

For more information

**Vladlena Martsynkevych**  
EBRD policy officer  
vladlena@bankwatch.org

CEE Bankwatch Network's mission is to prevent environmentally and socially harmful impacts of international development finance, and to promote alternative solutions and public participation.

[www.bankwatch.org](http://www.bankwatch.org)

## MHP: Is compliance with Ukrainian law satisfactory for the EBRD?

Ukraine's monopolist poultry producer, MHP, has received three loans from the EBRD. Investments from public banks including the EBRD, the European Investment Bank, the International Finance Corporation and export credit agencies like Atradius now amount to more than half a billion euros. The company also benefits from generous state subsidies and from a quota for poultry exports to the EU as part of its Association Agreement. In spite of this massive backing by public financial sources, the company does not implement relevant EU and EBRD standards, and the EBRD has said it is satisfied that the company's operations are in compliance with national law, which is anyway not the case at present.

In February 2016 the EBRD disclosed a Monitoring Assessment Report on MHP, which recommended that the company should improve its stakeholder engagement and develop a formal Land Acquisition Framework. More than a year later, improvements are few and far between, although the company has hired consultants to train its staff and assist with an upgrade to the company's Stakeholder Engagement Plan. In the absence of a Land Acquisition Framework and updated Stakeholder Engagement Plan, MHP's expansion plans are implemented within the framework of its outdated and substandard practices of impact assessment and public consultations.

Bankwatch and NECU representatives met with MHP's Chief Ecologist and Public Relations and CSR Director on 7 April 2017 to discuss the company's intentions to improve stakeholder engagement and the need to introduce an Environmental and Social Impact Assessment process that is in line with the EBRD's Environmental and Social Policy. The meeting confirmed that within the company, both at the local and national levels, the approach to impact assessment and public consultations is flawed, and there are significant misconceptions about the way these processes should be conducted.

For example, the company acknowledges Ukrainian standards are outdated and, as an industry leader and exporter to the EU, it needs to follow EU standards. However, at the same time it continues to defend the way 'preliminary' consultations with 'democratic' voting are carried out. In essence, there is a clear lack of understanding within MHP, and at the highest levels, that meaningful consultations should be based on the inclusive identification of stakeholders, a participatory scoping stage, public access to planning documents and informed participation of impacted communities and interested stakeholders, where both benefits and negative impacts of the planned activity are presented and discussed before decisions are made and operational permits granted.

Bankwatch and NECU welcome the fact that MHP hired consultants to upgrade its Stakeholder Engagement Plan and recommended they should meet project affected people, in order to take an inclusive view of the needs and capacities of stakeholders impacted directly or indirectly by MHP operations.

Several problematic issues in relation to the stakeholder engagement need to be emphasized, including transparency, consultations, Environmental and Social Impact Assessment and accountability.

## 1. Transparency

Documents related to the planned facilities are hard to access by impacted communities, as they are not available in public places like the offices of local authorities or online at the company's or permitting agencies' websites. Moreover the documents for the existing facilities are almost impossible to get anywhere, whether from authorities or the company. With regards to written requests for environmental information, if MHP responds to local activists, it is a rejection of access to the requested information.

### Recommendations

The EBRD should request that MHP implements the EBRD's ESP, the EU's EIA Directive, the Aarhus Convention on access to environmental information, public participation and justice, as well as best

industry practice. This means that MHP should disclose project documents proactively and upon request from the public.

## 2. Public Consultations

At present consultations on MHP operations are organised with a number of faults. For example, public meetings are not properly announced, sometimes excluding interested stakeholders (like neighbouring villages or even villages from the same communities) and the materials prepared for hearings and consultations are not easily accessible by the public. Physical fights at the entrance of public hearing halls, as well as the intervention of police and company security, are not an uncommon sight.

In the village of Zaozerne in the Tulchyn region, the community found out from newspapers that there were 'public hearings' held on the new biogas power plant on 19 January 2017 during the opening of the water supply system in the village of Vasylivka. There was no announcement about the hearings, nor any materials or documentation provided, except for advertisements in the media. However, the company's webpage already announced several tenders for the preparatory and construction works in the area, including soil removal<sup>1</sup> and gas pipeline construction<sup>2</sup>. A post on MHP's Facebook page<sup>3</sup> from 5 April states that the biogas plant is already under construction.

