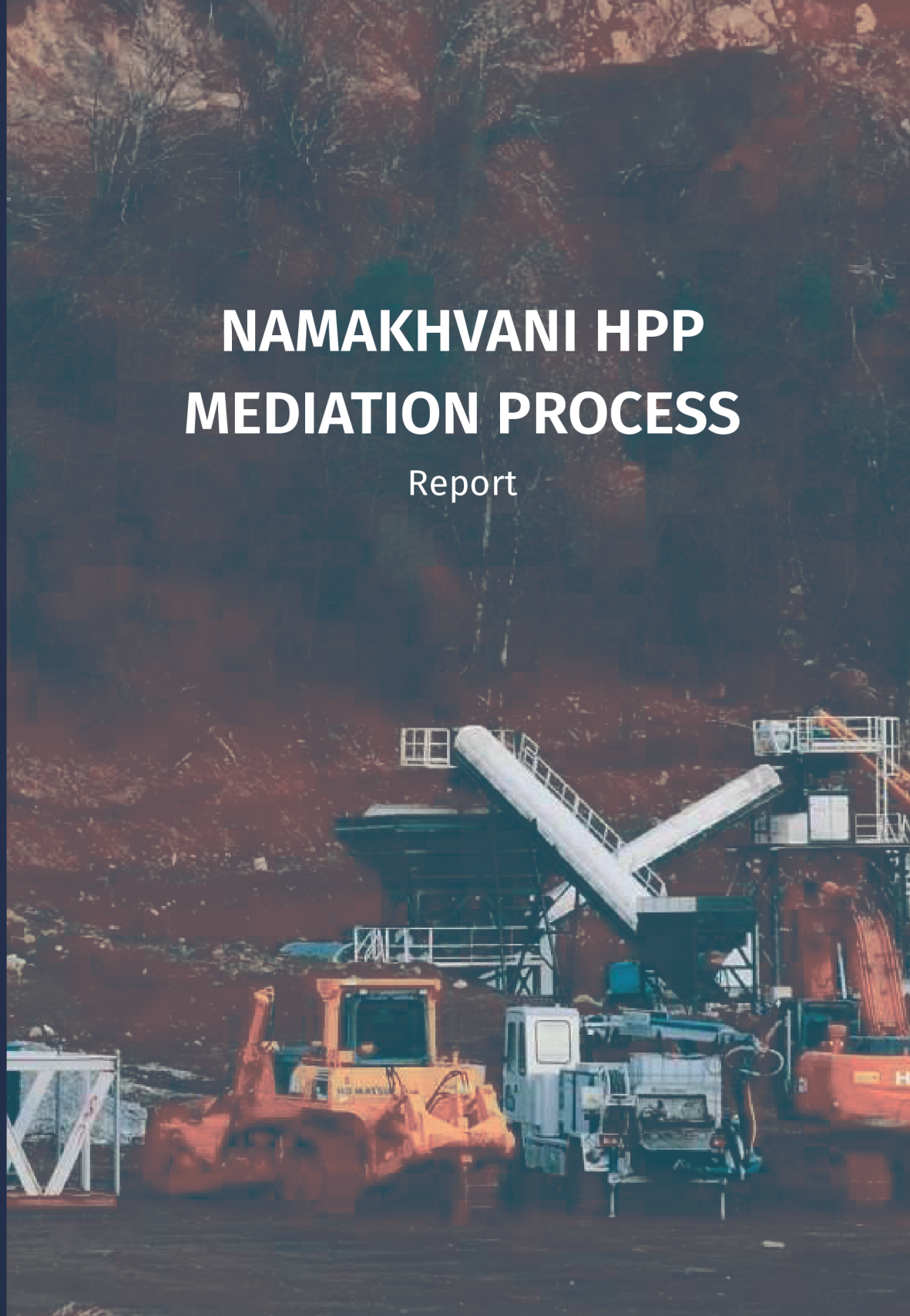


NAMAKHVANI HPP MEDIATION PROCESS

Report

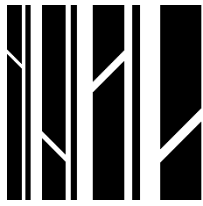


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Namakhvani HPP Mediation Process

Report

Social Justice Center
2021



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MINISTRY OF FOREIGN AFFAIRS OF DENMARK
DANIDA | INTERNATIONAL
DEVELOPMENT COOPERATION

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Introduction

A report¹ prepared by the Energy Community² was published on November 19, according to which the agency declared the end of the so-called mediation process between the government officials and civil society around Namakhvani HPP, which started on June 12, 2021.

We would like to remind the public that the mandate of the Energy Community in this process, along with negotiations between the government officials and the public organizations, was to prepare independent assessments of the project, which was one of the main demands of public resistance and social movement around the Namakhvani HPP project. The CSOs learned from the above-mentioned mediation summary report published by the Energy Community on November 19, 2021, that independent evaluations had been suspended. We believe that this decision of the mediator was made without adequate consultation and discussion with the representatives of the civil society, which created a critical need for an alternative report on the process to be published.

The Energy Community substantiated its decision to terminate its engagement with the independent review process with the news spread on September 20³, according to which Enka had decided to terminate the Namakhvani HPP Agreement. However, due to the fact that the grounds and the consequences of the request to terminate the contract are still unknown to the public, the postponement of the assessments by the Energy Community leaves important questions unanswered regarding the project. The questions that remain unanswered may become relevant again if the project is renewed. Exit of the Energy Community at this stage most likely means being left alone vis-à-vis the main challenges, however the condition that the Energy Community will conduct independent assessments when the project is renewed - remains one of the biggest achievements of the mediation process.

This report, on the one hand, describes the circumstances that were not included in the report prepared by the Energy Community. The information presented in this report relates to the main focus of the Social Justice Center's work in this mediation process and to the information not made public during the course of 6 months, not to jeopardize the negotiation process. On the other hand, the presented report offers a reinterpretation of the conclusions made by the Energy Community

¹ *Mediator's concluding report on Namakhvani HPP in Georgia*, 19 November, 2021, Energy Community Secretariat's Dispute Resolution and Negotiation Centre. Last seen 23.12.2021 <https://energy-community.org/news/Energy-Community-News/2021/11/19.html>

² **The Energy Community** is an international organisation which brings together the European Community and its neighbours to create an integrated pan-European energy market. Since 2017, the Energy Community has 10 members: the European Community and nine countries - Albania, Bosnia and Herzegovina, Georgia, Kosovo, Northern Macedonia, Moldova, Montenegro, Serbia, and Ukraine. Armenia, Norway, and Turkey are observer countries. <https://www.energy-community.org/aboutus/whoweare.html>; (Accessed: January 16, 2022)

³ What happens after the termination of the Namakhvani HPP contract – 3 scenarios, September 22, 2021, Netgazeti, last accessed 23.12.2021 <https://netgazeti.ge/news/564641/>

on key issues of their report and elaborates on them from the perspective of the Social Justice Center.

General information regarding the context

We would like to remind the public that before incepting the mediation process on June 12, 2021 the protest of the population mobilizing against the Namakhvani HPP project has been in place for 7 months. Restrictions on freedom of expression, unjustified and disproportionate use of police force, as well as unjustified restrictions on freedom of movement have been repeatedly reported in the gorge. There were also three instances when a dialogue with local and central government officials was disrupted.

