as those listed in Appendix 1, will require a comprehensive environmental and/or social impact assessment, to identify and assess the potential future environmental and social impacts associated with the proposed project, identify potential improvement opportunities, and recommend any measures needed to avoid, or where avoidance is not possible, minimise and mitigate adverse impacts. This assessment will include an examination of technically and financially

⁶ Technical department of Georgian Water and Power (GWP), Professor Nino Kezevadze;

⁷ Paragraph 9 of PR 1 "Environmental and Social Appraisal" of the EBRD's Environmental and Social Policy;

feasible alternatives to the source of such impacts, and documentation of the rationale for selecting the particular course of action proposed."

Waste Management issues

Waste management is addressed only in a very general manner in the project ESIA and the ESAP at the end of the document includes the development of waste management plans for the construction, operation and demolition stages of the project as action points for the project. The preparation of a waste management plan to be agreed with the Ministry of Environment and Natural Resources was also a condition of the Environmental Permit issued on April 22, 2010 by the Ministry of Environment. However no such plan has yet been prepared, while the preparation works have already begun.

Considering that the plan has not been made in time for the start of works, this appears to be in violation of with PR 3 (12) of EBRD's Environmental and Social Policy which says:

"The client will avoid or minimise the generation of hazardous and non-hazardous waste materials and reduce its harmfulness as far as practicable. Where waste generation cannot be avoided but has been minimised, the client will reuse, recycle or recover waste, or use it as a source of energy; where waste can not be recovered or reused, the client will treat, destroy, and dispose of it in an environmentally sound manner. If the generated waste is considered hazardous, the client will explore commercially reasonable alternatives for its environmentally sound disposal considering the limitations applicable to its transboundary movement. When waste disposal is conducted by third parties, the client will use contractors that are reputable and legitimate enterprises licensed by the relevant regulatory agencies."

In addition according to the response of the Georgian Railway Company the project will be financed from the EU Neighborhood Investment Facility (NIF) to study historical pollution (depots etc.) caused by the railway operation in order to clean up the freed territories in Tbilisi before their future utilization. While it is highly welcome that a study will be undertaken to calculate the waste quantity from the freed up territories, it is not clear how the clean up plans will be implemented (including financial aspects), and particularly how the hazardous, construction and other types of waste collected at the freed up sites will be treated.

Increases in road transport due to the new railway system

The final ESIA does not describe the transport and pollution implications of the splitting the Tbilisi railway system in two parts. After abolishing the Tbilisi Central Freight Station, local freight goods (e.g. construction materials) will be marshaled and distributed around the city by road from the Tbilisi Marshalling Station in Navtlughi, the Tbilisi Junction in Avchala and the Veli Station located outside Tbilisi, far away from the city centre. However the project ESIA does not describe the impacts such as emissions and the overall impact on the traffic caused by alternative freight transport means from these stations to destinations in the centre of Tbilisi, nor does it assess whether these are acceptable, what the alternatives could be, or whether the impacts can be mitigated. In our opinion this represents non-compliance with the EBRD Environmental and Social Policy PR 1 point 6(v):

"6. Environmental and social impacts and issues will be appraised in the context of the project's area of influence. This area of influence may include one or more of the following, as appropriate:

(v) Areas and communities potentially impacted by: cumulative impacts from further planned development of the project or other sources of similar impacts in the geographical area, any existing project or condition, and other project-related developments that can realistically be expected at the time due diligence is undertaken."

Concerns related to so-called yellow lines (construction corridors) and location of energy facilities

Together with the red lines of the project the so-called yellow lines (areas related to construction corridors) and their impacts should also be assessed in the project ESIA. People especially in the Avchala district do not know to

what extent their land will be affected by the construction activities, and therefore do not know whether to expect compensation or not.

According to the response of Georgian Railway Company “the issue of location of construction corridors and power supply units will be included in the final ESIA report.” However, the final ESIA report does not include these issues. This makes it difficult for people to understand their rights according to PR 5 on land acquisition, and shows non-compliance with PR 1 para. 6 (i) on Environmental and Social Appraisal of the EBRD’s Environmental and Social Policy, which makes it clear that associated facilities such as energy facilities should be assessed as part of the project.