Recently the company introduced a practice of 'preliminary EIA' and conducted public consultations about these, sometimes jointly with the approval of a Detailed Spatial Plan. However the notion of a preliminary EIA is questionable and not defined by either national or international law. The consultations for the Detailed Spatial Plan and the EIA should be separate.

- 1 Tender for fertile soil (chomozem) removal and relocation and vertical planning for the land area at separate unit „Biogas Ladyzhyn“, ended April 3rd 2017: <http://bit.ly/2qDQuV8>
- 2 Tender for construction of the gas pipeline from Biogas plant to co-generation facility, ended 5 April 2017: <http://bit.ly/2pHi6LD>
- 3 <https://www.facebook.com/mhpUKR/photos/a.1560472270911107.1073741828.1557810074510660/1727868340838165/>

The Vinnytsya Poultry Farm (an MHP subsidiary in the Vinnytsya oblast) shared a “27 Steps Procedure” to construction that consists of several stages. During the first stage, MHP presents the expected benefits and social projects for communities in exchange for their agreement to build on the territory of the village. At this stage no information about the facilities’ negative environmental and social impacts is discussed.

### Recommendations

**The EBRD should request that MHP ensure informed and meaningful participation of affected landowners, communities and interested civil society by:**

- developing a comprehensive Land Acquisition Framework to replace the 27-step procedure, in line with Ukrainian, EU and international standards;
- planning public consultations as part of the decision-making process, not after operation permits are granted;
- ensuring that both positive and negative impacts of the planned facilities are adequately studied and presented, and that there is sufficient space in the agenda of the consultation to respond to questions about negative impacts.

## 3. Environmental and Social Impact Assessments

Ukrainian legislation on environmental impact assessment is outdated and needs to be harmonised with the EU’s EIA Directive. Additionally, as recipient of hundreds of millions of euros in investments from several public financial institutions, MHP needs to comply with international standards and these institutions’ policies, which include additional requirements for conducting social impact assessment of projects.

Currently what MHP uses as it rushes to implement its planned expansions is a ‘preliminary EIA’ model, which is hard to understand even when compared to Ukrainian legal requirements. Several EIAs available

publicly have significant deficiencies, for example:

- a lack of proper, consultative scoping to define the area of impact and affected communities;
- a lack of adequate baseline studies;
- a lack of a social impact assessment, which would account for issues like economic displacement of small and medium producers, the impacts on rural development and employment in local agriculture;
- a lack of a cumulative impact assessment;
- problematic timings of assessments and EIA consultations after a major decision has been made and contracts have been agreed; and
- a lack of transparency and a flawed approach to consultations as described above.

The Zaozerne community considers public hearings from 29 July 2016 as insufficient, since the whole community was not informed and able to participate. In total 346 residents’ signatures were collected to oppose the construction of poultry brigade #47 on the community’s land, as they are concerned that the environmental impacts from the production of chicken can cause irreparable damage to their environment and health. However, pre-construction works are already underway in the area, including construction of the gas pipeline.

Letters on the matter have been sent to the Vinnytsya and Tulchyn administrations, village and rayon councils, the president of Ukraine, the police and prosecutor’s offices and MHP itself. Villagers claim that the permits for preliminary and construction works that were obtained based on these hearings must be cancelled and any construction activities halted. Recently the local prosecutor’s office informed they have started official investigations<sup>4</sup> in to the matter of a falsified protocol for the public hearings.

<sup>4</sup> Letter from Nemyriv regional Prosecutor’s office to Zaozerne villagers as of April 12th 2017

## Recommendation

The EBRD should request that MHP introduce EU and IFI standards for ESIA. Phase II of the Vinnytsya poultry farm expansion must be carried out based on these standards.

## 4. Accountability

Project-affected people are not aware that MHP has a grievance mechanism, which is a major barrier to accessing it. Additionally, people may be sceptical about the impartiality of dealing with their grievances, especially in cases of serious conflicts between the company and the community, or in cases where intimidation has been used to silence critical voices.

