Involuntary Resettlement in Tbilisi Railway Bypass Project

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Preamble

A lot of large-scale infrastructure projects have been planned and are being implemented in Georgia over the past years, which, along with positive results, are accompanied by adverse consequences that are mainly associated with involuntary resettlement caused by these projects. As a rule, involuntary resettlement is accompanied by interruption of local production system, disappearance of income sources, as well as other negative consequences. In addition, there are frequent cases of corrupt deals, forceful evictions, systematic failure to fulfil the obligations related to awarding compensations, eviction and rehabilitation of resettled people; as a result, the lives of involuntarily resettled people become unbearable. Involuntary resettlement can have an impact not only on resettled population/community, but also on the remaining population, who do not resettle themselves, but may still suffer losses in the process of project implementation due to the loss of livelihoods and depreciation of their assets.

Unfortunately, until now Georgia has no state policy in the field of involuntary resettlement caused by development projects; legislation in this field is extremely fragmental; in addition, there is no government agency responsible for state regulation of involuntary resettlement caused by development projects. Therefore, the approaches used in projects planned in Georgia mostly depend on whether any of the international financial institutions is involved in the project or not. International financial institutions, as a rule, have their own policies and detailed guidelines, which should compulsorily be taken into account by borrowers in the process of planning and implementing the project.

Involvement of international financial institutions in the project indicates that the project should be implemented at a higher standard than usually used in Georgia. However, quite frequently international financial institutions do not pay due attention to the fulfillment of their own policies and guidelines and finance such projects, which directly violate the requirements of these institutions. In such cases, international financial institutions are subject to severe criticism from the civil society. Tbilisi Railway Bypass Project is a clear example of it.

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1 Loss of housing, shelter, income, land, livelihood, property, access to resources and services; also rendering assistance to involuntarily resettled people so that they restore their socioeconomic and cultural conditions.
1. Project description

The main goal of the Tbilisi Railway Bypass Project is to relocate transit of hazardous freights (crude oil and oil products) from the densely populated area outside the capital city with the purpose of increasing the efficiency and safety of railway operations. The project envisages the construction of a new railway section bypassing the central area of the capital city and modernization of the Didube and Navtlughi railway stations. According to the project, the redevelopment of freed-up territories will promote the development of the northern part of the capital.

The total cost of the project is EUR 290 million (excluding VAT); in March 2009 Georgian Railway LLC (100% of its shares are state-owned) applied to the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB) for financing the Tbilisi Railway Bypass Project. Despite a number of answerless questions and disputable issues, the EIB and the EBRD approved EUR 200 million loans (EUR 100 million each) to Georgian Railway LLC in April 2010 and May 2010, respectively. Later in April 2011 the EIB refused to finance the project and in October 2011 the EBRD also quit the project upon the request of Georgian Railway LLC.

Generally, the project goal could only be welcomed, but after studying project documents, public discussions and proposals from various stakeholders, Green Alternative revealed a number of problematic issues, which should have been taken into account in the process of project planning in order to avoid its adverse effects on Tbilisi population and the living environment.

2. Involuntary resettlement of project-affected communities

To achieve its goal (to increase public safety), the project envisaged relocation of the existing route from a densely populated area outside the capital city (i.e. to bypass Tbilisi) – it was planned to build a new railway route via the settlements of Patara Lilo, Didi Lilo and Avchala.

The new railway route was planned to pass via the state-owned and privately owned lands; the project required both physical and economic resettlement\(^\text{2}\) and therefore, to meet the requirements of the EBRD and the EIB, Georgian Railway company had to develop a resettlement action plan through consultations with project-affected communities and then to act in line with that plan. However, instead of developing the plan, Georgian Railway company directly started compensating for the lost property. The part of the population, which was directly affected by the new railway route faced a dilemma – either to agree on the amount of compensation offered by the company and resettle, or to reject the proposal; the refusal would be followed by a long procedure of property expropriation envisaged by law (the eminent domain law) as a result of which they would still have to abandon their property (with compensation for the loss).

