

Submission to the EBRD strategy for Uzbekistan

For more information

Mark Fodor
Executive Director
mark.fodor@bankwatch.org

Olexi Pasyuk
Central Asia Coordinator
opasyuk@bankwatch.org

Summary

Changes in the approach to governance put forward by the President Shavkat Mirziyoyev deserve to be encouraged by the international community. It is natural that the EBRD is ready to provide support to a country willing to accelerate reforms.

However, the situation in Uzbekistan with personal and political freedoms is far from satisfactory and does not to this day correspond to the benchmarks set by the EBRD in its 2003 Country Strategy for Uzbekistan. It is therefore important that the EBRD will clearly indicate to the Uzbekistan government the need to have progress towards meeting those benchmarks from over 15 years ago that remain relevant to this day. We suggest that the Country Strategy will envisage an early review to assess the progress in these areas.

Use of natural resources as extraction of natural gas and gold as well as export of cotton is often seen as the most straightforward way to support the Uzbekistan economy. Investments in all these sectors associated with numerous negative social and environmental impacts, and the current severe limitations to freedom of expression and assembly render any free consultations that would be key to mitigate potential negative impacts nearly impossible. Bankwatch urges the EBRD to have a strategy that will be clear that fossil fuel and mining will not get EBRD support in Uzbekistan. The Bank should also be cautious in planning involvement in agriculture as ADB and World Bank experiences show that local authorities turn any efforts to diversify agriculture into support for cotton plantations; further the agriculture industry in Uzbekistan continues to be rife with forced labour. With respect to financial intermediaries the lack of transparency makes it a very high risk sector in a country with the rule of law issues Uzbekistan is facing.

The EBRD should approach Uzbekistan with much caution and consider carefully the signal it is sending in how it engages with the country.

EBRD benchmarks on human rights and political freedom

In March 2003 the EBRD Board of directors approved a country strategy for Uzbekistan. In view of the poor performance of the country in the areas of political and personal freedoms, the strategy included reference to a number of benchmarks which the EBRD considered to be linked to the Bank's activities in the country.

Bankwatch believes that the EBRD should stick to its original expectations as to the improvements of the situation in the country. Any assessment of the positive developments in Uzbekistan should consider the fact that the situation deteriorated since 2003. Thus, any improvements in recent years is yet to bring us to the level of 2003, which was seen as critical at that time. The new Country strategy should refer to the benchmarks formulated in 2003.

The 2003 EBRD executive summary of the benchmarks:

In its current strategy, the Bank therefore proposes to continue the intensive policy dialogue with the Uzbek government over its future course of political and economic reform. In the conviction that Uzbekistan needs to take a number of critical steps to put the country on a path of sustained progress towards multi-party democracy and a market economy the Bank will look for progress towards the following benchmarks In the political sphere:

- Ensure greater political openness of the system and freedom of the media. The assessment of the situation in this area by the OSCE Representative on Freedom of Media would be an important factor in measuring actual progress made by the country;
- Open up the political processes to a variety of interests. Registration and free

functioning of independent local NGOs, including those involved in the area of rule of law and protection of human rights, would be an essential element of this process;

- Improve the country's human rights record. This involves co-operation by the authorities in implementation of the recommendations to be made in March 2003 by the UN Commission on Human Rights based on the report of the UN Special Rapporteur on Torture.

Greater political openness and freedom of the media

The EBRD has suggested OSCE Representative on Freedom of Media to be the source of the assessments of the media freedom. EBRD should approach the OSCE for the input to the assessment of the current situation and refer to the institution for future assessment of the progress at next CS review.

The overall impression of greater freedom of speech is in comparison to 2015, not to 2003. A number of journalists were released from prison, some after serving their terms in full. Any OSCE statement welcoming release of another imprisoned journalist is accompanied by the reminder that many more journalists are still in prison.

Legislation that limits freedom of press has yet to be reviewed. For example, the governmental decree (signed by Mirziyoyev when he was prime minister) entitled 'Basic rules that regulate professional activities of foreign states mass media at the territory of Republic of Uzbekistan'¹ has provisions which put excessive burden on the media to operate.

