



MAP Monitoring Report II

Monitoring Period: February 2021 – July 2021

Nenskra Hydro Power Project
EBRD Project Number 46778
Case 2018/08

November 2021

Note: This case was received under the Project Complaint Mechanism (PCM) - the former accountability mechanism of the EBRD - in accordance with the [2014 PCM Rules of Procedure](#) and the Monitoring stage was initially conducted under PCM Rules and Procedures.

Effective 1 July 2020, the Project Complaint Mechanism was replaced with the [Independent Project Accountability Mechanism](#) (IPAM), brought into effect through the [2019 Project Accountability Policy](#). Under the Policy's provisions for case transition, monitoring of the Nenskra Hydro Power Project Management Action Plan from the date above is undertaken in alignment with the requirements of the [2019 Project Accountability Policy](#) and in accordance with the adopted [MAP Monitoring Plan](#).

IPAM is the Independent accountability mechanism of the EBRD. It reviews environmental, social, and Project disclosure-related concerns raised by Project-affected people and civil society organisations. IPAM can address concerns through two avenues: i) Problem-solving, which supports dialogue between Complainants and Clients to resolve environmental, social and public disclosure concerns without attributing blame or fault; or ii) Compliance Reviews, which determine whether the EBRD has complied with its Environmental and Social Policy and Access to Information Policy in relation to the Project.

For more information about IPAM, please contact us at ipam@ebrd.com or visit the [IPAM webpage](#).


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Table of Contents

List of Abbreviations.....	4
Executive Summary.....	5 -6
1. Introduction	7
2. Background	7
2.1 Compliance Review Findings.....	7
2.2. Compliance Review Recommendations.....	8
2.3. EBRD Management Action Plan	8
3. Monitoring Report.....	8
Table 1. Actions to be implemented in the period February-July 2021 as per the MAP.....	8
3.1 Monitoring Activities undertaken during the period.....	9
3.2 Complainants Perspective.....	10
3.3 Monitoring Conclusions.....	11
3.4 Table 2: MAP Implementation Progress - Actions due in the Second Monitoring Period and their current status	13

Unless otherwise indicated capitalised terms used in this report are those as set forth in the 2019 Project Accountability Policy.

List of Abbreviations

Abbreviation	Long Form
EBRD	European Bank for Reconstruction and Development
ESIA	Environmental and social impact assessment
ESAP	Environmental and social action plan
ESD	EBRD Environmental and social department
ESP	EBRD Environmental and Social Policy
IPAM	Independent Project Accountability Mechanism
IP	Indigenous Peoples
Lenders / Sponsors	Means the financiers of the Project, which include the European Bank for Reconstruction and Development (EBRD), European Investment Bank (EIB), the Asian Development Bank (ADB), the Asian Infrastructure Investment Bank (AIIB), the Korean Development Bank (KDB) and the Korea Trade Insurance Corporation (K-SURE)
MAP	Management Action Plan
MDB	Multilateral development bank
OGC	Office of the General Counsel
PAP or Policy	IPAM Project Accountability Policy
PCM	Project Complaint Mechanism
Project	Nenskra Hydro Power Project (46778) in Georgia

Executive Summary

On 31 May 2018, the Project Complaint Mechanism (PCM) received a Complaint from community members of Chuberi, Georgia, co-submitted with CEE Bankwatch Network and Green Alternative (the Complainants), related to the [Nenskra HPP \(46778\)](#) in Georgia.

The PCM Expert responsible for the Compliance Review identified non-compliance across five (5) of the 2014 Environmental and Social Policy Performance Requirements, and provided eleven (11) Project-level and systemic recommendations to address said non-compliance.

In accordance with the 2014 PCM Rules of Procedure, EBRD Management prepared a Management Action Plan (MAP) to respond to the Expert's findings and recommendations. Management sought Audit Committee endorsement of the draft MAP on 16 July 2020. Audit Committee members requested some minor modifications, after which the Board under the non-objection procedure approved a final version in August 2020 that includes eleven (11) actions to be implemented.