The project also affected those families, whose property and houses appeared along the new railway route; damage caused to this part of the population (depreciation of their assets, noise, safety, etc.) was not taken into consideration at all.

\(^2\) Resettlement refers both to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood).
The affected population was not properly informed about the planned project, types of impacts, mitigation and compensation measures. So, it represented a rough violation of the EBRD’s environmental and social policy.\(^3\)

It should also be noted that Georgian Railway company awarded compensations only for those land plots and residential houses, which were located directly within the corridor of the new railway route. The company did not define a buffer zone and refused to resettle the population living there, although according to Chapter 6.4.5. “Some Possible Scenarios of Emergency Situations” of the Environmental Impact Assessment Report released by the company, “as a result of explosion of petrol tank the following is expected: within a radius of 100 m – the 100% destruction of buildings and extremely high (with lethal outcomes) impact on the people outside the buildings”. By neglecting this issue the company yet again violated the EBRD’s environmental and social policy.\(^4\)

The project envisaged the construction of 18-20 meter high embankment in the densely populated Avchala district, where the trains loaded with hazardous freights (crude oil and oil products) would be moving. The project did not discuss either adequate safeguard measures for the population living along the route (buildings would be located about 10-50 meters away from the planned embankment), or the issue of depreciation of their assets caused by closeness of residential houses to the railway line.

In addition, the construction process was launched even without arranging corridors for the movement of construction machinery. Neither did the company study important negative impacts of the construction and exploitation stage (respectively no mitigation measures were determined), such as air pollution, noise and vibration caused by trains loaded with oil products and applying brakes.

Another problematic issue related to the project was possible pollution of the Tbilisi Sea. According to the project documents, minimal distance of the railway project from the Tbilisi Sea was 900 meters. According to the project design, a great part of the railway section would be located in a ditch and in case of oil spill the Tbilisi Sea would be polluted. Even in case of spilling half a cistern, i.e. 30 thousand liters, about 50% of useful capacity of the reservoir

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\(^3\) PR 5 on Land Acquisition, Involuntary resettlement and Economic displacement of the EBRD Environmental and Social Policy: \(15.\) In the case of transactions as described in paragraph 7 that involve the physical displacement of people, the client will, based on the environmental and social impact assessment, develop a Resettlement Action Plan (RAP) that covers, at a minimum, the applicable requirements of this PR, regardless of the number of people affected.\(\ldots\) \(20.\) 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).\).

\(^4\) PR 1 (6) on Environmental and Social Appraisal and Management: “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: \(vi\) Areas and communities potentially affected by impacts from unplanned but predictable developments caused by the project that may occur later or at a different location. The area of influence does not include potential impacts that would occur without the project or independently of the project.”.
would become useless that would leave the population of three districts of Tbilisi as well as about 20 thousand ha of agricultural lands of the Gardabani district without water.

According to Georgian Water and Power company’s conclusion⁵, taking account of possible negative consequences, it was important to conduct surface flow modeling and, even in case of revealing small capacity vectors directed towards the reservoir, to correct the railway route. Later, an additional engineering research was really conducted and protection measures for one of the ravines (Kvirikoba Ravine) were determined; however, the research covered only this particular ravine, whereas there are about 30 similar ravines in the project area that in case of oil spills creates a threat of the Tbilisi Sea pollution.

3. Complaint filed to the European Bank for Reconstruction and Development and its outcomes

On December 30, 2010 the Avchala population living along the planned railway route sent a collective letter to the EBRD’s management. The letter focused on a number of vital issues, such as safety, depreciation of assets, lack of information and unbearable living conditions at the stages of both project construction and exploitation. However, the population failed to receive an adequate response to their letter; thus, on March 2, 2011, with the help of Green Alternative, residents of the Avchala district applied to the EBRD’s Project Complaint Mechanism (PCM).

Besides the above mentioned problematic issues, the Avchala residents also demanded launching of a dialogue with Georgian Railway company with the involvement of all stakeholders on such alternatives of the railway route, which would not run via their settlement; and if it was impossible, they demanded that a buffer zone be determined along the existing route and resettlement of the population living in this buffer zone be ensured.