Problems related to quarrying of aggregate materials

The ESIA does not include any calculation of the necessary quantity of aggregate materials such as rock and gravel in the project. It also omits to describe the impacts on the environment and community health of quarrying these materials. The Georgian Railway Company’s answer that the “materials freed up after tunneling and excavation will be mostly used for construction” does not exclude environmental risks because the calculation is not done and it is still not known how much material is needed. This creates non-compliance with PR 1 (6) on Environmental and Social Appraisal and PR 4 points 7 and 16 on Community Health, Safety and Security of the EBRD’s Environmental and Social Policy. We would like to underline that the impacts related to the extraction of natural resources pose serious risks to the environment and the local communities, and as such they should be taken into account by the project sponsor.

Potential impacts on air quality

According to the project ESIA the air quality modelling was carried out only for the Avchala depot territory and does not cover the whole route, even though there are other populated areas near the route (eg. Gldanula district; Gldani village and Patara lilo). We expect some air pollution both from the contents of the trains (oil and gas); from the use of brakes in sloping sections, which emit some oil and have a strong smell in some cases, and possibly also from the energy facilities, whose location and nature is not clear.

As the pollution has not been adequately modelled, it is not clear to what extent it will be acceptable or what measures need to be adopted for its minimisation, which appears to constitute non-compliance with PR 3 para. 11 on Pollution Prevention and Abatement of the EBRD Environmental and Social Policy:

“The client will avoid the release of pollutants or, when avoidance is not feasible minimize or control their release. This applies to the release of pollutants due to routine, non routine or accidental circumstances with the potential for local regional or transboundary impacts. In addition the client should examine and incorporate in its operations energy efficiency measures and measures to conserve water and other resources consistent with the principles of cleaner production.”

Concerns regarding protected areas

The projected railway route will cross the visitors’ zone of the Tbilisi National Park. PR 6 para. 15 of the EBRD’s Environmental and Social Policy states that:

“Areas may be designated by government agencies as protected for a variety of purposes, including to meet country obligations under international conventions. Within defined criteria, legislation may permit development in or adjacent to protected areas. In addition to the applicable requirements of paragraph 14, the client will:

- demonstrate that any proposed development in such areas is legally permitted and that due process leading to such permission has been complied with by the host country, if applicable, and the client; and that the development follows the mitigation hierarchy (avoid, minimise, mitigate, offset) appropriately; and
- implement additional programmes, as appropriate, to promote and enhance the conservation aims of the protected area.”

According to the national legislation (Decree N 10/61 "Regarding special logging and rules on its implementation"; September 13, 2000), the construction of railways is not on the list of activities permitted in national parks. The Georgian Railway company has argued that on the basis of consultations with the Ministry of Environment the construction of railway is included in the category of road construction. Despite this assurance, there is no legal basis for this arrangement and no relevant documentation has been presented to support it. This creates non-compliance with EBRD's Environmental and Social policy: The construction of the project within the realm of the National Park requires specific legislative changes, which have not taken place, even though the preparation works for the project have started. Even if they had taken place we would see this as a worrying precedent.

Moreover, the project's interference with the National Park poses in our view conflict with the precautionary principle of PR 6 on Biodiversity Conservation and Sustainable Management of Living Natural Resources: "Through the environmental and appraisal process, the client will identify and characterise the potential impacts on biodiversity likely to be caused by the project. The extent of due diligence should be sufficient to fully characterise the risks and impacts, consistent with a precautionary approach and reflecting the concerns of relevant stakeholders."

The EBRD Board document states that: *"Impacts on areas of biodiversity interest or conservation significance are limited, this particular area of the park (categorised as "traditional use") being of lower conservation status and mainly intended for traditional agricultural use and recreational purposes. Specific compensation and/or mitigation measures are required under EBRD PR6. Such measures will be agreed in the form of a specific Mitigation Action Plan for the National Park to be agreed upon between the Ministry of Environment and Georgian Railway. This is covenanted in the ESAP."* Yet as in the case of the other additional action plans mentioned, this has not been made, even though the preparatory works for the project have started.