At first, on April 14, 2021, the head of the press center of the Patriarchate of the Georgian Orthodox Church stated the position of the Patriarchate⁴ that it could play the role of mediator in the Namakhvani HPP issue. Archpriest Andria Jagmaidze reported that he would work "with both sides to prevent radicalization and to pave the way for a dialogue."

On April 20, 2021, it was reported⁵ that the Ministry of Economy and Sustainable Development and the Ministry of Environment and Agriculture were planning to create a "Council of Experts" that would evaluate all research documents prepared for the the controversial project of the Namakhvan HPP. According to the ministries, this was done in response to ongoing protests and was aimed at de-escalation of the situation in the gorge. At the initial stage, Prime Minister Irakli Gharibashvili also responded to the protest, saying on June 9, that the terms of transferring the land in the Rioni Gorge to the investor company for a 99 year-period was unacceptable and needed to be revised.⁶ Later, on June 11, the Minister of Economy and Sustainable Development, Natia Turnava admitted in her statement that the protest around the Namakhvani HPP was "serious" and that the government needed to have much more active communication campaign and should have taken the views of the population into account.⁷ The Minister's speech also mentioned the need to correct the mistake made:

⁴ Deacon Andria Jagmaidze - We will be a mediator on the issue of Namakhvani HPP, we will work with both sides to prevent radicalization and leave room for dialogue, April 14, 2021, Public Broadcaster, last accessed: 23.12.2021 <https://1tv.ge/news/dekanozi-andria-jagmaidze-namakhvanhesis-sakitkhze-viqnebit-mediatori-vmushaobt-orive-mkharestan-rom-ar-mokhdes-radikalizacia-da-darches-sivrcce-dialogistvis/>

⁵ *Exoert Council "For better Namakhvani": what are the expectation of the state and the critics*, April, 20, Netgazeti, Last accessed: 23.12.2021 <https://netgazeti.ge/news/535988/?fbclid=IwAR2Zd-517c21-KJB1CArR5HxRIOGjn6tfQT3s3LpcT5mtSgaWqcsxj-GbU4>

⁶ Namakhvani HPP will be constructed, but not via a 99-year-long land transfer, last accessed: 23.12.2021 <https://netgazeti.ge/news/547278/>

⁷ From June 12, the mediation talks around Namakhvani HPP will start – Turnava, June 11, 2021, Netgazeti, last accessed: 23.12.2021 <https://netgazeti.ge/news/547889/>

"We have never had the experience of implementing such a large energy facility, such a large facility has not been built for many decades. Therefore, we are also learning the way how legislation can be refined. Therefore, we are now negotiating with the investor."

The correspondence published in the mediation summary report prepared by the Energy Community reveals that the first letter and the request for both mediation and, if necessary, for the preparation of independent project reviews, from the Ministry of Economy and Sustainable Development was sent to Mr. Dirk Bushle, Head of the for Dispute Resolution and Negotiation Center of the Energy Community, **on 26 April 2021**. In the letter, the Minister explained that the government of Georgia is “committed to a policy of fighting climate changed and decarbonization in energy sector by further developing its potential for renewable energy source”. The Minister pointed out that the country was interested in working on renewable energy sources in accordance with the EU legislation and in compliance with the highest standards of environmental protection, safety, transparency, and inclusiveness. "As in other European countries, [in Georgia], also, renewable energy projects of a certain significance tend to come under intense scrutiny by civil society organizations and local residents." – writes the Minister and points to the social movement against the Namakhvani HPP project, indicating that it is a protest against renewable energy, which is very similar to European countries; however, it is not clear why the protests in European countries were understood in this manner. In the same letter, the Minister noted that the Georgian government had begun reviewing the project and has engaged in a dialogue with the parties; including with the company Enka, as well as with local or nation-wide civil society organizations.

Mr. Bushle's reply letter of **28 May 2021** states that in connection with the communication on **26 April** and the call to the Ministry on **28 May**, he was taking responsibility for two parallel processes: One of which meant review of the environmental impact assessment carried out so far the given time and the contracts concluded. On the other hand, Mr. Bushle informed the government, civil society, and other interested parties of the start of the six-month mediation process. In that letter, Mr. Bushle planned to complete both processes in six months, by October 2021 the latest. The May 28 letter also states that the mediator had established communication with the civil society organizations, Rioni Gorge Defenders, as well as deputy ministers in the Ministries of Environment and Economy. The mediator was also mentioning in his letter that he was not able to meet representatives of the company Enka, but hoped that after there would be a meeting held between Enka and the government of Georgia in the same week, he would be given the opportunity to meet with them too. Finally, in his May 28 letter, Mr. Bushle stated that after the meetings with both parties - the government and the CSOs, it was clear to him that in order to “create trust and discussion atmosphere conducive for finding agree between the parties, two issues had to be addressed with priority, (1) continuation of the construction works at the site of Namakhvani HPP project in parallel to the mediation process and (2) the he situation in the Rioni Gorge”.

The parties in the mediation

The parties in the mediation were on one hand the Ministry of Economy and Sustainable Development of Georgia and the Ministry of Environment and Agriculture of Georgia; on the other hand, Rioni Gorge Defenders, as well as the CSOs: Social Justice Center, Green Alternative, Friends of the Earth, Georgian Young Lawyers Association, Collective for Fair Energy Policy, and the Greens. The third party invited to the mediation was the company Enka, which did not appear and did not participate in the mediation process. In addition to the participants, the mediation meetings were attended by the following observers: representatives of the Public Defender and the Presidential Administration. Initially, the local organizations, Georgian Renewable Energy Development Association (GREDA) and World Experience for Georgia (WEG) had observer status, but they were excluded from the mediation process from an early stage. These two organizations, according to the CSOs, spoke from the position of a party instead of being observers during the public discussions, which was also observed during mediation meetings. The assessment of the CSO participants that GREDA and WEG could not continue to participate in the mediation as independent observers was fully shared by the mediator as well. Respectively they were asked to leave the mediation process by the mediator.

At the beginning of the mediation, all the parties confirmed their willingness to negotiate and their willingness to openly discuss both on substantive and on technical issues.

Framework of the mediation and main limitations

The mediation process organized by the Energy Community was not a mediation with a solid structure and a traditional format (it was not held neither between private companies nor between the states, but CSOs were a party to it); during the meetings, a number of technical and political issues were identified, which became a significant obstacle towards achieving the goals set.

For example, the mediation meetings were scheduled without the provision of an interpreter's services. In addition, participants in the mediation process were asked to abide by the rules of Chatham House⁸, which should have ensured anonymity of the source of the information shared about the the mediation talks, although this did not happen. Unfortunately, during the mediation process, both GREDA and WEG, as well as the government representatives, were disseminating the information about the secret content of the mediation through various media and social networks. At several stages, Rioni Gorge Defenders and the CSOs were refused to ensure greater publicity to the mediation format in order to publicize that the agreements reached at various stages

⁸ Chatham House Rule - the meeting agreement, according to which the participants of the meeting have the right to disseminate its content after the closed meeting, only without disclosing the author. The purpose of this rule is to encourage more openness in the course of the discussion.

were repeatedly getting suspended and / or changed during the mediation process. We would like to remind the public that the Rioni Gorge Defenders left mediation in September 2021, however, the CSOs did not stop participating in this process at any stage, which allows us to fully describe the achievements and the challenges of the mediation process in this report.

