



MHP: ‘Business as usual’ while communities suffer

For more information

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Ukraine’s monopolist poultry producer, MHP, has received three loans from the EBRD. The 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. During the first half of 2017 alone, the company received generous state subsidies totalling 42 per cent (809 mln UAH) of all subsidies to the agribusiness sector. The company also benefits from a quota for poultry exports to the EU as part of its Association Agreement and plans to purchase a third enterprise in Europe – in Poland – after its expansion to the Netherlands in 2016 and Slovakia in 2017.

The massive investments by public financial sources have not brought the company’s performance and culture in line with the relevant EU and EBRD standards. Rural communities say that if it continues with ‘business as usual’, than they face more violence and suppression of opinions in Cherkasy, Vinnytsya and the Dnipropetrovsk regions.

Moreover, in spring 2017 MHP sold (or changed the ownership) of its Crimea assets. It is unclear what the company has been doing all this time under economic sanctions there. The company also intends to reregister from Luxembourg to Cyprus.

EBRD standards and added value

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 after the report, 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. This plan was developed and approved without consultations with the major stakeholders, hardly ever communicated to them. Moreover, international consultants of ERM have been in Ukraine last week to conduct monitoring and they did not contact any independent party or the community for their opinion.

The professed improvements in the stakeholder engagement are far from what is needed. Usually communities are consulted after land lease agreement are made and the company has received official permits for its construction plans. This practice results in constant conflicts with communities, as the company advances its plans without a social license.

Environmental and social impact assessments continue to be sub-standard. The company introduced a practice of 'preliminary EIA' and conducts public consultations based on these, while the final EIA is never disclosed. Facilities are assessed one by one, as no cumulative impact assessments have been done (also in relation to the other economic players in the area), and the baseline data and information disclosure have been poor.

Most of the problems arise around construction plans, not around agricultural production that the EBRD is currently investing in. However, the long-term involvement with MHP, as well as the link between growing fodder for poultry production (in a vertically integrated company) undeniably raises the question of the value added of the bank's investments.

The Zaozerne example of flawed assessment and public consultations

A striking example of inadequate decision-making process can be found in the community of Zaozerne, where MHP plans to build a poultry brigade and

a biogas plant. In 2016 the public hearings on the Detailed Spatial Plan and preliminary EIA for for the poultry rearing facilities #47 were conducted in a smaller village Vasylivka out of the bigger Zaozerne community. In May 2017 same regarding biogas power plant project. This meant that many could not attend vasylivka hearings and so their opinions were neglected. Also hearings on the biogas power plant came late in May while the tenders for the preparatory and construction works, soil removal and gas pipeline construction were concluded in April.

In addition, proper baseline data collection and a cumulative impact assessment on ambient air and human health was not done, in spite of the fact that the ash disposal of the Ladyzhyn thermal power plant is also located in the area and there are considerable pollution legacy that the community is subjected to already.

Court cases and pressure on communities

Activists from Zaozerne, together with the National Ecological Centre of Ukraine, filed a complaint to the Administrative court in Vinnytyisa on the actions of the Tulchyn Administration Chairman, who approved the Detailed Spatial Plan and issued a permit based on the false public hearings that allowed construction to proceed by MHP.

The court process was closed due to technical issues and now the appeal meeting is scheduled for October.

Villagers claim that the permits for the preliminary construction works that were obtained following these hearings must be cancelled and any construction activities halted.

Locals face significant difficulties in defending their position as no one wants to challenge this company. Without NECU's support it would have been difficult for the activists to realise their rights in court, not least of which are the financial considerations.

Letters about the flawed public hearings and the construction were sent to the Vinnytsya and Tulchyn administrations, village and rayon councils, the president of Ukraine, the police and prosecutor's offices and MHP itself.

The appeal to President Poroshenko on the public hearings has been published in the local viasne.info Vinnytsya Internet resource. That made it possible for the Tulchyn Administration Chairman to file the court case against media and activists from Zaozerne and Kleban for damages to his reputation. We consider this case to be direct pressure on activists and media who are opposed to MHP's expansions.

This court case is not the only case of pressure on independent media. The German channel ARTE produced a report in April 2017 about the Vinnytsya poultry farm. MHP turned to a court in Hamburg and demanded it stop screening the reportage¹. However, after

¹<https://www.mhp.com.ua/en/media/news/details/transparent-business-conduct-mhp-has-won-a-court-case-contra-german-tv-channel>

refusing requests from ARTE journalists for interviews and entering the premises within the shooting period, the company intentionally cut itself from being part of the reportage. We see here a clear attempt to undermine independent voices.

Those who have raised opposition to the MHP report being followed, having phones tapped. Their relatives working at MHP were notified about potential work loss and intimidated by the company's security service personnel about the 'consequences' of activism of their family members or being outspoken.

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

On 12 April the Cherkasy appeals court confirmed² the decision of the Chyhyryn rayon court³ that a local activist from the village of Ratseve had been attacked and beaten by another 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.

MHP demands evidence of incidents of intimidation or retaliation against activists, although it can put activists at extra risk, especially if they do not trust the company's non-transparent mechanisms for dealing with grievances.

Formal complaints to the Ukrainian authorities face limitations, too, as seen

²Decision from April 12, 2017, Appeal Court of Cherkasy oblast

³ Decision from December 27, 2016, Chyhyryn Rayon Court of Cherkasy oblast

during a recent visit to Cherkasy region where the Bankwatch team was followed by 2 local cars. When the police was called, the officers reluctantly accepted the complaint and the investigation was quick and shallow, in spite of the explicit request to formally record and investigate the incident.

Recommendations

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

- changing the Land Acquisition Framework in line with Ukrainian, EU and international standards;
- planning public consultations as part of the decision-making process and not after operation decisions and permits are granted;
- ensuring that both positive and negative impacts of the planned facilities are adequately studied and presented, including the cumulative impacts, and that there is sufficient space in the agenda of consultations to respond to questions about negative impacts;
- ensuring that critical voices from communities do not face intimidation and threats.