Procedural issues of concern

Selection of project alternatives

The EBRD's Environmental and Social Policy (PR 1, para. 9) states that for the ESIA of Category A projects: "This assessment will include an examination of technically and financially feasible alternatives to the source of such impacts, and documentation of the rationale for selecting the particular course of action proposed."

Yet in this case, the only alternatives examined cannot be regarded as *technically and financially feasible*, and they seem to have been included in the ESIA only to give the appearance of having examined alternatives. In other words, they are 'straw man' alternatives, set up only to be knocked out easily.

According to the project ESIA four alternative routes of the railway had been proposed. Two of these alternative routes had been rejected earlier at the scoping stage. The other two alternatives are virtually identical, the only difference between them being the gradient. This cannot be considered as an alternative route because the gradient for the project had already been chosen at the beginning of the ESIA process. Despite the fact that the alternative routes of the railway were rejected by the project sponsor earlier at the scoping stage these alternative routes appear in the final ESIA without conducting additional studies that would propose suitable alternatives to the preferred option.

In a response to our letter, the Georgian Railways company states that *"all the technically feasible alternatives have been published in the process of discussion. Despite the fact that the tunnel alternative was not the desired one for Georgian Railways for the safety reasons it was still envisaged as an alternative like the other ones. In case the other alternatives had been rejected, the tunnel alternative would have been acceptable. More expensive but technically feasible alternatives were also proposed. In the process of identifying technical alternatives the main reason to choose the 18 pro mil alternative was the number of downsides of the 15 pro mil alternatives"*.

However we believe that other alternatives exist that were not given due consideration. For example during the public hearing people from Avchala suggested a route with a shorter tunnel that would bypass Avchala, but the panel dismissed it immediately. We are not able to assess whether such alternatives are technically and financially feasible, however we do not think they have been given adequate treatment. The chosen variant has a number of deficiencies and seems to have been chosen on the basis of being 'the best of a bad bunch'. Yet as it does not fulfill the main aim of the project – to transfer the transit of hazardous freight out of populated areas, we believe that it would have been better to make a more quality assessment and end up with a project that fits its purpose.

Concerns regarding meaningful consultation and public participation

The project scoping meeting was conducted on July 21, 2009. According to the project ESIA, the affected local population did not participate in the scoping process. The main reason for the absence of the local population cited in the final ESIA report is that “since no decision on the final routing had been made at that stage, it was decided not to contact them and avoid disturbing them”.⁸ As a significant part of the 'identified stakeholders' were missing, this violates the PR 10 on Information Disclosure and Stakeholder Engagement of the EBRD Environmental and Social Policy⁹:

“In the case of Category A projects the client will engage in a scoping process with identified stakeholders to ensure identification of all key issues to be investigated as part of the Environmental and Social Impact Assessment (ESIA) process”.

In addition, the non-participation of the local population in the scoping process cannot be considered as “meaningful consultation” which is to be ensured by the project sponsor as required by PR 10 point 15 on Information Disclosure and Stakeholder Engagement:

“Meaningful consultation:

- should be based on the disclosure of relevant and adequate information including, where appropriate and relevant, draft documents and plans, prior to decisions being taken when options are still open;
- should begin early in the environmental and social appraisal process;
- will focus on the social and environmental risks and adverse impacts, and the proposed measures and actions to address these;
- will be carried out on an ongoing basis as the nature of issues, impacts and opportunities evolves.”

In addition during the public hearings over the draft ESIA report, the representatives of Georgian Railway company and the project sponsor presented only the central variant of the railway route and its impacts from the draft ESIA document, not even mentioning the existence of other alternative sites and their impacts. The failure to present project alternatives and their pros and cons during the public hearings cannot be considered as good practice of ESIA public hearing meetings.