Finally, it should be emphasized that, except for June 12, 2021, when the mediator paid a short visit to Tbilisi, no public statement was made by the mediator about the development or termination of the mediation. Moreover, the summary report of the Energy Community has not been translated into Georgian language up until now, so it would summarize the six-month process and thus satisfy the public interest for which it was organized in the first place.

What requirements civil society set before the mediation process began?

The purpose of this report is to explain to the public the positions and requirements presented by the public organizations in the mediation process, the fulfillment and execution of which, unfortunately, proved to be completely impossible. First of all, it is noteworthy that the public organizations involved in this process and the Rioni Gorge Defenders raised the issue of meeting the two main requirements as a precondition for starting the mediation. These are:

- Temporary suspension of construction works of Namakhvani HPP project while the mediation was taking place,
- Lifting restrictions on freedom of movement in the gorge, restoring the right to protest, and revoking other repressive or illegal measures

As can be seen in the correspondence mentioned above, Dirk Bushle himself has also points out these preconditions in a letter sent to the Ministry of Economy. He writes that “create trust and discussion atmosphere conducive for finding agree between the parties, two issues had to be addressed with priority, (1) continuation of the construction works at the site of Namakhvani HPP project in parallel to the mediation process and (2) the he situation in the Rioni Gorge”. It should also be noted that despite seeing their own preconditions for the mediation, CSOs did not have information about the role they would play in organizing the independent review process for the Namakhvani HPP project.

As a result of the first meeting between the parties in Natakhtari on June 12, 2021, organized by Dirk Bushle – the Head of the Energy Community Secretariat’s Dispute Resolution and Negotiation Center and Alexandra Bukharoska - Environmental Expert at the same Secretariat, it was determined that (1) the "de-escalation" of the situation in the Rioni Gorge would become the priority task of the mediation, where the above mentioned two preconditions should have been considered. At the same time, at the request of the CSOs, CSOs should have been involved (2) in the process of developing Terms of Reference for independent experts organizing the evaluation

of the environmental impact assessment document and the Namakhvani HPP project contract; (3) At the end of the mediation, the CSOs should have been allowed to see finalized energy policy document, which has been promised many times by the government and is currently still in the process of being developed.⁹

The "de-escalation" of the situation, the reviews of the project and the discussion of the energy policy document were the three streams of mediation that the parties worked on for 6 months. This report only covers the first and the second streams, as the work on the third stream (preparing and discussing the energy policy document) is not yet completed.

Report

I. Refusal to the request of the construction work suspension

Prior to the mediation process, the main demand of the CSOs was termination of ongoing construction works on Namakhvani HPP project due to unjustified project and its violations and the lifting of restrictions on freedom of movement in the gorge, which in turn meant a restoration the right to protest in the villages of Namokhvani and Joneti. Therefore, the first priority of mediation, as it is stated in the letter sent by Dirk Bushle to the Ministry on May 28, 2021, was to temporarily suspend the works until the parties commenced the mediation and for the duration of the preparation of independent assessments by the Energy Community.

At the very first meeting of the mediation, on June 12, in Natakhtari, it was clear from the position of the representatives of the state agencies that the request for a temporary suspension of the construction works was not in their interest. State officials anticipated an arbitration dispute initiated by the project management if the request for a temporary suspension of the project was granted and, without providing any relevant evidence to that claim, rejected the main request - a suspension of the construction work. Unfortunately, the refusal of the company Enka to participate in the process, in itself, severely damaged the mediation process. It was important for the mediation talks for Enka to explain the sustainability, usefulness, and legitimacy of its project, on which it intensively emphasized in public, although never delivered the promise neither to the public nor to the mediation, despite given all the opportunities. On the other hand, the fact that the company Enka did not participate in these meetings, in itself weakened the ability of the mediation to put a direct pressure on the company to stop the project. Unfortunately, in the end, due to the efforts of government officials, the CSOs were not allowed to devote any of the mediation meetings to the

⁹ The Namakhvani mediation – follow-up on Saturday’s meeting, June 15, 2021, Energy Community, last accessed 23.12.2021 <https://energy-community.org/news/Energy-Community-News/2021/06/15.html>

discussions regarding the grounds and possibilities for a temporary suspension of the project construction.

Despite the agreement reached on the first meeting in Natakhtari on June 12 that the next mediation meeting would focus on the problems of the Namakhvani HPP project and the violations surrounding it, thus ensuring a potential discussions regarding the suspension of the project, it never happened. Unfortunately, throughout 6 months not even one meeting with this agenda was possible to be scheduled.

After refusing to submit the evidence collected by the CSOs (see Annex 1), it was also clarified that the talks about halting the construction of Namakhvan HPP would only be possible following an international, independent expertise. At the suggestion of the mediators, the issue of suspension of the construction was postponed until August-September, until the Energy Community prepared the initial assessments of the Namakhvani HPP project, the **so-called "Red Flags" report**, and until the so-called "Red Flags" report prepared by a third party substantiated the need to temporarily suspend the Namakhvani HPP project.

At the same time, the only possible denouncing argument for the mediator to suspend the project was the publication of the results of the state inspection prepared by the State Sub-Agency Department of Environmental Supervision and Technical and Construction Supervision Agency. Although the CSOs stressed about the weaknesses of these institutions, expressed distrust towards them, and moreover, indicated on the loyalty of both the Ministry of Environment and the sub-agency of the Ministry of Economy and Sustainable Development - the Technical and Construction Supervision Agency towards Enka, unfortunately the mediator decided to wait for the inspection protocols and this has become identified as one of the main tasks of the mediation. This was considered as a wrong decision by the CSOs, however, it remained unchanged. It should also be noted that the Rioni Gorge Defenders's request to conduct an inspection was ignored for months by the the State Sub-Agency Department of Environmental Supervision on the pretext that the regional staff was infected by Covid. This resulted in CSOs, involved in the mediation, demanding a joint inspections of the construction sites outside the Namakhvani HPP police checkpoints to be organized by experts and community groups. Unfortunately, the Ministry of Environmental Protection and Agriculture of Georgia declined idea.

During the mediation, the Ministry of Economy and Sustainable Development submitted the same documentation on the construction inspection that the CSOs had already obtained by requesting public information prior to the mediation. Accordingly, at the beginning of the mediation, the CSOs were only given the inspection results from the period of fall 2020 and March 25, 2021, a time before an establishment of a blockpost on April 3. Respectively, the report does not include the violations in the Gorge and, also, the report is shared without inspection protocols.

The insistence demands of the CSOs during the mediation process to conduct additional inspections in the gorge and share the inspection records (due to the blockade and resumption of intensive construction works under the blockade since April 3, 2021), were answered by the Ministry of Economy in the following way: The Technical and Construction Supervision Agency conducted a re-inspection of the gorge in July 2021, but no violations of the permit conditions were found, hence the contents of the inspection records were left undisclosed to CSOs.