The Compliance Review Report and the approved MAP were disclosed on the [IPAM case registry](#) on 11 August 2020 thus initiating the MAP monitoring stage. During that period, IPAM produced a [MAP Monitoring Plan](#) disclosed in November 2020 on the [IPAM case registry](#), to guide the monitoring process in order for IPAM to deem the actions completed. IPAM issued its [first monitoring report](#) closing actions 1.i), 3.i), 4.i) and ii), Action 8.i), and Action 10.i) while keeping action 5.i) (desk study) open for the second monitoring period.

This report covers the second monitoring period, which goes from February to July 2021. For this period, the MAP established deliverables in relation to Management Actions 2, 3.ii, 4.iii and 9, and the IPAM Monitoring Plan detailed the activities to be undertaken by IPAM to determine them as completed according to the criteria set in the Project Accountability Policy¹.

In addition to this, Management Action 5 Phase 1(desk study)) was still pending at the end of the first monitoring period, so it is also considered within this report.

Based on IPAM's monitoring of actions and requirements for completion of each of the actions as outlined in the MAP implementation monitoring plan, IPAM has determined that Action 5 Phase 1 (desk study) and Action 9 are complete. Although the other action items committed by the management for the second monitoring period have progressed, there are remaining requirements under each of the action that are pending for Management to implement and thus for IPAM to consider it completed. The actions that will continue to remain open for the next monitoring period are:

- **Management Action 2** - the PR7 guidance note has been finalized and reviewed by the Board but is pending disclosure. The committed timeframe has not been met and no estimated new timeframe has been provided - **Action not completed - Monitoring to continue.**
- **Management Action 3 ii.** – the internal guidance note on assessment of alternatives drafted includes definition of Good International Practice. However, it does not contain guidance on disclosing which the MAP committed to including. **Action not completed- Monitoring to**

¹ As per the PAP, IPAM will deem an action to be completed when the implementation plans and commitments are effectively carried out; and the timetable is met.

continue.

- **Management Action 4.iii** – the guidance note is in drafting process and training is pending. The committed timeframe has not been met and no revised timeframe has been provided – **Action not completed - Monitoring to continue.**

COMPLIANCE PROCESS OUTPUTS AND TIMELINE

S.No.	ACTIVITY	TIMELINE
1.	Compliance Review completion	July 2020
2.	Management Action Plan approval	August 2020
3.	MAP Monitoring Plan	November 2020
4.	1st monitoring report covering period September 2020 – January 2021	April 2021
5.	2 nd monitoring report covering period February 2021- July 2021	November 2021

For the third monitoring period, in addition to those actions due in the third period, IPAM will monitor Management Actions 2, 3ii, 4iii. Kindly requesting Management to establish a revised deadline for their completion and the rationale for the new timeframe set.

The next monitoring report is scheduled for disclosure at the end of February of 2022.

1. Introduction

This is the second Monitoring Report on implementation of the Management Action Plan related to [case 2018/03](#) Nenskra HPP (46778). The Project Complaint Mechanism (PCM) registered the case in 2018 and Ms. Andrea Saldarriaga, PCM Expert, undertook the Compliance Review of the Case as per the 2014 PCM Rules of Procedure. In line with the latter, the Compliance Review Report and the Management Action Plan (MAP) to address the findings and recommendations of the report were submitted to the EBRD Board of Directors in July 2020, and the MAP ultimately approved on 5 August 2020.

On 1 July 2020, the 2019 Project Accountability Policy (PAP) became effective thus superseding the 2014 Rules of Procedure. Consequently, per the transitional provisions established in section V of the PAP, monitoring of the Nenskra MAP implementation fell under the responsibility of IPAM as per the PAP provisions for monitoring (paragraph 2.8 of the PAP).

In the second half of 2020, IPAM produced and disclosed a [monitoring plan](#) for this case followed by the [first monitoring report](#) in April 2021. This is the second monitoring report, which covers IPAM monitoring activities in relation to relevant Management actions for the period February 2021 to July 2021.

2. Background

On 31 May 2018, the Project Complaint Mechanism (PCM) received a Complaint from community members of Chuberi, Georgia, co-submitted with CEE Bankwatch Network and Green Alternative (the Complainants), related to the [Nenskra HPP \(46778\)](#) in Georgia.

