

Indorama Agro project, Uzbekistan: unmitigated human rights violations persist



Uzbekistan, cotton harvest in a field. Angela Meier via Adobe Stock.

In 2021, the European Bank for Reconstruction and Development (EBRD) approved two loans of USD 70 million, in aggregate, to Indorama Agro to support private sector investment in the cotton farming sector in Uzbekistan. The project promotes mechanised cotton harvesting and environmental and operational improvements. In addition, the company benefited from technical cooperation funds of up to EUR 150 000 to pay costs associated with the project's environmental and social due diligence.

Red flags ignored by the EBRD

In 2020, Indorama Agro disclosed the project's final Environmental and Social Impact Assessment, Environmental and Social Management Plan and Livelihood Restoration Plan. These documents are intended to provide an overall picture of risks to the Bank and potentially affected communities and to serve as the basis for mitigating these risks accordingly.

For more information

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Bankwatch made a quality analysis of this documentation. The findings confirmed the lack of integrated impact assessment and focused risk mitigation, a participative and sustainability-led approach, and accountability. The analysis also flags non-compliance with the EBRD performance standards on impact assessment, workers' health, biodiversity impact, land acquisition, stakeholder engagement and labour rights.

In particular, there is limited or no information on the project design and proposed technologies to ensure environmental and operational improvements, and most importantly, the rationale behind the selection of these. Several elements were scoped out in the study, such as waste and wastewater management, hazardous chemicals disposal, water supply and land acquisition for the second phase, transmission line construction, and additional residential needs. Baseline data is missing essential information on the farmers and the impact of land acquisition. Social risks were recognised as unpredictable, and most environmental risks remained unidentified or largely underestimated, including risks to the Aral Sea and water resources, biodiversity and workers' health. The risks associated with pesticide use remained completely underestimated and unaddressed even after feedback from civil society organisations and local communities. Most of the management plans which should provide information on the performance of the mitigation measures and risk acceptability are missing. At the same time, the documentation admits that the beneficial impact of the project in terms of long-term change in employment, including women's employment, and localised economic development, is insignificant, and the change in livelihood and loss of supplementary income for local communities are deemed a significant adverse impact of the project.

The project is exclusively assessed in compliance with Uzbek regulations rather than the best available international practices (i.e. those of the WHO and ILO) and performance standards, which contradicts the EBRD's requirements. Finally, the project documentation does not contain a comprehensive human rights risk assessment, including the risks from land acquisition and public participation, or from publicly raising concerns in an authoritarian setting.

Failed public participation and stakeholder engagement

Due to the pandemic, the company decided to switch to an online format for consultations on the Environmental and Social Impact Assessment (ESIA) in 2020, which was highly questionable considering the significantly low proliferation of the internet and smartphones in the region. Information on public consultations provided by the company did not contain any detailed evidence, such as records from the meetings, evidence of media communication, or how the outcomes of focus group discussions were considered by the project team. Although the project affects thousands of people, the consultation process reached an inadequately small number of consulted people. Moreover, the project documentation lacked comprehensive data on a project-based redress mechanism, particularly on complaint management.

In 2021, Bankwatch commissioned a study to review how meaningful Indorama's stakeholder engagement was in 2020. The study surveyed former farmers (current Indorama employees), contracted farmers (cotton suppliers) and local community representatives. We developed a questionnaire including 20 questions and translated it into Uzbek. From November 2021 to January 2022, Bankwatch reached out to the target audience via Telegram and asked for interviews. All the responses were carefully recorded. We obtained feedback from

22 people from the Syrdarya region: 1 representative of the local community, 2 contract farmers and 19 Indorama employees who used to be the farmers before their land was transferred to the company. Two of the respondents were female and 20 male.

Unfortunately, the surveys had to be halted, as some people reported being summoned to the local police for speaking up about Indorama. We therefore took the decision to stop requesting feedback in order not to put people at risk. Bankwatch informed the EBRD's Office of the Chief Compliance Officer about the threats and incidents.

Analysis of the obtained data shows that 100 per cent of interviewees had never heard of public consultations on the project arranged by Indorama Agro in 2020 and were not aware of any environmental and social risk assessment conducted by the company. Three out of 22 respondents had seen the leaflet disseminated by the company but confirmed that the information provided there was not enough to understand the risks and proposed mitigation measures. No interviewees had ever participated in meetings to discuss the project risks. Respondents confirmed that the level of information about impacts and discussions around the project risks were not satisfactory. Five out of 22 participants tried to gain more information about the project by appealing to Indorama's management and the president of Uzbekistan and by submitting a complaint to the prosecutor's officer, but said this was largely ineffective.