As for the environmental inspection, the need for an immediate re-inspection was also confirmed by the results of the January 2021 inspection, which resulted in company being fined by a court on the grounds of revealed violations in May 2021. Here, too, CSOs considered it important to re-inspect the company in order to inform the public whether the violations were addressed. As mentioned above, according to the Ministry of Environment, the reason for a delay in of re-inspection was Covid-pandemic and the massive infection of the inspection staff; After dealing with the Covid wave, according to the Ministry of Environment, the gorge was re-inspected in July and August, but its records are still not concluded or disclosed to CSOs.

II. Vulnerability to State Repression: Unsatisfied Request for Restoration of the Right to Protest

The launch of the mediation was preceded by a series of arrests of participants in social movements and civil protests, which were assessed by the CSOs both before and during the mediation as attempts, on one hand, to artificially escalate the situation in the gorge¹⁰ and, on other hand, to discredit the protest movement¹¹ (See Annex 2). The following created demand to the state to refrain from repressive measures in order to de-escalate the situation in the gorge: lift the restriction on freedom of movement in the villages of Namokhvani and Zhoneti, and restore the right to protest for the Rioni Gorge Defenders and their supporters (to allow them to put their tent where it was originally located) and to end the criminal prosecution of the detained protesters.

We would like to remind you that in March 2021, unsuccessful attempts of a dialogue between the government and the population increased the protests around the Namakhvani HPP project, although it always maintained a peaceful form of expression. The statements made in March 2021 about the temporary suspension of the construction work of one of the construction sites of the dam also raised expectations that the government decisions would be aimed at negotiating with Enka instead of cracking down on protesters (although the company Enka did not have a permit

¹⁰ *Civil Society Organizations respond to the current events in the Rioni Valley*, April 12, 2021, Social Justice Center, last accessed: 23.12.2021 <https://socialjustice.org.ge/ka/products/sazogadoebrivi-organizatsiebi-rionis-kheobashi-mimdinare-movlenebs-ekhmaurebian>

¹¹ *Social Justice Center joins the May 23 rally of Rioni Gorge Defenders*. May 22, 2021, Social Justice Center. Last accessed: 23.12.2021 <https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsentr-uertdeba-23-maiss-rionis-kheobis-mtsvelebis-aktsias>

to build the dam at that stage and giving a promise was an attempt of deceiving the public).¹² However, by the time of the first meeting of the Energy Community in Natakhtari on June 12, the situation in the gorge was already highly escalated. As we have already mentioned, there was an unjustified and illegal restriction of the right of protest for the defenders of the Rioni gorge, unjustified and illegal restrictions on freedom of movement in the gorge, the unjustified arrests of several peaceful demonstrators, the discrediting disinformation campaign of protesters, and so on. (See Annex 2).

Based on the above, one of the main demands of the Rioni Gorge Defenders and one of the preconditions for the start of the mediation was the termination of persecution of peaceful supporters of the movement by law enforcement systems, restoring their right to freedom of movement, and protest in the village of Namokhvani. The request to terminate the criminal prosecution against the detainees was based on the professional opinions provided by the lawyers of the Kutaisi office of the Georgian Young Lawyers' Association.

Unfortunately, instead of satisfying these requirements and unconditionally restoring the rights given to the Georgian citizens, the representatives of state agencies decided to impose their own conditions. The counter-conditions stated by the state completely ignored the request to suspend the construction works in the Rioni Gorge and set the smooth running of the works for the company as the main task in the mediation process. It appeared unacceptable for the state to fully restore the freedom of movement in the Gorge (this demand was only partially met on June 17¹³) and to return the protest site to its original location in or near the village of Namokhvan. The reason for non-fulfilment of the first condition, during the mediation process, was cited by state agencies that the restoration of freedom of movement would jeopardize the continuation of the project, while the state considered construction continuity as its main priority; While unfulfillment of the second was explained with the argument that large areas of the gorge were already privatized and represented private property of Enka. Attempts by the government agencies to move Rioni Gorge Defenders to a temporarily relocated area by Enka during the mediation process were unsuccessful, as the proposal did not provide for the full restoration of the locals' own legal guarantees and was limited to four-six months ownership of the defenders for the mediation purposes. Finally, one of the achievements of the mediation was a release of two supporters of Rioni Gorge Defenders, Irakli Mukbaniani and Davit Khutsishvili, arrested on charges of assaulting police on July 21, on a bail of 3-3 thousand GEL;¹⁴ however, neither the prosecutor's office nor the ministries, whose activities

¹² *Natia Turnava - Namakhvani HPP project will continue, but the dam will not be built until the research is verified*, March 30, 2021, Interpressnews. Last accessed: 23.12.2021

<https://www.interpressnews.ge/ka/article/649021-natia-turnava-namaxvanhesis-proekti-gagrzeldeba-magram-kashxali-ar-ashendeba-manamde-vidre-ar-moxdeba-kvlevebis-gadamocmeba/>

¹³ *Barricades in Gumati were taken down, the police remains - State Representative*, June 17, 2021, Radio Liberty. Last accessed: 23.12.2021 <https://www.radiotavisupleba.ge/a/31312867.html>

¹⁴ *Detainees at a rally in Gumati released on bail*, July 21, 2021, Radio Liberty. Last accessed: 23.12.2021 <https://www.radiotavisupleba.ge/a/31370121.html>

were allegedly linked to the resulted developments, have made any explanations in this regard. The real reasons for the criminal prosecution of these two persons and the motive for the mitigation of the charges remained unknown to the CSOs involved in the mediation and the general public. Unfortunately, one of the preconditions for mediation - the dismissal of the charge, remains unsatisfactory; unless mitigation of the charge is considered as partial satisfaction of the charge.

As a result of the developments of July 19 and 21, the meetings organized by the Energy Community aiming at de-escalating the situation in the Rioni Gorge were interrupted on July 30 and ended in such a way that the CSOs were not given any opportunity to discuss the suspension of the construction work. In the published summary report, regarding these developments, is only mentioned that "all detainees have been released (two of them on bail)"; however, the report is missing the evaluations made by the CSOs claiming the political accountability of state agencies and the evaluations made by the ombudsman hinting on an artificial provocation and escalation of the disagreement (see Annex 2).

As for the issue of restricting freedom of movement in the gorge, the mediator notes in the report that the police removed the iron barricades in the gorge (the demoting of the barricades took place five days after the mediation began on June 17, 2021¹⁵) and that "movement towards the gorge was facilitated." It is noteworthy that the mediator also notes that the police maintain control of the gorge "to ensure stability and security", which, according to the Rioni Gorge Defenders, is equal to substantially restricting freedom of movement in the gorge. We want to remind you that the decision of the police on the unjustified restriction of the movement has been appealed to the court by the Social Justice Center, but its hearing has not yet been scheduled.

III. Obstacles in conducting independent assessments

On July 30, 2021, we, civil society organizations, issued the first letter regarding the negotiation process. In the letter¹⁶, we note that the government has not fully and dully fulfilled the responsibilities that they were assigned on June 12. Therefore, civil Society Organizations (CSOs) maintained a principled position that the contracted organization should suspend development in the Gorge to avoid irreversible and irreparable damage to the Gorge's natural and social environment, pending the completion of independent evaluations of the project.

