

## Asian Development Bank (ADB), Accountability Mechanism, Complaint Form

*(Add rows or pages, if needed)*

### A. Choice of function - problem solving or compliance review *(Choose one below)*

**Special Project Facilitator** for problem solving *(Assists people who are directly and materially harmed by specific problems caused, or is likely to be caused, by ADB-assisted projects through informal, flexible, and consensus-based methods with the consent and participation of all parties concerned)*

**Compliance Review Panel** for compliance review *(Investigates alleged noncompliance by ADB with its operational policies and procedures in any ADB-assisted project in the course of the formulation, processing, or implementation of the project that directly, materially, and adversely affects, or is likely to affect, local people, as well as monitors the implementation of remedial action relates to the harm or likely harm caused by noncompliance)*

### B. Confidentiality

Do you want your identities to be kept confidential?       **Yes**                       **No**

### C. Complainants *(Anonymous complaints will not be accepted. There must be at least two project-affected complainants.)*

Name and designation (Mr., Ms., Mrs.)	Signature	Position/ Organization <i>(If any)</i>	Mailing Address	Telephone number (landline/mobile)	E-mail address
1. Mr. Nadim Khmaladze		Ltd "Mshenebeli 29"		+995 599720303	
2. Mr. Zurab Kutubidze		Security Officer		+995599245300	

**Authorized Representative or Assistant *(if any)*.** *(Information regarding the representatives, or persons assisting complainants in filing the complaint, will be disclosed, except when they are also complainants and they request confidentiality.)*

Complainant represented	Name and designation (Mr., Ms., Mrs.)	Signature	Position/ Organization <i>(If any)</i>	Mailing Address	Telephone number (landline/mobile)	E-mail address
Representative	Varlam Balkhamishvili			0107	+995597770609	<a href="mailto:v.balkhamishvili@yahoo.com">v.balkhamishvili@yahoo.com</a>

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**D. Project**

Name	Georgia: Tbilisi-Rustavi Urban Transport Link – Section 2, Part B (SUTIP-3063-GEO) Land Acquisition and Resettlement Plan Project N42414 (September 2015)
Location	<a href="https://www.google.ge/maps/@41.6574507,44.8991326,186m/data=!3m1!1e3?hl=ka">https://www.google.ge/maps/@41.6574507,44.8991326,186m/data=!3m1!1e3?hl=ka</a>
Brief description	<p>As you are aware, by the decision of the Government of Georgia and with financial support of Asian Development Bank, Tbilisi-Rustavi highway reconstruction project is being implemented, which has been announced as the priority project. The given project envisages modernization of Tbilisi-Rustavi 2-lane 17.1-kilometer highway according to international standards. Regarding the given project, in September 2015 (updated version) Municipality Development Fund of Georgia prepared Land Acquisition and Resettlement Plan (SUTIP) (first edition prepared in 2013), which defined the criteria according to which land plots, building-facilities, businesses, agricultural lands of the affected beneficiaries, physical or legal persons (possession or utilization) can be compensated. In order to assess the given properties and evaluate their cost, Municipal Development Fund (MDF) has hired licensed audit company Ltd “Athos”, which evaluated real estate of Ltd “Mshenebeli 29” in the beginning of year 2013 along with other properties. For unknown reasons, the report was not available to us. Later on November 17, 2015 Municipal Development Fund provided us their report (Please see attachment), after review of which we came to the conclusion that Ltd “Athos” did not include in their report some significant parts of our property. Since then (since 2013) till signing of the Agreement (May 11, 2016), we had intensive negotiations with Municipal Development Fund regarding correct determination of the compensation amount for the property to be transferred to the State, as the State had to finish land acquisition in pre-defined period of time. As a result of the negotiations, parties reached the (oral) agreement that based on the State’s strategic interests, the Agreement would be concluded and in return we would be given the possibility to revise the report of the Ltd “Athos”, as it happened in others’ cases; We were explained that within the one month after signature of the Agreement, we had to appeal the Agreement and we would act as agreed. Considering the given circumstances, on May 11, 2016 the parties signed the Agreement on Transfer of the Property of Ltd “Mshenebeli 29” to the State and as agreed within the one month upon the signature of the Agreement (June 1, 2016) we submitted the letter (complaint) to the Municipal Development Fund, regarding the revision of the report of the Ltd “Athos”, along with other documents: 1. Engineering-Environmental Survey; 2. Topographical Survey; 3. Architectural Project; 4. Constructive Project 5. Sanitation Project; 6. Electro technical Project; 7. Cost Accounting. (Please see attachment). Amount defined by the above-mentioned project documentation twice exceeds the compensation amount determined by the Ltd “Athos”. As we noted earlier, our complaint letter was submitted within the timelines defined by the Law (up to one month) (see attachment, Letter 01/06/2016) and MDF took it in proceeding and informed us that “Municipal Development Fund does not carry out inventory and evaluation of the property to be purchased/compensated. It is conducted by the licensed audit company “Athos” and your letter has been sent to the Ltd “Athos” for the review.” (see attachment N1580-გ, 21/06/2016). Since then, we have not received any letter from MDF for a while, although we knew that Ltd “Athos” had replied back to MDF regarding our complaint letter on 21/07/2016. As we have not received any response from MDF, we had to take radical measures and request from the LEPL Levan Samkharauli National Forensics Bureau to conduct a research and determine</p>

	<p>what amount (and at what price) of works would be required to restore similar or better building-facility on the similar land plot with communications and infrastructure (access road, communications etc.) (please see attachment). We have submitted the given expert conclusion along with the letter (please see attachment) to the MDF and received immediate response from them, within one week upon submission of the expertise report, MDF grievance commission discussed our case (please see attachment) and it was not satisfied, for unclear reasons. This violated our rights and therefore company has suffered and still suffers material losses.</p> <p>MDF violated the policy and principles (page 127) defined by the Land Acquisition and Resettlement Action Plan (SUTIP Program) – Compensation is defined based on the replacement cost, according to the market prices existing at the moment of land acquisition, so that owner and business are not affected.</p>
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**E. Complaint:**

<p>What direct and material harm has the ADB-assisted project caused, or will likely cause, to the complainants?  <b>Ltd “Mshenebeli 29” stopped functioning years ago and it has been suffering severe material losses.</b></p>
<p>Have the complainants made prior efforts to solve the problem(s) and issue(s) with the ADB operations department including Resident Mission concerned?  <input type="checkbox"/> <b>Yes.</b> If YES, please provide the following: when, how, by whom, and with whom the efforts were made. Please describe any response the complainants may have received from or any actions taken by ADB.</p> <p><input checked="" type="checkbox"/> <b>No</b></p>

**F. Optional Information**

<p>1. What is the complainants’ desired outcome or remedy for the complaint?   <b>Satisfaction of our demand through negotiation.</b>  <b>Our Demand:</b> Receive compensation amount according to the conclusion of LEPL L. Samkharauli National Forensics Bureau</p>
<p>2. Anything else you would like to add?</p>

**Name of the person who completed this form: Varlam Balkhamishvili**

**Signature:** \_\_\_\_\_

**Date: 21.03.2017**

Please send the complaint, by mail, fax, e-mail, or hand delivery, or through any ADB Resident Mission, to the following:

**Complaint Receiving Officer (CRO),** Accountability Mechanism  
 ADB Headquarters, 6 ADB Avenue, Mandaluyong City 1550, Philippines,  
 Telephone number: +63-2-6324444 local 70309, Fax: +63-2-6362086,  
 E-mail: [amcro@adb.org](mailto:amcro@adb.org)