Respondents also shared with us concerns that remain unaddressed almost two years after the project started. These include land grabbing, disregard for farmers' concerns, regular violation of promises, meagre wages, intensive use of agrochemicals that damage the soil, lack of health care for those who deal with agrochemicals, livelihood loss, large-scale tree cutting, lack of required irrigation, corruption and retaliation.

In summary, the environmental and social assessments conducted by Indorama Agro, as well as their consultations with affected people, were deficient and not meaningful. As the project is now being implemented, these deficiencies have resulted in poor mitigation of measures and serious violations of human rights.

Unfortunately, the EBRD's involvement in these early stages of the Indorama Agro project – a high risk, category A project – did not help to bridge these gaps. As a result, the project has been in operation for the last two years, and multiple reports on human rights violations serve as evidence of the EBRD's failed due diligence, which should have identified the risks and led the Bank to act accordingly.

Human rights violations

Indorama Agro received 49,000 hectares of farmland via 'voluntary' land lease terminations in accordance with the cabinet of ministers' decree of August 2018. The transfer of land to Indorama Agro took place between 2018 and 2019 on the condition that farmers would be offered employment with the company. However, Uzbek Forum for Human Rights has raised concerns with the Bank that these commitments have not been upheld. Since 2019, Indorama has made hundreds of workers redundant, including 1,200 irrigators, as part of a restructuring process. Moreover, no compensation has been paid for the termination of land lease agreements to those farmers who refused to be employed by the company.

In addition, contracted farmers have no choice over what they can grow, as the land designated for growing cotton is still determined by the state. When interviewed by Uzbek Forum for Human Rights, some farmers reported that they still have not been paid for the cotton they delivered in 2021, although the company was legally obliged to pay them by 31 December 2021. Futures contracts between Indorama and their contract farmers are being concluded for 2022 without mention of the price they will be paid for the cotton they will deliver. There have been regular reports of the failure of Indorama Agro to uphold labour rights by refusing to honour contracts and pay wages and bonuses.

Following the transfer of farmland to the company, the yields of some farms operated by Indorama Agro have consistently fallen and the company has reported that 2021 was their worst harvest to date, producing only 0.5 metric tons of cotton per hectare in some areas. However, other farms, including those under contract with Indorama Agro, were able to exceed their targets and reported one of the best harvests in recent years. An increase of the yield was one of the conditions of the government decree that granted Indorama Agro thousands of hectares of land. Failure to comply can therefore result in the lease being revoked.

In an effort to increase productivity and yields, the company has embarked on a restructuring process by creating 380 nano-units of approximately 125 hectares of farmland which are to be outsourced and managed by brigadiers, currently employed by Indorama Agro, who will become farm managers or nano-unit workers (NUWs). NUWs are required to form limited liability companies (LLCs) but will remain official employees of the company and continue to receive a fixed salary. Although the NUWs are promised bonuses for exceeding the production targets set out in their contracts, the contracts are based on unrealistically high yields. Uzbek Forum has seen contracts which set minimum yields that are double those that Indorama Agro has achieved in the last three years.

The precise penalties for failure to achieve these minimum yield targets are not laid out in these contracts. The contracts only state that ‘necessary steps and action’ will be taken. This places NUWs – who are actually Indorama Agro employees – in an extremely insecure position of not knowing what the consequences will be for failing to achieve what three years of Indorama Agro farming techniques failed to achieve. There is an obvious risk they may be fired as employees.

This new system of employment of Indorama Agro workers was supposed to come into force as of 1 January 2022, but the company has not yet permitted the NUWs to start using the land. The NUWs have spent USD 60 to establish an LLC at their own expense, but at the time of writing, it is still not clear what the actual contractual arrangements are. One thousand two hundred irrigators formerly employed by the company were fired in November 2021 with the promise that they would be re-hired and paid by NUWs at rates set by Indorama Agro. A concern of the NUWs is that Indorama Agro’s low wages for workers to be contracted by NUWs will not be enough to attract sufficient labour to fulfil their contracts and meet their targets. In November 2021, the company initially promised that NUWs would be able to hire ten workers per LLC, but this commitment has apparently not been upheld.