¹⁵ *The Ministry of Internal Affairs starts dismantling the iron barricades near the village of Gumati*, June 17, 2021, Public Broadcaster. Last view: 23.12.2021 <https://1tv.ge/news/shss-sofel-gumattan-rkinis-jebirebis-demontadjs-iwyebis/>

¹⁶ *NGOs are responding to the negotiation process related to Namakhvane*, July 30, 2021, Social Justice Center, Last accessed: 23.12.2021 <https://socialjustice.org.ge/ka/products/sazogadoebrivi-organizatsiebi-namakhvanhestan-dakavshirebul-molaparakebis-protsess-ekhmianebian>

However, the public already knew at this point that the mediation would link the suspension of construction to the initial phase of developing independent assessments (the so-called "Red Alms" report), with the government's priority being to assure uninterrupted construction work to Enka. At this point, it was also known that the CSO's claim was not upheld in court regarding the suspension of an environmental decision as a temporary measure.

In light of the preceding, it became important for CSOs to shift the focus of the negotiations towards the coordination of independent evaluations. Accordingly, terms of Reference (ToR) were drafted with the parties' input over July and August, enabling the organization of independent assessments in two key areas:

- 1) **Commercial review:** A) An assessment of the tendering procedure used to select the Namakhvani HPP project in light of best procurement practices b) Evaluation of the Namakhvani HPP project's contractual provisions in terms of risk and responsibility allocation C) in terms of the Namakhvani HPP agreement's conformity with state aid legislation.
- 2) **Environmental assessment of Namakhvani HPP project**, which included consideration of the following documents: A) Decision on the 2015 Environmental Impact Assessment (EIA) b) Screening Application and Decision for Tvishi and Namakhvani-Joneti HPP c) Scoping Report and Decision on Modified Project Scoping (Lower Namakhvani) d) 2020 EIA Decision e) Conditional Construction Permit and Diversion Permit (according to its relevance to the EIA)

The parties agreed on every element of the work assignment, as all points of contention were resolved during meetings. However, in July, civil society organizations involved in mediation were abruptly notified by a mediator that funds would need to be raised to undertake an environmental assessment and that CSOs needed to be involved in this process. According to mediators, the energy union was only funding the commencement of commercial analysis, and parties should begin fundraising for everything else.

During this period, there was already reports that a major decision from the Ministry of Justice about the Namakhvani HPP contract had leaked¹⁷. Concurrently, the Ministry of Justice intended¹⁸ to pay \$ 70,800 to re-evaluate a contract. The Social Justice Center critically assessed¹⁹ the aforementioned in a statement made on June 3, 2021. According to the statement:

"This decision is one of many initiatives by which the government attempts to avoid acknowledging the problem and tries to cover up the main aspects of the agreement with illusory and fragmentary initiatives that are not focused on the real solution to the issue and ultimately lead to protracted conflict."

¹⁷ Negative and secretive conclusion of the Ministry of Justice on the Namakhvani HPP contract, May 25, 2021, Mtisambebi.ge, last accessed: 23.12.2021 <https://mtisambebi.ge/news/people/item/1307-iustiziiis-saministros-uarybopiti-da-gasaidumloebuli-daskvna-%E2%80%9Enamaxvanbesis%E2%80%9C-xelshekrulebaze?fbclid=IwAR3e2qx8FiutAnINAX1krCbg8cLrVCmndKlzmwyQQRDoXrHuZ3AHBEwWro>

¹⁸ The government plans to pay \$ 70,800 in the re-evaluation of Namakhvani's contract, June 29, 2021, Netgazeti. Last viewed 23.12.2021 <https://netgazeti.ge/news/551155/>

¹⁹ The involvement of an international law firm in the re-evaluation of the Namakhvani HPP contract is problematic, June 3, 2021, Social Justice Center, last accessed: 23.12.2021 <https://socialjustice.org.ge/ka/products/namakhvani-hesis-khelshekrulebis-khelakhal-shefasebashi-saertashoriso-iuridiuli-kompaniis-chartva-problemuria>

With this in mind, the CSOs requested that the mediator publish their assessment of the Ministry of Justice's freshly drafted conclusion (focusing exclusively on the commercial aspects of the document), which the mediator agreed to. Regrettably, the mediation summary report included no mention of the Ministry of Justice's requirement to assess the preparatory paper; however it is mentioned in the ToR. Furthermore, on September 13²⁰, 2021, the Social Justice Center challenged the review of so-called simplified public procurement and reacted to selecting a company with close ties to the Ministry of Justice. Despite this, the public is still uninformed of the Ministry of Justice's alternative findings and oblivious to the fact that it can no longer be evaluated with the assistance of the Energy Union.

Concurrently, in the summer of 2021, CSOs discovered for the first time that completing independent environmental assessments could be jeopardized due to the Energy Union's abrupt reluctance to fund the endeavor. Additionally, the Georgian government did not entrust and refused to invite one of the authoritative, reputable international organizations capable of organizing and funding the assessment process.

The CSOs involved in the mediation process noted in a statement²¹ released on July 30, 2021, that at that point, one of the most reputable institutions with extensive experience in the environmental sector from one of the EU member states should be considered as a viable candidate to conduct an impartial and high-quality environmental assessment. We highlighted in our letter that the stipulated international organization's involvement in the process was acceptable to both the involved CSOs and the energy community's representatives. Nonetheless, due to the government's unilateral action, one of the most credible and capable international organizations was entirely excluded from the revision process. A quote from the non-governmental organization's letter:

"We believe that the state representatives' unilateral and unjustified exclusion of such a highly regarded international organization from these negotiations undermines public faith in the process and places the parties in an uneven position. As a result, government officials must make public explanations soon as to why they find the engagement of this European institution in the process intolerable. Otherwise, the subsequent expert selection procedure, as well as its legitimacy and transparency, will be jeopardized."

The organizations that signed the statement discussed the unethical conduct of the independent expert selection process. Still, we did not name the organization toward whom the Georgian government unfairly and surreptitiously voiced distrust, thus refraining from making any public declarations. However, on social media, the company's "supporter" pages divulged the organization's name and referred to this international organization as "Russian soft power," which is false and was designed to discredit the organization and distort the public opinion on environmental assessments.

²⁰ Law firm, closely associated with the Deputy Minister of Justice, was selected to evaluate Namakhvani HPP Agreement, September 13, 2021, Social Justice Center, last accessed: 23.12.2021

<https://socialjustice.org.ge/en/products/amakhvanis-khelshekrulebis-shesafaseblad-iustitsiis-saministrom-ministris-moadgilestan-dakavshirebuli-kompania-sheircha>

²¹ NGOs are responding to the negotiation process related to Namakhvane, July 30, 2021, Social Justice Center, last accessed: 23.12.2021 <https://socialjustice.org.ge/ka/products/sazogadoebrivi-organizatsiebi-namakhvanhestan-dakavshirebul-molaparakebebis-protsess-ekhmianeblan>

Further down the line, at the mediators' suggestion, the parties agreed on a list of trusted organizations/companies to whom both parties entrusted the task of preparing an independent evaluation. Despite identifying potential candidates, securing funds remained a significant obstacle.