The PCM Expert responsible for the Compliance Review identified non-compliance across five (5) of the 2014 Environmental and Social Policy Performance Requirements, and provided eleven (11) Project-level and systemic recommendations to address said non-compliance.

In accordance with the 2014 PCM Rules of Procedure, EBRD Management prepared a MAP to respond to the Expert's findings and recommendations. Management sought Audit Committee endorsement of the draft MAP on 16 July 2020. Audit Committee members requested some minor modifications, after which the Board under the non-objection procedure approved a final version in August 2020.

The Compliance Review Report and the approved Management Action Plan (MAP) were disclosed on the [IPAM case registry](#) on 11 August 2020 thus initiating the MAP monitoring stage.

2.1 Compliance Review Findings

In July 2020, the Expert found the Bank to be non-compliant with Performance Requirement 7, 1, 5, 8 and 10 of the 2014 ESP, which have been outlined in the [Compliance Review Report](#).

2.2. Compliance Review Recommendations

In response to the findings of non-compliance, the Expert made eleven recommendations to the Bank, as outlined in the [Compliance Review Report](#): four that were systemic / procedural in nature, and seven others, specific to the Project, which have been detailed in its [First Monitoring Report](#).

2.3. EBRD Management Action Plan

In response to the Expert's findings and recommendation, the Bank prepared a Management Action Plan ([MAP](#)), approved by the Board and disclosed on 5 August 2020. The MAP details 11 actions to be implemented and the timeframe for their expected implementation.

3. Monitoring Report

This report covers the second monitoring period, which goes from February to July 2021. For this period, the MAP established deliverables in relation to Management Actions 2, 3.ii, 4.iii and 9, and the IPAM Monitoring Plan detailed the activities to be undertaken by IPAM to determine them as completed according to the criteria set in the Project Accountability Policy². (See table 1 for actions due this monitoring period)

In addition to this, Management Action 5 (Phase 1) was still pending at the end of the first monitoring period, so it is also considered within this report.

Table 1. Actions to be implemented in the period February-July 2021 as per the MAP

Action No.	EBRD Management Action Plan Commitment and Proposed Deadline for Completion	IPAM Proposed Monitoring Activity	IPAM monitoring activity due date	IPAM Requirement for determining completion
2	Undertake a gap analysis of the revised PR7 in the 2019 ESP and the new PR7 Guidance Note, currently under preparation, in light of this recommendation to ensure all elements are included. Finalise and publish the PR7 Guidance Note. Management Deadline: By end of first monitoring period	Review gap analysis and verification of Board review and disclosure process	July 2021	- Gap analysis completed by the Management - PR7 Guidance note reviewed by the Board - PR7 Guidance note disclosed by Management
3.	(ii) Prepare internal guidance for disclosing when the analysis of alternatives has already been undertaken prior to the Bank's involvement in the project and the outcomes of the Bank's review of such an analysis against GIP. Management Deadline: By end of first monitoring period	Review the internal guidance note.	July 2021	Guidance note considered by IPAM
4.	(iii) Internal guidance on wider gender considerations based on 2019 ESP and associated Performance Requirements will be developed and ESD will be trained to assist in addressing gender issues/risks in projects. Management Deadline: By end of first monitoring period	- Review internal guidance note on inclusion of wider gender considerations - Request training records - One IPAM team member to participate in a training session	July 2021	- Guidance note considered by IPAM - Receipt of training documents by IPAM - One IPAM team member participated in a training session
9.	Management will continue to engage with the borrower and their advisors to ensure that the LALRP is updated to incorporate the recommendations of the PCM Compliance Review including deletion of the references made to specific thresholds in the entitlement matrix. Management Deadline: By end of first monitoring period	- Review the LALRP implementation report to confirm removal of thresholds for all past and ongoing land acquisition activities. - Review of stakeholder engagement records to see the	July 2021	LALRP implementation report considered and Project affected people feedback is retrofitted through stakeholder engagement records.

² As per the PAP, IPAM will deem an action to be completed when the implementation plans and commitments are effectively carried out; and the timetable is met.