Moreover, local communities often formally write to MHP with various positions, questions, petitions and requests. It would appear that MHP, both at the branch level and centrally, does not systematically register this type of correspondence and does not have a clear procedure for dealing with it and responding effectively. For example, if a community is complaining that it has not been consulted and is requesting information about MHP's plans and operations, and not through the formal grievance channel but through officially registered correspondence, this complaint and request should be regarded as a form of grievance and the company should respond to it.

Finally, grievances of local communities are often raised as complaints in the media and MHP has a selective approach to responding to these.

The planned by-pass road around Olyanytsya, from the national road network south of Lukashivka to the grain storage and fodder plant and existing chicken houses, was meant to divert traffic currently passing through Olyanytsya. The by-pass was promised to the communities since the start of the project in 2010. However, it has not yet been finished, and all of the negative impacts from the construction and operation phases were not properly assessed in the EIA initially. So far the company remains unmoved by villagers' attempts to claim that the damages to their houses are related to the heavy traffic.

Due to the heavy traffic through the village for the construction of the brigades, the grain storage and the fodder plant, and currently the transportation of grain, fodder and chickens, Olyanytsya residents experience effects from continuous noise, vibration, movement and light disturbances from the vehicles<sup>5</sup>. Moreover, road safety concerns are another issue, as the road through the village does not have sufficient traffic controls, and speed limit signs do not ensure the safety of pedestrians and other road users.

The villagers communicated these traffic-related impacts to the company and local authorities. In November 2016 a commission to evaluate the damages to the buildings in Olyanytsya was formed. It conducted visual evaluation of 46 buildings and confirmed that all of them had cracks on their walls and ceilings, settling of the foundations, drifting walls, damages to inner and outer trimmings. MHP responded to the inspection report<sup>6</sup> claiming they are regular users of the road of state significance and if there are problems with the houses, MHP has nothing to do with them, and people can follow the by-pass construction progress in the local newspapers.

Communities in the regions where MHP is present are also regularly raising concerns about the environmental and social issues around MHP operations. The current plans for the expansion of its operations are set to impact new communities, and local opposition has been building. On several occasions we've raised the issue of pressures on the people who were unhappy with MHP projects and were prominent leaders in the movement challenging MHP developments.

This practice continues: people report of being followed, phones tapped, relatives working at MHP notified and intimidated about the 'consequences' of activism or being outspoken by the security service.

<sup>5</sup> Vinnytsya Poultry Farm SIR ESIA, WSP | Parsons Brinckerhoff, MHP Project No 70016775, December 2016: "...the residential receptors closest to the road network used by vehicles associated with the proposed development could experience an exceedance of the night-time limit of 45 dB(A), particularly at the end of each cycle, for a period of 5 days." (p.105), "...Mikhalevka, Man'Kovka, Vasyivka, Likashevka, Bohdanivka, Olyanstsya and Hordiivka villages are located less than 500 m from the road network used by vehicles associated with the proposed development." (p.105)

<sup>6</sup> Letter from 13 April 2017 to Olyanytsya village Council

Even the setting of a hostile atmosphere in the villages when neighbours fight among themselves is unbearable.

On 12 April the Cherkasy appeals court confirmed<sup>7</sup> the decision of the Chyhyryn rayon court<sup>8</sup> that a local activist from the village of Ratseve had been attacked and beaten by her co-villager because of different opinions about the 'construction of the poultry farms' and the willingness of the attacker to expel the activist from the village.

### Recommendation

The EBRD should ensure that the updated SEP includes a transparent approach to establishing MHP's grievance mechanism and an impartial processing of grievances. Additionally, the EBRD should ensure that formal complainants to MHP's grievance mechanism and critical voices from communities do not face intimidation and threats.

<sup>7</sup> Decision from April 12, 2017, Appeal Court of Cherkasy oblast

<sup>8</sup> Decision from December 27, 2016, Chyhyryn Rayon Court of Cherkasy oblast



This briefing was produced with the financial support of the European Union. The content of the document is the sole responsibility of the undersigning organisations and does not reflect the position of the European Union