Finally, the NGOs were notified of a joint proposal developed by the mediator and the Ministry of Economy, under which the Ministry of Economy would fund the environmental assessment from the state budget. In this regard, the Ministry of Economy had even sent a letter to Georgia's Prime Minister asking for a simplified procurement process. However, the non-governmental organizations protested against the state-funded independent evaluation through the streamlined procurement process, and thus the process was terminated.

The non-governmental organizations requested that only the first article, subparagraph 4 of Georgia's Public Procurement Law, be used to procure the services required for independent evaluation. The parties would comply with international procurement standards, and the reliability of assessments would be fully guaranteed. The following is the relevant excerpt from Georgia Law on State Procurement²²:

Procurement procedures established by the World Bank, the United Nations, the European Bank for Reconstruction and Development, the Asian Development Bank, the German Reconstruction Credit Bank (KfW), and the European Investment Bank (EIB) may be used in public procurement if these organizations are legally involved in the procurement process. If the aforementioned organizations are not parties to the legal relationships governing the procurement's implementation, their procurement methods and those of other organizations may be used only in accordance with a Government of Georgia ordinance.

At this point, we, the non-governmental organizations involved in the mediation process, were informed that the funds for the procurement of environmental assessment services would have come from the Georgian Energy Development Fund, not the Ministry of Economy.

Around this time, information about Enka's request to terminate the contract began to circulate, as did the mediator's report, which declared the independent evaluation's organization temporarily suspended.

IV. Enka's contract termination and unsatisfied project evaluation concerns

On September 22, 2021, the Georgian media²³ reported that the company "Enka" expressed a desire to terminate the contract for the Namakhvani HPP project on September 20. Furthermore, on November 15, 2021, a few weeks after Enka announced its intention to terminate the contract,

²² *Law of Georgia on Public Procurement*, Parliament of Georgian, April 20, 2005, Matsne, last accessed: 23.12.2021 <https://matsne.gov.ge/en/document/view/31252?publication=58>

²³ *What happens after the termination of Namakhvane HPP contract - Scenario 3, September 22, 2021*, Netgazeti, last accessed: 23.12.2021 <https://netgazeti.ge/news/564641/>

the Minister of Economy stated²⁴ that the chances of Enka leaving or remaining in the project were 50-50 and that it was still unknown whether Enka's withdrawal would result in an arbitration dispute or a settlement. Furthermore, even though several months have passed after this declaration, the Namakhvani HPP project's future to this day remains unclear.

In the statement²⁵ issued on September 22, 2021, the Social Justice Center noted that it remained interested in the Energy Union's mediation format and hoped that the process of evaluating both the Namakhvani Agreement and the Namakhvani HPP's positive environmental decisions would resume.

A few days before Enka's declaration on September 16, the Social Justice Center filed a complaint with the Ministry of Economy requesting²⁶ that the development of the Namakhvani HPP be suspended and the building permit withdrawn. The organization noted in a statement made on September 22 that even after the Namakhvani agreement was terminated, it remained a subject of interest due to its legal implications, particularly where governmental action and responsibility was required:

"... The outcome of all the lawsuits filed by NGOs against the state in response to unjustified and illegal decisions taken by state entities will be critical. Our partner organizations and we have no intention of rescinding already filed court appeals for a construction permit or EIA decision. Additionally, our organization will not halt its battle with Georgia's Ministry of Finance and Economy to persuade them to unseal the project documents. Additionally, it remains problematic that the Technical and Construction Supervision Agency failed to respond to Enka's violations during the construction inspection and failed to produce inspection protocols, while the environmental inspection was delayed and the results of the re-inspection conducted after January remain unknown."

Then, on October 28, a court hearing for one of the social justice center's cases was scheduled, citing the Ministry of Finance's failure to disclose a required preparatory report. The Ministry of Finance issued a letter²⁷ on October 18, just days before the hearing, admitting that the ministry had failed to issue a final report on the Namokhvani HPP project. We want to remind the public that the lack of a conclusive report from the Ministry of Finance calls into question the legitimacy of the Namakhvani HPP contract and could result in major legal implications.

For the reasons stated above, even if the six-month mediation period has expired, it is of national importance to organize independent evaluations of the Namakhvani HPP project and communicate

²⁴ *Continuation and exit of the project are considered equally - Turnava on ENKA*, November 15, 2021, Netgazeti. Last accessed: 23.12.2021 <https://netgazeti.ge/news/575916/>

²⁵ *Social Justice Center responds to ENKA's statement*, September 22, 2021, Social Justice Center, last accessed 23.12.2021 <https://socialjustice.org.ge/en/products/sotsialuri-samartlianobis-tsenti-ekhmaureba-enkas-gantskhadebas-namakhvani-hesis-khelshekrulebis-shetsqvetis-shesakheb>

²⁶ *The Social Justice Center appeals to the Ministry of Economy and Sustainable Development of Georgia with an administrative complaint*, September 16, 2021, Social Justice Center, last accessed: 23.12.2021 <https://socialjustice.org.ge/en/products/namakhvani-hesis-msheneblobis-nebartva-sasamartloshi-gavasachivret>

²⁷ *We have not received the conclusion provided by law on Namakhvani HPP - Ministry of Finance*, October 18, 2021, Netgazeti. Last accessed: 23.12.2021 <https://netgazeti.ge/news/570045/?fbclid=IwAR01pjuKhSzUDaJSWkBTYx-xJwDR3-vQ6mptYSfzwgZNTp9ZbCC8yUTindU>

its key findings to the public. However, under the terms of the current agreement, the assessments have been postponed until the project's future is determined. The Energy Union notes in the report, "Environmental and commercial assessments have been put on hold indefinitely until the future of Namakhvani HPP becomes clearer."

Conclusion

The fact that an agreement on technical assignments for the preparation of independent assessments has been reached through mediation is a positive development. If a project is renewed, the documentation for the project should be evaluated against the agreed technical assignment, which is a significant accomplishment.

However, the Energy Union's decision to postpone independent evaluations of the project leaves the Namakhvani HPP project's problems vague and undefinable at the moment.

By publishing this report, we have tried to accurately describe the mediation process and address several critical issues left out from the Energy Union's report. Along with filling this void, the Alternative Report seeks to educate the public on the aforementioned issues.

Regrettably, as explained in the report, the mediation format did not adequately address the critical content issues that contributed to the Namakhvan HPP project's opposition. Participants in the mediation process and the general public had a range of legal questions about the project's social, environmental, and economic viability. At the outset of the mediation, there was hope that they would respond to them through the format, which included energy integration. Nonetheless, mediation has failed to meet this criterion in a number of instances due to the pre-determined structure and unilateral decisions by representatives of state agencies.