Action No.	EBRD Management Action Plan Commitment and Proposed Deadline for Completion	IPAM Proposed Monitoring Activity	IPAM monitoring activity due date	IPAM Requirement for determining completion
		feedback of affected people on the process undertaken.		
Pending Actions from other monitoring periods				
5.	Consult with project stakeholders including the project sponsors, project lenders, relevant Department of the Government of Georgia and internationally and locally recognised experts in the field to define the appropriate next steps in the context of the project ESIA and the broader content of applicability of PR7 in Svaneti. Management Deadline: Phase One (Desk Study): November 2020	Review of the phase I report.	December 2020	Review of the phase I report.

3.1 Monitoring Activities undertaken during the period

During the period, and based on the actions to be monitored, IPAM held meetings with Management, reviewed the relevant documents (final and draft versions) submitted to consideration making comments when needed, and sought clarifications on those items that are presenting delays vis-à-vis the original timeframe.

IPAM met virtually with the Complainants regarding the implementation of those actions and the situation at project level. Here below a summary of the monitoring activities undertaken per action:

Management Action 2. IPAM received from Management the **PR7 Guidance Note** for review and was informed that the Board has reviewed the document and the comments made by Directors have been addressed in the final version. Finally, Management has approved the Guidance Note but has not disclosed the document.

Management Action 3 ii. IPAM received from Management the **Guidance Note on Assessment of Alternatives**³. The revision by IPAM of this internal note was for the two items to which Management committed. They are: (1) define Good International Practice for the assessment of alternatives and adopt this as internal guidance within the ESD's Assurance Framework, and (2) prepare internal guidance for disclosing when the analysis of alternatives has already been undertaken prior to the Bank's involvement in the project and the outcomes of the Bank's review of such analysis against GIP.

In relation to the first item, IPAM confirmed that the internal guidance note has defined Good International Practice for the assessment of alternatives. However, in relation to the second item, IPAM has not found language that would guide the commitment made by Management on "...disclosing to public and the Board of Directors when the consideration of alternatives has already been completed by the time of the Bank's involvement in the project and the conclusions of the Bank's review of the analysis of alternatives undertaken against GIP"³. Therefore, IPAM would consider it necessary for Management to insert the relevant guidance before deeming the action completed.

³ See Management Comment and Action on Recommendation 3 of the Nenskra HPP Management Action Plan.

Management Action 4 iii. IPAM received a preliminary draft for the **Guidance Note on Gender Due Diligence**. According to the draft, the guidance note is aimed to improve ESD's appraisal of gender risks, impacts and opportunities in the Bank's investment operations from the screening phase through to monitoring in accordance with the Bank's PRs. IPAM was invited to participate in the workshop organised by the Management to discuss and provide feedback on the draft.

Management Action 5. During the first monitoring period, Management submitted to IPAM a preliminary report on the desk review undertaken in Phase 1, analysing the criteria used by different IFIs in relation to indigenous peoples. IPAM then engaged with the complainants who expressed concerns on the lack of consultation regarding this item. As a consequence, IPAM committed to engaging with Management to understand how consultation, if any, had been undertaken or what the plans were to hold this consultation.

As response to this, Management informed IPAM that a *“cross cultural consulting Service (CCCS) has been appointed to conduct an independent third party assessment of the applicability of EBRD's PR7 requirements to the Svan. CCCS's mandate started in Q2 of 2020 with a review of the PCM complaint, resulting compliance review report, and available ethnographic literature about the Svan. This work has been completed to inform the necessary field work, which has been delayed because of the COVID-19 pandemic. With the easing of restrictions, CCCS is now ready to initiate the formal planning of fieldwork in Georgia. As a first step, CCCS will be reaching out to the parties to the PCM complaint as well as representatives of the project and the government of Georgia in order to request input into the planning of the fieldwork. This initial engagement will aim to: (1) present the objectives of the study; (2) develop a list of groups and individuals with whom to consult; (3) confirm culturally appropriate consultation protocols and methods; and (4) verify the subjects to be covered during consultations.*

Management also emphasised that *“given ongoing COVID-related travel restrictions, this will occur remotely via video conferencing or other means as appropriate. Following this, CCCS will prepare a formal plan and confirm timing for the fieldwork component of the study. This plan of engagement and consultation will be provided to all the stakeholders and executed as soon as practical. EBRD can confirm that the delays experienced to date are because of travel and operational restrictions and we cannot exclude this from continuing to be an issue. However, EBRD will endeavour to work within the confines as far as practical”.*

Management Action No. 9. Management provided IPAM with the LALRP implementation report and the stakeholder engagement records. The review by IPAM confirms that the LALRP implementation report reflects removal of thresholds for all past and ongoing land acquisition activities and stakeholder engagement records include various consultations conducted with Project affected people.

