MANILA — Lile Chkhetiani hails from Chuberi, a remote village nestled in Georgia’s mountainous Svaneti region, an 8-hour flight from the capital Tbilisi. She grew up there, left for Tbilisi to finish her studies, before returning to Chuberi to become an art teacher.

Last month, Chkhetiani made the nearly 24-hour trip to the Philippines, where she joined thousands of people that crowded the Asian Development Bank headquarters in Manila for its annual meeting: Attendees in suits, camera-toting media personnel, volunteers in orange-clad t-shirts ...

Chkhetiani was there to speak on behalf of her village, which is seeking to learn whether ADB will move ahead with co-financing of a controversial hydropower plant nearby.

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“[I want to] understand the answer to our problems. We feel not safe because of the Nenskra project. I teach there and we are interested concretely what will happen next. We have questions, and because of that I am here,” explained Chkhetiani.

“I would want that they could feel as we feel now. That we feel not safe. And we feel like if this project will be done, I feel like a fish without a river. I want that they could understand this feeling,” she said.

The Nenskra hydropower plant project is one among more than 30 planned hydropower plant projects of the government of Georgia in the Upper Svaneti region. The billion dollar project, to be co-financed by the government and several commercial and multilateral development banks, is meant to boost Georgia's domestic energy capacity to meet increasing demand for electricity. The country has an oversupply of electricity during the summer, but face shortages during winter. Preparations for the project, designed to have a capacity of 280 megawatts, started in 2009. This included a feasibility study and an Environmental and Social Impact Assessment, or ESIA, with additional studies published in 2017.

About 1,400 residents living in the villages of Chuberi and Nakra are estimated to be affected by the project. They identify themselves as Svans, an ethnic group fighting for recognition from the government. They have their own language, and civil society groups involved in the case describe Svans as having their own justice systems, customs, and traditions. They mainly live on subsistence farming and livestock grazing.

Villagers, environmentalists, and social justice organizations fear it would cause displacement, affect livelihoods, lead to environmental degradation, increase the risk of landslides and avalanches in the area, and destroy what remains of the Svan culture.

“We will lose our language, which is Svan language. We will lose it and our property, because we cannot live there because of impact. Our ancestors came to Svaneti, and one of the reasons is the river. This river is life for everybody, and people would eventually leave if there’s no longer a river,” Chkhetiani said.

For this reason, the community has carried out a coordinated campaign against the planned dam since 2016. They’ve written and signed complaints, notably one raising issues on land acquisition there, to the banks considering supporting the project. These include the European Bank for Reconstruction and Development, the European Investment Bank, ADB, and the Asian Infrastructure Investment Bank.

They also lodged formal complaints to ADB and EIB, the only two banks in the consortium of lenders that had a complaints mechanism policy prior to project approval.

Two residents from Nakra village filed a formal complaint to EIB in Jan. 2017, saying the bank had inadequately assessed natural geological hazards in the area, which could be exacerbated with the construction of the hydropower plant. The Nakra river, they describe, has helped washed debris resulting from mudflows that have been a constant threat to the community for years and which they have observed to have increased over time. But they fear that the diversion of water from the river to the Nenskra reservoir could weaken the river’s capacity to mitigate these threats.
EIB reviewed the case, but in its response argued that the series of surveys and investigations made in relation to the environmental and social impacts of the project — made in addition to the ESIA report provided by Gamma Consulting — “provide a sufficient level of information” to address geological risks in the area. They said they will continue to monitor the project during construction and once operational.

At that time, EIB had not yet approved financing for the project. But in Feb. 2018, the bank approved $159 million in loans for the project. EBRD also approved $230 million for the Nenskra hydropower plant project in January.

EBRD did not have a complaints' mechanism prior to approving the project funding. But with the loan approval, locals are now working with civil society to file a formal complaint to EBRD, and another to EIB.

Meanwhile, ADB’s compliance review panel — a board-appointed independent body mandated to carry out compliance reviews under the bank’s accountability mechanism — assessed the communities' formal complaint to the bank to determine whether its contents carry enough weight for a full investigation. They found it did. In fact, there were several reasons for investigation. The events that followed raised more questions than answers, however, not just on the future of the project, but also on ADB’s own mechanisms for accountability.

Compliance issues

To determine the eligibility of a complaint, the panel, which consists of a chair and two part-time members, reviews the concerns raised, engages with ADB management, and reviews relevant documents.

As the Nenskra hydropower plant project falls under the bank’s private sector operations department, the panel engaged the department in several teleconferences. The panel also reviewed documents relating to the bank’s categorization for indigenous peoples and involuntary resettlement, its environmental safeguard policies, the project overview and financing plan, documents prepared by lenders’ technical advisers, copies of communications sent by the private sector operations department to the project sponsor, Korea Water Resources Corporation, and “one back-to-office report dated 30 August 2017,” according to the panel's report.