Appendix 1: Grounds for requesting a temporary suspension of a project during the mediation process

Civil Society Organizations cited the following arguments for suspending and studying the project during the first mediation meeting held in Natakhtari on June 12 and prior to that, during meetings with Energy Union representatives:

1) Problematic nature of state-issued permits:

- Appeal submitted to the court on April 6, 2020, requesting the annulment of environmental decision²⁸

²⁸ *Green Alternative and GYLA Request the Declaration of the Environmental Decision as Null and Void Issued on the Project of Namakhvani Hydroelectric Power*, April 6, 2020, GYLA, last accessed: 23.12.2021
<https://www.gyla.ge/en/post/mtsване-alternativa-da-saia-namakhvanis-hesebis-proeqtze-gacemuli-garemosdacviti-gadatsyvilebis-batilad-cnobas-itkhoven#sthash.0bc8FAiu.dpbs>

- Request submitted on March 5, 2021, for suspension of the environmental decision on Namakhvani HPP cascade²⁹

2) *Weakness of state supervision and monitoring systems:*

- Confirmed on March 23, 2021, that despite violating the terms of the construction permit, the project implementer was not fined³⁰
- Violations identified by the Environmental Inspection in January 2021 and the court decision³¹ fining Enka on April 28, 2021.
- On June 8, 2021, the state granted Enka an unjustified benefit by extending³² the deadline for submitting construction documents by one year.

3) *The issue of the Namakhvani HPP project contractual legitimacy*

- Two years of secrecy³³ surrounding the Namakhvani HPP contract
- According to the Social Justice Center and its partner organizations' agreement evaluation analysis³⁴, the agreement was finalized with the concession of state interests.
- Alienation of natural resources without proper study and failure to substantiate³⁵ the project's utility at the national level
- Withholding conclusive evaluations of Georgia's Ministry of Justice and Ministry of Finance, whose evaluations served as the basis for awarding the Namakhvani HPP project the contract; and filing a court appeal³⁶ on May 17, 2021, to condemn the mentioned and make the documents a public knowledge
- Information leaked to the public on May 25, 2021, that the Ministry of Justice drafted a critical conclusion on the Namakhvani HPP project agreement in March 2019, prior to the agreement's signature, which confirms that the government relinquished state interests under the Namakhvani

²⁹ *GYLA and Green Alternative Demand Suspension of Environmental Decision on Namakhvani Cascade*, March 5, 2021, GYLA, last accessed: 23.12.2021 <https://www.gyla.ge/en/post/saia-da-mtsvane-alternativa-namakhvanis-hesebis-kaskadze-garemosdacviti-gadatsyvetilebis-moqmedebis-shecherebas-itkhoven#sthash.e0oLu2fr.dpbs>

³⁰ *Despite violating the terms of the construction permit, Enka was not fined*, March 23, 2021, Social Justice Center, last accessed: 23.12.2021 <https://socialjustice.org.ge/en/products/msheneblobis-nebartvis-pirobebis-darghvevis-miukhedavad-enka-ar-dajarimda>

³¹ *Namokhvani HPP Construction Company fined by the court for violating the terms*, April 28, 2021, GYLA. Last accessed: 23.12.2021 <https://gyla.ge/ge/post/namokhvanis-hesebis-mshenebeli-kompania-sasamartlom-pirobebis-darghvevisatvis-dajjarima#sthash.x6ugJ27r.gN8Xhlqq.dpbs>

³² *The State continues to grant unjustified benefits to Enka and extends the deadline for submitting construction documents for another year*, June 8, 2021, Social Justice Center, last accessed: 23.12.2021 <https://socialjustice.org.ge/en/products/sakhelmtsifo-enkastvis-dausabutebeli-sheghavatebis-gatsemas-agrdzelebs-da-samsheneblo-dokumentatsiis-tsardgenis-vadas-kidev-1-tslit-ukhangrdzlivebs>

³³ *Ramakhvani - What do we lose and what does it give us?* 7 February 2021, Ifact. <https://ifactereti.ge/namakhvani/>

³⁴ *Assessment of Namakhvani HPP Agreement*, March 4, 2021, Social Justice Center, last accessed: 23.12.2021 <https://socialjustice.org.ge/en/products/namakhvani-hesis-khelshekrulebis-shefaseba>

³⁵ *Violations, Inconsistencies and Unsubstantiated Concessions: A Brief History of Namakhvani HPP Project*, July 23, 2021, Social Justice Center, last accessed: 23.12.2021, <https://socialjustice.org.ge/en/products/kharvezebi-darghvevi-da-dausabutebeli-sheghavatebi-namakhvani-hesis-proektis-istoria>

³⁶ *Center for Social Justice The Namakhvani HPP is appealing against the refusal to publish the findings of the Ministry of Justice and Finance*, 17 May 2021, Social Justice Center, last accessed: 23.12.2021, <https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsentri-namakhvani-hesze-iustitsiisa-da-finansta-saministros-daskvnebis-gasajaroebaze-uars-asachivrebs>

agreement. Additionally, it was found that none of the Ministry of Justice's 22 article-based criticisms were incorporated³⁷ into the final contract.

4) Non-transparent selection of Namakhvani HPP project implementer (Defects, Violations, and Unjustified Benefits - Namakhvani HPP Project History: Chapter 1³⁸)

5) Public protest

- Setting up protest tents at the local level, near the villages of Namokhvani and Joneti in the Rioni gorge

- Large-scale protest near the village of Joneti on February 7³⁹

- Large-scale protest in Kutaisi on February 28⁴⁰

- Large-scale protest in Kutaisi on March 14⁴¹

- Large-scale protest in Tbilisi on May 23-26

Appendix 2: State Imposition of unconstitutional restrictions in the Gorge and Persecution of Protesters

After Minister Turnava promised to suspend construction in the Gorge temporarily, and after the negotiations announced in Kutaisi on March 12 fell through⁴² when the economy and environment ministries departed the negotiating room, construction in the Gorge resumed on April 3. Mr. Merab Lominadze, the company's new director, visited the gorge. Simultaneously, a sizable contingent of police officers was mobilized in the Gorge. In the statement issued of April 3, we, the NGOs, deemed inadmissible⁴³ and opposed *"the resumption of building activity on the Namakhvani HPP under police mobilization, serious human rights violations, and contempt for public demands."*

On April 4, a police checkpoint was established at Gumathes, around 18 kilometers from the settlement of Namokhvani, prompting villagers to protest. Two demonstrators were detained by the police.