3.2 Complainants Perspective

IPAM engaged with the Complainants during a virtual session. During the meeting, the Complainants continued to express concerns on consultation and challenges in engagement with the Project-affected people and the Svan Lalkhor⁴ via video-conferencing in relation to PR7 applicability study. They confirmed that they received a brief but informative reply on their information request regarding Phase 1.

⁴ Lalkhor is a traditional Svan Council meeting.

About Phase 2, they stated that *“it may be easier to reach Lalkhor members in Mestia and Tbilisi, where internet connection is better. But special attention needs to be paid to complainants, project affected people and Lalkhor members, who are in Chuberi and Nakra, where internet (and even phone) connection can be weak and patchy.*

The initial stage of engagement for preparation of the Phase 2 assessment can be a test on how the assessment itself will happen. For a better chance of working well, it would really help if Management and the EBRD consultant will:

- *establish good and regular communication with complainants and Lalkhor;*
- *share a clear and detailed timeline of the initial stage of the engagement for designing Phase 2;*
- *dedicate enough time and capacity of the consultant, and technical support, to ensure that discussions can be conducted in a meaningful way.*

We hope to hear more from Management and to establish a clear and practical process. Bankwatch and Green Alternative are committed to help set up the process, as needed.”

During the meeting, regarding Management Action 9 on implementation of LALRP, the Complainants mentioned that they had not spoken to people in the community and hence were not aware of the engagement reported. They emphasised that it is important to establish a clear distinction between the engagement undertaken for resettlement purposes and the one related to the assessment of applicability of PR7. Finally, they appreciated the progress made by Management on Action no 4.iii.

3.3 Monitoring Conclusions and Next Steps

This report covers the second monitoring period, February 2020 to July 2021 and reflects the status of MAP implementation. Any actions implemented from August 2021 will be recorded in the next monitoring report.

For this second monitoring period, the MAP had committed to a number of deliverables in relation to Management Actions, 2, 3.ii, 4.iii, and 9. In addition to these action items, Action 5 Phase 1 (desk study) was pending completion. (Table 2 in the annex shows the action, monitoring activities scheduled to take place, outcomes, and determinations)

IPAM reviewed documentation provided by Management, engaged with Bank staff to get a better understanding of how specific recommendations are being met through the MAP. In addition, IPAM met virtually with Complainants to listen to their views and concerns.

Based on the criteria set in the Project Accountability Policy for determining completion of Management Actions and having undertaken specific monitoring activities in relation to four actions during this period, IPAM finds the following:

Management Action 5 Phase 1 - Action completed although not within the implementation timeframe committed by Management.

Management Action 2 - the PR7 guidance note has been finalised and reviewed by the Board but is pending disclosure. The committed timeframe has not been met and no estimated new timeframe has been provided - **Action not completed - Monitoring to continue.**

Management Action 3 ii. – the internal guidance note on assessment of alternatives drafted includes definition of Good International Practice. However, it does not contain guidance on disclosing which the MAP committed to including. **Action not completed- Monitoring to continue.**

Management Action 4.iii – the guidance note is in drafting process and training is pending. The committed timeframe has not been met and no revised timeframe has been provided – **Action not completed - Monitoring to continue.**

Management Action 9 - Action completed. LALRP implementation report reflects removal of thresholds and stakeholder engagement records reflect the consultations undertaken.

Next Steps

For the third monitoring period, in addition to those actions due in the third period, IPAM will monitor Management Actions 2, 3ii, 4iii. Kindly requesting Management to establish a revised deadline for their completion and the rationale for the new timeframe set.

The next monitoring report is scheduled for disclosure at the end of February of 2022.