However, the panel noted the management still failed to provide all documents for assessment.

“The CRP [compliance review panel] requested all back-to-office reports of missions conducted, but ADB Management decided not to submit those. The CRP also requested additional reports of Lenders’ Technical Advisors, which ADB Management decided not to provide to the CRP. Paragraph 137 (i) of the AMP [accountability mechanism policy] states, that ADB Management and staff will ensure that the CRP have full access to project-related information in carrying out their functions,” the report states.

In its eligibility mission to Georgia in January, the panel also found a few questionable actions by the bank in the process of adhering to its own safeguards policies.
For example, while the panel agrees with the bank that the case of the Svan complainants does not require invocation of the bank’s indigenous people categorization, they argued that the bank should have sought additional experts in the process of determining whether the Svan fit under its IP categorization policy. Based on their findings, the assessment informing the bank’s decision on the community’s IP categorization came only from one academic expert of ethnology from the State University of Tbilisi. The panel said bank staff, in practicing “due diligence,” should have also consulted a qualified social science expert and an IP representative organization.

“Direct interactions of ADB staff with representatives of Svans to assess their cultural practices would have also been useful to gain additional information,” said the panel.

How a group of Mongolian herders took on a mining giant — and won

Earlier this year, a group of Mongolian camel herders reached a "historic" agreement with a mining company over a World Bank-backed project, which they say threatens their way of life. Devex digs deeper into the landmark deal and how it was reached.

In addition, they argued that despite not meeting the bank’s IP categorization policy, the Svan culture will be “seriously threatened by this project,” citing the “massive inflow of workers” during the construction period and “potential economic resettlement from pasture land and the loss of eco-services from grazing in forests.”

“A decision not to invoke the IP policy does not prejudice the need for an appropriate assessment and strong mitigation of social, health and safety impacts on the Svan population adequately reflecting the appropriate cultural dimensions of the Svan culture,” the report noted.

A review of the documents also led the panel to conclude that, based on initial evidence, the bank was noncompliant in several areas in its own safeguards policies.

The ESIA, in particular, was problematic. The location and dimensions of the dam were already fixed when supplemental studies were conducted in 2017. The implementation agreement with the project sponsor was already signed. And the assessment largely focused on alternatives to the design of the project, not on the location, or whether the project is the best alternative to achieve the government’s power objectives with the least impacts on the environment and social structures in the area. Such assessments, the CRP noted, may have been conducted in the earlier assessment back in 2015, but the panel did not have access to those studies.

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“The ESIA refers to some earlier assessments conducted by ESIA (2015) but notes that the studies which contain the assessment of alternatives are confidential,” according to the report.

Little detail is also provided on how to mitigate and address concerns regarding the noise, community health and safety impacts, particularly for the local population of women and girls amid an influx of workers.

The following note in the report captures this very concern: “The influx of male workers who
need to be separated from their families, poses risks for sexual abuse of local girls and women. There will also be a demand for entertainment facilities. The ESIA recognizes that the arrival of temporary workers may increase the level of communicable diseases and will offer to the workers awareness raising, health screening, and make condoms available. But these are measures to protect the workers, not the local population.”

The panel finds no evidence of noncompliance in other areas raised in the complaint, such as in assessing the dam’s safety, geological risks, issues on biodiversity and the project’s impact on the microclimate in the region. However, many of these findings come with caveats.

Geological risks were identified in tunnel construction at the dam, and reports by external advisers note geological conditions there “do not seem” to have been fully assessed. But ADB management failed to provide the panel access to the latest external adviser reports, and thus the panel is unable to confirm whether this issue has already been addressed. Further, the panel admits it does not have the subject-matter expertise required to assess whether studies conducted on geological risks and climate impacts were “in accordance with international good practice.”

It also notes outstanding issues regarding the impacts on biodiversity of soil dumping and waste construction, for which methodologies have not yet been finalized.

In addition, according to the panel’s findings, while bank staff have made “significant efforts to improve consultation processes,” more is required to fully assess potential negative impacts and necessary mitigation measures.

Given the issues raised in its initial assessments, the panel recommended the board authorize a full compliance review of the project. As per the bank’s compliance review process, the CRP submits its recommendations to the Board Compliance Review Committee, which is composed of a mix of the bank’s regional and nonregional board members. They are the ones responsible for making a recommendation to the bank’s board whether to authorize a full investigation or not.

In the case of the Nenskra project, however, the Board Compliance Review Committee recommended that the board not authorize a full compliance review “at this time,” but instead prepare an action plan, or “management plan,” that includes “remedial or ameliorative measures” addressing the “questions of compliance” in the report.