The Alternative Thematic Report presented by

¹ http://www.lex.uz/pages/getpage.aspx?lact_id=973661

the Uzbek–German Forum for Human Rights (UGF) to the Universal Periodic Review in October 2017 listed a number of cases of Persecution of independent activists and journalists. They state that although some activists and journalists have been released in recent months, this is only after serving their sentences. Many others, such as Azam Turgunov, whose detention the UN Working Group found to be arbitrary, Fakhriddin Tillayev, who made credible allegations of torture, and Yusuf Ruzimuradov, remain in prison.

Activists who cooperate with UGF in monitoring forced labour have also suffered reprisals. Elena Urlaeva has been subjected to frequent arbitrary arrest and inhuman and degrading treatment. Activist Dmitry Tikhonov had to flee Uzbekistan after his home office was burned and he was threatened with politically motivated charges. Uktam Pardaev was convicted on trumped up charges, given a conditional sentence, and prevented from continuing human rights work.

Registration and free functioning of independent civil society groups

Registration of NGOs in Uzbekistan remains a problem. International organisations that operated back in 2003 were shut down over the last decade. While a Human Rights Watch visit to the country, approved by the state, is a positive sign, others such as Amnesty International have not been granted entry into the country. We are also unaware of cases of organisations being registered based on some objective and fair assessment criteria. The legal requirements for the NGO registration remain unchanged and complicated. Furthermore, registration remains a largely arbitrary decision of the officials in charge. Activities of informal and unregistered groups are prohibited.

Ministry of Justice officials can return registration applications for procedural “mistakes” an

unlimited number of times and delay responses for months, making it difficult for NGOs to appeal negative decisions. Registered NGOs must receive advance permission for their activities, even holding meetings or seminars, by filing proposed work plans with the Ministry of Justice.

Implementation of the recommendations issued by the United Nations Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment

U.N. Special Rapporteur on torture, Theo van Boven, has made a number of recommendations following his country visit to Uzbekistan in November–December 2002. His Recommendations are still valid and EBRD should make it clear that it expects Uzbek government to come up with an action plan to implement it. To our knowledge, since then Uzbekistan is not responding to any request to host UN Special Rapporteurs.

Human rights groups that monitor Uzbekistan situation continue to report widespread torture in Uzbekistan. The latest case highlighting the issues is the detention of journalist Bobomurod Abdullaev who was detained on September 27, 2017 in Tashkent by officers in Uzbekistan’s National Security Service (known as the “SNB”) on charges of “conspiracy to overthrow the constitutional regime” (Article 159(4) of Uzbekistan’s Criminal Code), which carries up to 20 years in prison. His relatives told representatives of several human rights groups on February 3, 2018 that he had been tortured and otherwise ill-treated since his detention.

We welcome reports that following public pressure, allegations against Mr. Abdullaev was

dropped and investigation against Secret Service Investigators for use of torture was initiated.

Repressions against speaking out

The EBRD should make it clear in the Country Strategy that the Bank's operations in any given country in accordance with its own policies would require an environment where it is safe for (potentially) impacted people to raise questions, request information and express their concerns and they are free to do so.

Ability to have consultation at the project appraisal

EBRD policies envisage public consultations with potentially impacted citizens to discuss potential impacts and develop a mitigation strategy. In Uzbekistan, citizens will risk pressure from the authorities for raising concerns over the plans proposed or supported by the officials.

Even with the proclaimed state policy to encourage freedom of speech, it will take a long time before the practice will change locally. In such conditions, the EBRD will be failing to live up to its policies and procedures that require meaningful consultations on projects financed by the bank.

Ability to handle complaints mechanisms

Similarly, the EBRD's complaint mechanism can only work when impacted people can submit their complaints without fear of retaliation and harassment by state officials. The risk of state repression completely undermines possibilities for the EBRD to have a functional complaint mechanism in Uzbekistan. Impacted people will not be ready to complain knowing that they will potentially face repression by officials.

Choice of sectors for the EBRD investments

Energy efficiency and energy sector transition

Uzbekistan economy continues to suffer from low energy efficiency. The EBRD should use its experience in developing programmes that support energy efficiency measures and the development of renewable energy with a focus on solar and wind. We see corruption in state institutions as a major challenge to implement such programmes. Therefore such a lending programmes should be developed with reference to progress indicated by relevant international initiatives, such as those at the OECD.

