

The CEE Bankwatch Networks Mission is to prevent environmentally and socially harmful impacts of international development finance, and to promote alternative solutions and public participation

Bulgaria:

Centre for Environmental Information and Education (CEIE)

Environmental Association Za Zemiata (For the Earth)

Czech Republic:

Centrum pro dopravu a energetiku

Hnuti Duha

Estonia:

Estonian Green Movement-FoE

Georgia:

Green Alternative

Hungary:

Nature Protection Club of Eotvos Lorand University (ETK)

National Society of Conservationists-FoE (NSC)

Latvia:

Latvian Green Movement

Lithuania:

Atgaja

Macedonia:

Eko-svest

Poland:

Polish Green Network (PGN)

Institute of Environmental Economics (IEE)

Russia:

Sakhalin Environment Watch

Slovakia:

Friends of the Earth - Center for Environmental Public Advocacy (FoE-CEPA)

Ukraine:

National Ecological Centre of Ukraine (NECU)

To: Ms Sue Barrett
Director for Transport, EBRD
One Exchange Square,
London, EC2A 2JN ,
United Kingdom

CC: Mr. Alistair Clark, Corporate Director,
Environment and Sustainability, EBRD

30 October, 2009

Dear Directors,

We would like to express our concerns regarding the developments around the Tbilisi Railway Bypass Project and compliance with EBRD Environmental and Social Policy requirements. Here we will address only violations of procedural issues, however, these could drastically affect the whole project design.

Scoping procedures implementation

Problems were raised already during the scoping meeting that took place on 21st July 2009 and was attended mainly by environmental NGOs.

During the meeting the project consultant admitted that they had not started information distribution and the notification of the affected population in order not to increase tensions within society. In our opinion, this is a primary violation of environmental and social policy requirements regarding the engagement of stakeholders in project preparation, as it stresses *"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."*

15th September in response to Labour party protest, the Railway LTD stated, that in nearest future it will elaborate the special program for early notification and consultation with public, and start negotiations regarding the compensations based on international standards. In addition, Railway LTD stated that it already installed information boxes, where people can get brochures and commenting forms.¹ This approach highlights that Railway LTD as well as consultants do not follow the principles of scoping procedure that is particularly important in case of the project that involves physical and economic resettlements.

During the scoping process, alternatives suggested by the project proponent were all assessed as non-feasible by the public. One alternative was said to be extremely expensive; another involved a 21km tunnel under the city, and the third one

¹ <http://www.newalliance.info/ge/economics/43-2009-08-16-09-13-45/144-2009-09-15-13-40-08.html>

involved the modification of the proposed bypass alternative and was rejected before the scoping due to technical constraints. However, in the draft ESIA published (respectively on 3rd September in English and 16th October in Georgian) all these non-feasible alternatives have been transposed from scoping document without any further justification. In other words, the results of the scoping process were ignored, and we believe that this renders the later stages of the procedure rather pointless.

Several other problems should also be noted regarding the scoping procedures - for example, no distribution of the meeting follow up notes and the absence of the Public Consultation and Disclosure Document (PCDP) for commenting on.

Violation of PR 10, EBRD's Environmental and Social Policy (2008);

A meeting of a number of Georgian NGOs with the project proponent and the consultants was held on 15th October² at the Aarhus Center, Tbilisi. During the meeting it became clear, that the project proponent considers the disclosure of the draft Environmental and Social Impact Assessment (ESIA) in English, and the non-technical summary of the ESIA in Georgian on the Railway's web site on September 3rd, as the start of the 120 days of the public disclosure process in accordance with the EBRD disclosure policy. The EBRD web-page also states that the board discussion is scheduled on 12th January, 2010, four months after the ESIA disclosure in English.

The project proponent also admitted that the Georgian version of the ESIA was submitted to the competent authority and disclosed to public on 15th October, which triggers the start of the 45 day public participation procedure under the Georgian legislation in order to receive an environmental permit. The public disclosure of the project's full draft ESIA report in Georgian took place a day later, on 16th October 2009.

To summarize, the draft ESIA report in English along with non-technical summary in Georgian was disclosed on 3 September 2009, while the Georgian translation of the draft ESIA report was made public only on 16th October 2009.

The EBRD's Environmental and Social Policy (2008) Performance Requirement 10 stresses that *"In the case of projects involving an EIA/SIA, clients shall ensure that the disclosure and consultation are carried out in accordance with paragraphs 12-17. Information disclosed must include a full EIA/SIA report in accordance with the Bank's requirements. In addition, the consultation process must meet the timing requirements for EBRD disclosure detailed in paragraph 3.4.1 of the Bank's Public Information Policy (PIP), as well as any applicable requirements under national EIA law and other."*

The EBRD environmental and social policy also states that *"The Information will be disclosed in the local language(s) and in a manner that is accessible and culturally appropriate, taking into account any vulnerable people (for example ethnic groups or displaced persons). For projects with potentially significant adverse social or environmental impacts, disclosure should occur early in the environmental and social appraisal process"*.

It would be hard to call the publication of a draft ESIA report in English as an "accessible and culturally appropriate" way for the Georgian population. Thus, the claims of the project proponent, that it disclosed "a full EIA/SIA report in accordance with the Bank's requirements" is not justified.

According to the EBRD policy, PR 10 *"clients shall ensure meaningful dialogue with affected parties and facilitate their informed participation in the decision-making process, in*

² The meeting was organized by Green Alternative and Friends of The Earth Georgia.

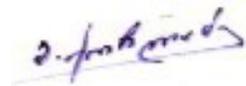
accordance with paragraphs 12 to 16". According to the EBRD policy "meaningful consultation":

- 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. "

It is difficult to agree with the project proponent's and consultant's claims that since 3rd September, they have organized public meetings and consulted with the affected people (mainly those who will be resettled in the railway office) and consider that as a meaningful consultation process. It is fact that draft ESIA report in Georgian was not available to public until 16 October 2009 and the basis of consultation, according to them, was information leaflets (printed in July 2009). Leaflets can be a useful supplementary tool for public information but cannot constitute in themselves a public consultation.

We would like to ask you to discuss the compliance of the project documents' disclosure with the EBRD Environmental and Safeguard Policy and to ensure that any shortcomings are adequately addressed. Also in order to ensure the high quality of the ESIA process, it would be important to ensure that all feasible alternatives in the Tbilisi Railway Bypass project are identified and consultations are organized in compliance with the EBRD policies.

Sincerely Yours



Manana Kochladze

CEE Bankwatch Network Regional Coordinator