After thoroughly studying the complaint, which along with other measures, involved visits to the construction corridor and interviews with local population, on September 23, 2011 the EBRD’s Project Complaint Mechanism (PCM) considered the population’s demand on launching a dialogue for settlement of problems well-grounded.

The date and venue of launching the first round of a dialogue was scheduled – it was November 7, 2011 in Tbilisi. However, unfortunately, no dialogue was launched, as in October 2011 Georgian Railway company refused to take a loan from the EBRD. The EBRD’s Project Complaint Mechanism expressed hope that company would hold a dialogue with the population, but the company eventually refused to have any dialogue with the project-affected communities.

4. Current status of the project and the situation on the ground

As already mentioned above, in October 2011 Georgian Railway company refused to take the loan from the EBRD. About a year earlier (in September 2010) the company also refused to take the loan from the EIB. The company cited the issuance of Eurobonds worth USD 250 million as the reason behind its refusal to take a bank loan. Thus, the company continued project without taking the loans. Construction works were carried out by the contractor, Chinese construction company - 23rd Bureau of Chinese Railway.

Following the 2012 parliamentary elections, the new government (opposition parties) came to power and the management of Georgian Railway LLC was also replaced. The new management decided to review the project and suspended construction works during the review period. As a result of the study the company came to a conclusion that the project was unprofitable for Georgian Railway, since movement of freight trains through the bypass would increase the company’s operational expenses by about 35% (it should be noted that GEL 214 million had already been spent for the project purposes by that moment). Therefore, Georgian Railway company applied to the Tbilisi City Hall and the Government of Georgia and requested conservation of the project for 18 months. On March 26, 2014, the Government of Georgia issued a decree (# 497), in which it considered the construction of Tbilisi Railway Bypass project expedient and satisfied the company’s request to conserve the project for 18 months. In addition, the government ruled in its decree to use this term for determining relevant measures for the improvement of technical and operational parameters.

As for the situation existing in the project area by March 2014, living conditions have further aggravated in the Avchala settlement, along the railway route. As it turned out, the construction company was using the roads running in the settlement for construction works; for this purpose, it even covered the roads with dirt. The company worked during twenty-four-hours and it did not water the roads used for construction works (as envisaged by project documents); thus, the dust from a construction site made the life in the settlement absolutely unbearable.

In addition, the construction company widened the dirt road running to the tunnel portal and significantly (by approximately one meter) heightened it, without informing and consulting the population. As a result, people living along the road fail to open their gates. Moreover, since no channels were built to take away water, flooding of houses is getting regular now during heavy rains. After covering the roads running to the settlement with dirt, mudflows triggered by heavy rains make it practically impossible for locals to get to their residential houses. Roads are not rehabilitated that complicates movement of vehicles even in usual conditions. Thus, the Avchala community has to live in absolutely unsuitable conditions.
Conclusion and recommendation

The project discussed in the present document clearly demonstrates how important it is for the government to have appropriate policy, procedures and relevant institutions in the field of involuntary resettlement caused by development projects through which it would be possible to protect the rights of infrastructure project-affected population, including their rights to land and other property, adequate housing, living in safe environment and other internationally recognized human rights. Existence of social (and environmental) protection requirements secured by legislation is important as tens of infrastructure projects are planned and being implemented in the country and it is essential to avoid those expensive mistakes, which have already been made in the process of implementing various infrastructure projects (including the one discussed in the present document) in Georgia.

The above discussed case is noteworthy to illustrate that participation of international financial institutions in the project (that frequently have higher standards and requirements compared to those of a host country) does not always guarantee meeting of these requirements and exerting relevant influence on project developers.

Until relevant procedures and institutions are established in Georgia, the Georgian Railway company has to take proper conservation measures. This means both conservation of already constructed/arranged buildings (and their protection against plundering) and granting of fair and timely compensation for material and non-material losses caused to communities.
Photo 6: Concrete producing plant located within the railway bypass project corridor, Avchala settlement (The text on the banner: "Effective management and quality is the prerequisite of company’s progress"). October 2011, Green Alternative.

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