3.4 Table 2: MAP Implementation Progress - Actions due in the Second Monitoring Period and their current status

Table 2 shows those actions that were due during the current monitoring period, the monitoring activities that IPAM would perform and the determination of completion, as per the criteria set in the PAP.

Action No.	EBRD Management Action Plan Commitment and Proposed Deadline for Completion	IPAM Proposed Monitoring Activity	IPAM monitoring activity due date	IPAM Requirement for determining completion	Status of Management Action Plan Commitment	IPAM Comments
2	Undertake a gap analysis of the revised PR7 in the 2019 ESP and the new PR7 Guidance Note, currently under preparation, in light of this recommendation to ensure all elements are included. Finalise and publish the PR7 Guidance Note. Management Deadline: By end of first monitoring period (See above for Management clarification)	Review gap analysis and verification of Board review and disclosure process	July 2021	- Gap analysis completed by the Management - PR7 Guidance note reviewed by the Board - PR7 Guidance note disclosed by Management	Not completed Disclosure pending – No revised timeframe provided	IPAM reviewed the PR7 guidance note including the review provided by the Board. IPAM will close the item when the management discloses it.
3.	(ii) Prepare internal guidance for disclosing when the analysis of alternatives has already been undertaken prior to the Bank's involvement in the project and the outcomes of the Bank's review of such an analysis against GIP. Management Deadline: By end of first monitoring period (See above for Management clarification)	Review the internal guidance note.	July 2021	Guidance note considered by IPAM	Not completed - Language in relation to disclosure still pending	IPAM reviewed the document

Action No.	EBRD Management Action Plan Commitment and Proposed Deadline for Completion	IPAM Proposed Monitoring Activity	IPAM monitoring activity due date	IPAM Requirement for determining completion	Status of Management Action Plan Commitment	IPAM Comments
4.	(iii) Internal guidance on wider gender considerations based on 2019 ESP and associated Performance Requirements will be developed and ESD will be trained to assist in addressing gender issues/risks in projects. Management Deadline: By end of first monitoring period.	- Review internal guidance note on inclusion of wider gender considerations - Request training records - One IPAM team member to participate in a training session	July 2021	- Guidance note considered by IPAM - Receipt of training documents by IPAM - One IPAM team member participated in a training session	Not Completed No revised timeframe provided	IPAM reviewed the preliminary internal Guidance note on Gender Due Diligence across EBRD's investment operations, participated in the workshop and provided feedback to be included into the final Guidance note.
5.	Consult with project stakeholders including the project sponsors, project lenders, relevant Department of the Government of Georgia and internationally and locally recognised experts in the field to define the appropriate next steps in the context of the project ESIA and the broader content of applicability of PR7 in Svaneti. Management Deadline: Phase One (Desk Study): November 2020 Deadline for Phase Two (Field Study): 24 months from MAP approval - August 2022.	Review of the phase I report.	December 2020	Review of the phase I report.	Phase 1 Completed Phase 2 In process	IPAM reviewed the desk study conducted as phase I report. IPAM considered the inputs from the complainants on information received from the Management.
9.	Management will continue to engage with the borrower and their advisors to ensure that the LALRP is updated to incorporate the recommendations of the PCM Compliance Review including deletion of the references made to specific thresholds in the entitlement matrix.	- Review the LALRP implementation report to confirm removal of thresholds for all past and ongoing land acquisition activities. - Review of stakeholder engagement records to	July 2021	LALRP implementation report considered and Project affected people feedback is retrofitted through stakeholder engagement records.	Completed	IPAM reviewed the LALRP implementation report and verified its deletion of references to "severely" and "significant" affected household categories and thresholds addressing

Action No.	EBRD Management Action Plan Commitment and Proposed Deadline for Completion	IPAM Proposed Monitoring Activity	IPAM monitoring activity due date	IPAM Requirement for determining completion	Status of Management Action Plan Commitment	IPAM Comments
	Management Deadline: By end of first monitoring period (See above for Management clarification)	see the feedback of affected people on the process undertaken.				<p>recommendations from PCM CR.</p> <p>IPAM also verified the stakeholder engagement log records on the process undertaken.</p>