The EBRD should not engage in energy efficiency measures that at the same time cement reliance on fossil fuels such as instruments for oil and gas extraction or pipeline efficiency.

Radioactive waste legacy

Bankwatch welcomes activities of the EBRD The Environmental Remediation Account for Central Asia (ERA). Uzbekistan is one of the Central Asian countries where people are at risk because of poorly managed radioactive sites both on the territory of the country and at neighbouring upstream countries.

We encourage the EBRD to look into the lessons learned from the initiative in the Kyrgyz Republic and include the elements of work with local population in terms of providing information and advice on avoiding risks of radiation impacts. The project should not be limited to the technical solutions, but should address social development of the impacted areas.

Agricultural sector

The primary focus of agriculture in Uzbekistan, namely, cotton is associated with the list of well known problems including forced labour. The need to diversify crops is accepted by the state and international development financiers. The Asian Development Bank Land Improvement project in Uzbekistan conducted a decade ago and a more recent World Bank project were criticised for maintaining and even increasing the proportion of cotton despite original plan to reduce it. Similarly, a fresh report² of the Uzbek–German Forum on the cotton harvest in 2017 suggested that forced labour continues to be widely used in areas of implementation of a World Bank project.

Any investments in the agricultural sector should clearly target diversification away from the cotton section of the plantations. Given the well-documented forced-labour issues, if the bank chooses to engage in this sector, it should approach it with caution, and include robust due diligence, monitoring and conditionality as part of loan agreements. Investments should go hand in hand with policy dialogue and technical assistance to help bring Uzbekistan in line with ILO standards.

Fossil fuel investments

Uzbekistan is a country with significant oil and gas reserves and wants to develop its fossil fuels export potential in the hopes to replicate some of the successes of Turkmenistan and Kazakhstan.

Previously, the EBRD was supporting improvements in Uzbekistan oil and gas sector. In Particular with a loan for the Fergana Refinery. The bank referred to the oil and gas sector as sectors of interest because of its ability to export and generate income to pay back the loan.

² We pick cotton out of fear: systematic forced labor and the accountability gap in Uzbekistan, Uzbek German forum, May 2018,

Over the last decade the negative impact of fossil fuels on global climate has become more obvious. It is commonly understood, that MDBs should not invest in fossil fuel capacities. Such an investments can not be considered sustainable neither from economic nor from social or environmental perspectives. We expect that the EBRD will not support any projects that deal with fossil fuel extraction or pipeline infrastructure.

Mining

Mining projects often cause environmental and social problems and require thorough assessments, monitoring and constant feedback from local inhabitants. This is not possible in the current social and political environment of Uzbekistan. Mining, as a source of revenue, is seen as a priority for state officials on all levels. Thus any complaints or proclaimed concerns are seen as a threat to state interest.

The EBRD supported the gold extraction project of Zarafshan Newmont back in 1990s. While the Bank was able to persuade the company to be more open about its operations and impacts with selected CSOs, it was not possible to achieve proper transparency. All participants in a session organised by a local CSO to discuss potential impacts were interviewed by the secret services. Discussions about the water quality and other related matters were suppressed by local authorities.

New investments in mining would mean that the EBRD will not be able to meet its commitments in the areas of transparency, stakeholder engagement, monitoring of impacts, etc. Bankwatch also emphasises the need to consider human rights implications of mining

projects – something the Bank will not be able to properly do in the current situation in Uzbekistan.

Financial Intermediaries

While the responsibility for ensuring that EBRD policies and standards are followed in this sector falls on the financial intermediary, deficiencies in this sector make a proper assessment of whether or not these policies and standards are adequately followed. This is probably the EBRD's investment sector that is weakest in terms of transparency. Lack of transparency naturally amplifies any risks related to non-compliance with policies and standards, including risks of corruption, human rights abuse or environmental damage.

With the current situation in Uzbekistan, mitigation of risks in this sector will require that any work with financial intermediaries meet the highest standards in terms of transparency, including the possibility of public scrutiny, and that the EBRD also has a strong and transparent monitoring mechanism in place that ensures that the intermediaries are conducting the necessary due diligence and avoiding potentially problematic loans.