³⁷ *The leaked critical report of the Ministry of Justice confirms that the government did not protect the state interests when signing the Namakhvani HPP Agreement, May 26, 2021*, Social Justice Center, last accessed: 23.12.2021, <https://socialjustice.org.ge/en/products/iustitsiis-saministros-daskvna-adasturebs-rom-namakhvanis-khelshekrulebit-mtavrobam-datmo-sakhelmtsifoebriivi-interesebi>

³⁸ *Deficiencies, Violations and Unjustified Benefits History of Namakhvani HPP Project*, 23 July 2021, Social Justice Center, last accessed: 23.12.2021

³⁹ *EMC joins peaceful protest by locals in Namokhvan and calls on the state to ensure freedom of assembly*, 7 February 2021, Social Justice Center, last accessed: 23.12.2021, <https://socialjustice.org.ge/ka/products/emc-uertdeba-namokhvanshi-adgilobrivebis-mshvidobian-aktsias-da-sakhelmtsifos-moutsodebs-uzrunvelqos-shekrebis-tavisuflebis-datsva>

⁴⁰ *Massive Rally Held in Kutaisi Against Namakhvani HPP*, March 1, 2021, civil.ge. last accessed: 23.12.2021 <https://civil.ge/archives/401972>

⁴¹ *On Sunday, March 14, a rally against Namakhvani HPP will be held in Kutaisi*, March 12, 2021, Netgazeti. last accessed: 23.12.2021 <https://netgazeti.ge/news/526367/>

⁴² *A special hearing on the Namakhvani HPP project will be held in the Parliament*, March 4, 2021, Radio Liberty. Last accessed: 23.12.2021 <https://www.radiotavisupleba.ge/a/31132993.html>

⁴³ *The police should immediately leave the Rioni Valley and stop the construction of Namakhvani HPP*, April 3, 2021, Social Justice Center. Last accessed: 23.12.2021, <https://socialjustice.org.ge/ka/products/dauqovnebliv-datovos-politsiam-rionis-kheoba-da-shetsqdes-namakhvani-hesis-samsheneblo-samushaoebi>

On April 4, 2021, the Public Defender called on⁴⁴ the Ministry of Internal Affairs to refrain from using force against Namakhvani HPP demonstrators. *"It should be emphasized that in the given case, citizens were practically deprived of the opportunity to participate in an assembly due to the restriction of movement; however, the Ministry of Internal Affairs of Georgia did not provide substantiated information about the real and instantaneous dangers that would have justified the interference with the right. This is especially important given the fact that organizers announced in advance that they would hold a peaceful assembly, and they did not voice any violent goals."*

The Public Defender further urged the Ministry of Internal Affairs to avoid "artificially escalating the situation" and to facilitate the resumption of movement into the village of Namakhvani.

Nino Lomjaria, the Public Defender, inspected the gorge on April 8 and stated that the movement restriction was unjustified and disproportionate:

"We saw no need to restrict freedom of movement, particularly given the absence of preconditions, suggestions, or calls for violence," she noted.

Later, on April 10, information⁴⁵ started to circulate of a young man's disappearance near the Rioni Gorge. On April 11, police dismantled protestors' tents (sometimes referred to as Rionis Mcvelebi – Rioni Gorge Defenders). The event was preceded by the deployment of a large police force on the scene and the closure of roads leading to Namokhvani. Additionally, protest movement leaders were prohibited from entering the area where the tents were set up preceding the dismantling.

The Ministry of Internal Affairs cited completely contradictory stories as the reason for removing the tents from Namokhvani. The ministry issued an official statement ascribing the rationale to the dangers associated with unusually high Rioni River water levels and flooding in the surrounding area. However, ministry officials stated on the day of dismantlement that the process was necessary due to ongoing search and rescue operations, as well as the untrustworthy behavior of locals. (On May 9, news broke of discovering a missing man's body in the Rioni Gorge.)

On April 12, Civil Society Organizations issued a statement⁴⁶ stating:

"justification of its actions by the Ministry of Interior Affairs is completely inconsistent and unconvincing, is aimed at disrupting the peaceful and lawful protest of the Rioni Gorge Defenders, and constitutes a grave, unjustified and disproportionate interference with the freedom of assembly and expression."

⁴⁴ *Public Defender Calls on Ministry of Internal Affairs not to Use Force against People Protesting against Namakhvani HPP*, April 4, 2021, Office of Public Defender, last accessed: 23.12.2021
<https://www.ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsveli-moutsodebs-shss-s-ar-gamoiqenos-dzala-namakhvan-hesis-saprotesto-aktsiis-monatsileta-mimart>

⁴⁵ *One of the defenders of the Rioni Valley is wanted in the river*, April 10, 2021, Mtavari TV. last accessed: <https://mtavari.tv/news/39436-rionis-kheobis-ert-ert-mtsvels-mdinareshi-edzeben>

⁴⁶ *NGOs Respond to Current Events in Rioni Valley*, 12 April 2021, Center for Social Justice. Last viewed 23.12.2021

On April 13, the police used coercive measures once again and detained 6⁴⁷ individuals during the protests. In addition, iron barricades were erected in the Gorge on April 14, to which public organizations also responded⁴⁸ to. The statement notes, "By amassing a huge number of police forces in the gorge, imposing arbitrary limitations and flagrant violations of local residents' rights, it adds to the process's escalation and eliminates the possibility of genuine, constructive discourse."

On May 20, the Social Justice Center released an assessment⁴⁹ of police action during the Namokhvani protest, as well as of events from April 3-11 and beyond, stating that:

1. On April 3, unjustified and disproportionate interference with the freedoms of movement, assembly, and expression was observed.
2. The law enforcement officers' actions on April 11 were irrational and disproportionate.
3. The police used repressive methods against protest participants, such as detention and penalties, which facilitated the process's escalation and increased the threat of radicalism.

On May 27, an altercation occurred between police officers and protest participants during a rally held at the village of Gumati's police blocking. In a statement⁵⁰, the Social Justice Center urged the police restrictions in Namokhvan to be immediately lifted. In addition, we want to remind the public that protests⁵¹ in support of the arrested activist were held in front of the Kutaisi City Court at the same time.

Additionally, on April 12, protesters were found to be the subject of criminal prosecution, later assessed as unjustified persecution in a statement issued on July 23, 2021, by the Social Justice Center.

The Social Justice Center also filed an administrative lawsuit⁵² with the Kutaisi City Court on July 22, 2021. According to the complaint, the Center appealed the Ministry of Internal Affairs' illegal and unjustified restriction of movement in the direction of the village of Namokhvani. However, a court date has not yet been set for the mentioned case.

⁴⁷ "The police used proportionate measures of coercion, 6 people were arrested" - MIA on Gumati, 14 April 2021, Netgazeti. Last viewed 23.12.2021 <https://netgazeti.ge/news/534863/>

⁴⁸ Social Justice Center: Government leaves no room for dialogue around Namakhvani HPP, 14 April 2021, Social Justice Center. Last accessed: 23.12.2021 <https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsentr-khelisufleba-namakhvani-hesis-irgvliv-dialogis-sivrtses-ar-tovebs>

⁴⁹ Evaluation of police measures during the Namokhvani protest, May 20, 2021, Social Justice Center. Last accessed: 23.12.2021 <https://socialjustice.org.ge/en/products/sapolitsio-ghonisdziebebis-shefaseba-namokhvanis-protestis-dros>

⁵⁰ Authorities must lift police restrictions in the village of Namokhvani in a timely manner, May 29, 2021, Social Justice Center. Last accessed: 23.12.2021 <https://socialjustice.org.ge/ka/products/khelisuflebam-droulad-undamokhsnas-sofel-namokhvanshi-sapolitsio-shezhudvebi>

⁵¹ The Center for Social Justice will hold a rally on June 2, 2021 in support of the arrested activist "For the Survival of the Rioni Valley". Last accessed: 23.12.2021 <https://netgazeti.ge/news/545712/>

⁵² Social Justice Center Appeals Police Measures in Nomokhvan, 23 June 2021, Social Justice Center. Last accessed: 23.12.2021 <https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsentr-nomokhvanshi-gatarebul-sapolitsio-ghonisdziebebs-asachivrebs>