In March, the board approved the recommendations of the committee.

A list of questions

Both the CRP’s back-to-office report and the board’s decision triggered questions among civil society organizations involved in the case.

“The [bank] board cannot influence us on the conclusions of the findings of the technical investigation, but they can say, ‘no we disagree with your conclusion.’”

— Dingding Tang, chair of the ADB’s compliance review panel

There is no given “timeline when this management action plan should be prepared,” said
Manana Kochladze, Georgian environmentalist and chair of the Green Alternative. She is additionally concerned how the board will approach the nondefinitive findings by the panel, where it found compliance but with additional concerns, such as on IP categorization.

“The [panel] said the culture is vulnerable and it needs to be assessed and mitigated in the social impact assessment, which it is not. So, what is happening with that part, which is not clear from the board decision?” she said.

The board’s decision not to conduct a full investigation, given the concerns raised in the report, was equally baffling to civil society actors.

Wawa Wang, public finance policy officer at CEE Bankwatch Network, thinks the board’s decision opened a can of worms, raising several questions on the bank’s own accountability mechanism.

“What are the functions of this CRP? They have an extremely restrictive mandate,” she said.

She is also concerned about how the bank’s decision would ripple through its future energy investments in Georgia and other banks’ accountability policies.

“The question is what it means for project-affected communities, not limited to Neskra, but in general,” she said. “It’s very risky for a development bank with a development mandate to look at projects with a piecemeal approach [as it risks] the repetition of mistakes, especially the violation of safeguards.”

Also, she said, “keep in mind that a number of the banks are revising their accountability policies, so it for sure will impact them also.”

Devex asked Dingding Tang, chair of the CRP, whether it is possible for the board to overturn its initial decision and ask them to carry out a full investigation of the project. He explained that is extremely unlikely.

“It’s impossible. Management, you know, never want to ask an investigation. They prefer to do the remedies by themselves,” he said. “Why? Investigate who? Investigate them. Do you want any police people to investigate you?”

As regards the panel’s independence and influence, Tang underscored the CRP’s investigative nature, but emphasized that the final decision rests with the bank board.

“Our initial investigation are based on the facts, based on evidence. We cannot conclude anything based on perception. No. That’s not the methodology of the CRP in the investigation [but] I cannot say [if the board should have asked for a full investigation] because it should be decided by the board. CRP is the technical body, independent from the management, but we’re not independent from the board. We are something like the technical arm of the board. We give technical advice to the board, but final decisions are made by the board. I mean politically. The board cannot influence us on the conclusions of the findings of the technical investigation, but they can say, ‘no we disagree with your conclusion,’” he said.

He said management is required to prepare an action plan, however, to address the
concerns raised in their eligibility assessment.

But it is less clear when that will be available.

In response to questions, the bank told Devex: “ADB is currently preparing a management plan. No timeline has been set. In the meantime, ADB continues to consult with the project sponsor and local communities as part of its due diligence process.”

The bank reiterated it “has not yet committed, nor made any final decision” on whether to finance the project, and that they are at present conducting “detailed technical, legal, financial, and safeguards due diligence as a precursor to any decision.”

Asked how the Board Compliance Review Committee arrived at its decision recommending the board not to authorize a full compliance review, the bank directed to the letter of recommendation filed by the committee in February, which dismisses the panel’s report and findings as not providing “definitive conclusions” of compliance or noncompliance. Such conclusions, the committee argued, can only be determined following a full compliance review — something it did not recommend.

This begs the question of how much significance the compliance review panel plays in the bank’s accountability measures, but the bank said it has no plans to review its Accountability Mechanism Policy “at this point in time.”

In spite of its recommendation, the committee acknowledged that the panel’s report findings “appear based on credible evidence to support a preliminary finding of several important areas of noncompliance with ADB’s operational policies and procedures that might — if not remedied or ameliorated — result in direct and material harm to project-affected people.”

Although the committee recommended that the management plan include “remedial or ameliorative measures,” as the management plan is still in process of development, the bank wouldn’t say what remedial measures could be put in place.

Given the numerous issues raised, affected communities and civil society are hoping the bank will reconsider its involvement in the project. When informed about the hydropower plant during a session at the annual meetings, ADB President Takehiko Nakao, according to several civil society members Devex spoke to, reportedly said, “we do not want to go to a premature project that is not sufficiently taking care of the local people.”

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About the author
Jenny Lei Ravelo is a Devex Senior Reporter based in Manila. She covers global health, with a particular focus on the World Health Organization, and other development and humanitarian aid trends in Asia Pacific. Prior to Devex, she wrote for ABS-CBN, one of the largest broadcasting networks in the Philippines, and was a copy editor for various international scientific journals. She received her journalism degree from the University of Santo Tomas.