Violation of national legislation

On April 22, 2010 the Ministry of Environment and Natural Resources issued the conclusion of the *State Ecological Expertise* process. According to Chapter III of the State Ecological Expertise conclusion there are several conditions which are obligatory prior to and after the construction and operation of the project.

We requested the Ministry of Environment and Natural Resources to provide the progress reports on the provisions of Chapter III of the State Ecological Expertise conclusion, however we received an answer from the Ministry that

⁸ ESIA of the project: Chapter 4.1.2, p.65 “Scoping meeting” The first consultation / scoping meeting with all project stakeholders (except the general public) was conducted on July 21, 2009

⁹ PR10 EBRD Environmental and Social Policy (2008), “Information Disclosure and Stakeholder Engagement”, Paragraph 10;

the progress reports had not been provided by the Georgian Railway Company - a violation of the Georgian legislation.

Economic viability

Although we are aware that this is not the subject of the EBRD's Environmental and Social Policy, we add this to give additional background information about our concerns with the project and the EBRD's involvement in it, which according to its statute should be based on sound banking principles.

While we agree that it is necessary to develop a railway project that will improve the efficiency and safety of rail freight and passenger operations in the center of Tbilisi neither the ESIA of the project, nor any other publicly available document, proves the economic viability of the project.

In order to cover the loan the Georgian Railway company plans to create a special purpose company and sell the property of the railway along the existing route¹⁰. The total value of restoration of the freed up territories will be calculated under the NIF grant recently won by the Georgian Railway company. However, the rehabilitation costs of the freed up territories as well as the proposed amounts that might be gained from selling the property are not calculated in the ESIA or other public documents. Moreover, even the most optimistic calculations do not foresee an increase of freight tonnage. Accordingly, the profit of the Georgian Railway company is not expected to increase either.

In September 2010 Georgian Railway company refused a EUR 100 mln loan for the project from the European Investment Bank. Instead, it issued 5 year euro bonds for USD 250 mln with high interest rate (9.875 percent interest rate)¹¹. It is not clear how the company will pay these off or why it is in the company's interest to issue bonds that appear to have a higher interest rate than an EIB loan would have. This seems to put the economic viability of the project as well as the company as a whole under question.

Desired outcomes

With this complaint, we expect the EBRD Project Compliance Mechanism experts to perform a Compliance Review of the Tbilisi Railway Bypass project, namely to check whether the ESIA documentation complies with the Performance Requirements and general commitments of the EBRD Environmental and Social Policy. At the same time, we expect that our concerns will result in improvements in the routing and the Environmental and Social Action Plan and translate into improvements of the project implementation.

Best regards,

David Chipashvili



International Financial Institutions

Monitoring Programs Coordinator

¹⁰ Dimitri Kemoklidze, Head of Strategic Projects and Development of Georgian Railways Ltd. during the Public Consultation meeting regarding the Tbilisi Bypass Project;

¹¹ http://www.railway.ge/?web=0&action=page&p_id=209&lang=eng

Contact details:

E-mail: datochipashvili@caucasus.net , dchipashvili@greenalt.org

Tel: (+995 32) 292773;

Fax: (+995 32) 223874

Mob. Phone: (+995 58) 277283

Annex 1:

Overview of the communication with EBRD and other relevant parties

Documents in English:

1. [Letter to EBRD Director for Transport regarding the developments around the Tbilisi Railway Bypass Project and compliance with EBRD Environmental and Social Policy requirements; October 30, 2009. See:
\[http://www.greenalt.org/webmill/data/file/Tbilisi_railway_Bypass.pdf\]\(http://www.greenalt.org/webmill/data/file/Tbilisi_railway_Bypass.pdf\)](#)
2. [Comments of Association Green Alternative and CEE Bankwatch Network on the Tbilisi Railway Bypass Project; December 30, 2009; See:
\[http://www.greenalt.org/webmill/data/file/comments_on_Tbilisi_Railway_Bypass_Project.pdf\]\(http://www.greenalt.org/webmill/data/file/comments_on_Tbilisi_Railway_Bypass_Project.pdf\)](#)
3. Response of EBRD to comments of [Association Green Alternative and CEE Bankwatch Network on Tbilisi Railway Bypass Project](#); February 3, 2010;
4. [Second comments of Association Green Alternative and CEE Bankwatch Network on the Tbilisi Railway Bypass Project; March 8, 2010; See:
<http://www.greenalt.org/webmill/data/file/Letter%20re%20Rail%20with%20BWN.pdf>](#)
5. [Tbilisi Railway Bypass project - Issue Paper](#); May 11, 2010, sent to the EBRD. See:
http://www.greenalt.org/webmill/data/file/IP_EBRD_TbilisiRailway_10May2010_eng_issu_paper1.pdf
6. E-mail to the EBRD team leader of the project asking for the progress report of the conditions set out in the conclusion of the State Ecological Expertise (Chapter III "Conditions") issued on April 22, 2010; August 3, 2010;
7. Response email from the team leader of the project of the EBRD regarding the progress report; September 9, 2010;
8. E-mail to Ms Nino Marshania and Elena Gordeeva, EBRD, requesting the Environmental and Social Action Plan for the project and the dates of public hearings on this document, 09 December 2010 (not online).
9. Response e-mail from Ms Elena Gordeeva, Senior Banker, Transport Team, 14 December 2010, stating that the Environmental and Social Action Plan consists of the same mitigation measures that are in the Environmental and Social Impact Assessment, plus a generic requirement to comply with all the measures required by Georgian legislation and permits.

Documents in Georgian

1. Letter to the Georgian Ministry of Environment, asking to participate in the administrative proceedings of the Tbilisi Railway Bypass project; December 7, 2009; See: http://www.greenalt.org/webmill/data/file/railway_administrative_proceeding_07_12_2009.pdf
2. [Comments of Association Green Alternative and CEE Bankwatch Network on Tbilisi Railway Bypass Project](#); December 30, 2009; See: http://www.greenalt.org/webmill/data/file/comments_Railway_latest.pdf
3. Response of the Ministry of Environment and Natural resources of Georgia regarding participation in administrative proceedings; January 20, 2010; See: http://www.greenalt.org/webmill/data/file/03_111.pdf
4. Response of Georgian Railway Company to comments regarding the Tbilisi Railway Bypass Project; January 27, 2010; See: http://www.greenalt.org/webmill/data/file/03_112.pdf
5. [Second comments of Association Green Alternative and CEE Bankwatch Network on Tbilisi Railway Bypass Project](#); February 2, 2010; See: http://www.greenalt.org/webmill/data/file/railway_comment_to_MoE_02_02_2010.pdf
6. [Tbilisi Railway Bypass project - Issue Paper](#); May 11, 2010; See: http://www.greenalt.org/webmill/data/file/Tbilisis_shemovliti_rkinigzis_proeqtis_analizi1.pdf
7. Letter to the Ministry of Environment and Natural Resources asking for a progress report of the conditions set out in the conclusion of the State Ecological Expertise (Chapter III "Conditions") issued on April 22, 2010; July 7, 2010;
8. Letter to the Ministry of Economic Development of Georgia (Copy was sent to Georgian Railway Company) regarding the refusal of the EIB loan, approved in April, 13, 2010, asking copies of communication documents of Georgian Railway Company with EIB and reasons why the loan was refused; October 18, 2010;
9. Letter to the Ministry of Economic development of Georgia (Copies to Georgian Railway Company; The ministry of Environment and EBRD team leader of the project) asking updated version of the Environmental and Social Action Plan (ESAP) of the project and proposed dates of the public consultations of the ESAP. October 18, 2010;
10. Response letter from the Ministry of Environment regarding the October 18, 2010 letter, saying that progress reports were not provided by the Georgian Railway Company to the Ministry; November 5, 2010;
11. Response letter from the Ministry of Environment regarding the updated Environmental and Social Action Plan of the project; November 10, 2010;
12. Response letter from the Georgian Railway Company regarding the letter of October 18, 2010; February 10, 2011;