One brigadier designated as a NUW explained: ‘This system does not take into account the interests of workers at all and does not give faith in the future. The company wants employees to be always ready to do the amount

of seasonal work they need for a small price, and the further fate of the employee does not interest them. With this amount of work, there is no hope of getting the bonuses offered.’

Workers at Indorama Agro are demanding that the company either gives people the land for full use and concludes contracts with farmers for the supply of cotton (as was the case before) or hires workers permanently and pays them decent wages based on fair contracts. At the request of the trade union, the *hokimiyat* (municipality office) called on the leaders of Indorama Agro to negotiate, but this call was turned down.

Despite the establishment of Uzbekistan’s first democratically elected trade union in March 2021, attempts to interfere and disrupt the activities of the union persist. Attempts have been made to discredit one of the founders of the trade union who has recently had her workplace removed and access to company information withdrawn. This is the same employee who successfully fought in court to be reinstated after she was fired for reporting corruption at the company in January 2021. The union leadership has repeatedly received false information or promises from the company’s human resources department in relation to the restructuring process, creating the impression that the union is misleading workers. The opposite is true.

Lack of commitment by Indorama Agro

The project is in operation, but Indorama Agro has failed to ensure the implementation of the Environmental and Social Action Plan developed one year ago, including all the policies and management plans mentioned in the project documentation.

The dialogue between the company, Bankwatch and Uzbek Forum, established with the help of the EBRD’s management, remains very formal. It is restricted to responses to our repeated concerns which fail to adequately address the issues. After five meetings, no tangible progress has been made, and the company’s default position is defensive rather than proactive.

A key element of Indorama’s Livelihood Restoration Plan, to supply workers with greenhouses, appears to have failed. The greenhouses erected in the Sardoba district are collapsing due to shoddy construction. Workers continue to face retaliation for voicing their concerns and trade union leaders continue to face efforts to discredit them.

Conclusion

The EBRD has received multiple reports from civil society organisations and local communities about the risks associated with the project and client, particularly on land acquisition, labour rights violations and environmental pollution. In addition, the environmental and social impact assessment co-funded by the EBRD identified the deficiencies of the project and the company’s commitment to ensuring human rights protection. By the time of loan approval, two complaints had been filed with independent accountability mechanisms against Indorama in Nigeria and Uzbekistan because of violations of labour rights. Moreover, the EBRD was informed about the retaliation against the female worker raising concerns about the project and barriers to unification under the first independent trade union. In fact, the company disregarded the requirement to conduct meaningful stakeholder engagement by switching to online consultations in the middle of the

pandemic. Nevertheless, the Bank decided to approve the loan. Additionally, the agreed conditions have not made a significant change, as Indorama Agro has failed to implement the Environmental and Social Action Plan (ESAP) in a timely manner. The case demonstrates that the Bank's own appraisal and due diligence processes are inconsistent and detached from events on the ground, and do not provide space for the participation of affected people. The EBRD's unwavering support for the project without adequately implemented conditions has resulted in continued human rights violations by the client. The Bank's lack of effective due diligence is has resulted in support for a project by a company which has a known record in rights violations. This calls into question the overall concept of the EBRD's added value in terms of environmental and social improvements.

Recommendations to the EBRD

Indorama Agro project-related

- Suspend further loan disbursements until there has been tangible progress on environmental and social issues;
- Ensure that the Environmental and Social Action Plan is updated, and implemented fully and in a timely way by Indorama Agro;
- Prevent retaliation against workers of Indorama Agro, and respond swiftly and effectively in cases of reprisal;
- Ensure there is no interference by Indorama Agro in trade union activities;
- Conduct a thorough review of the Indorama Agro restructuring process and develop measures to ensure respect for labour rights;
- Ensure meaningful engagement of Indorama Agro with workers on establishing minimum yield targets;
- Ensure the company fulfils its obligations on salary payments for cotton delivered in 2021;
- Disclose annual reports on environmental and social performance in a format accessible to the affected communities.

EBRD overall approach-related

- Strengthen requirements for the environmental and social project documentation submitted by the client;
- Ensure scrutiny of the project documentation, including verification with potentially affected stakeholders;
- Make human rights risk assessment mandatory for every project and develop a guidance tool;

- Ensure meaningful information disclosure and public consultations on the project *prior* to loan approval;
- Request that the client develops an effective grievance redress mechanism *prior* to loan approval;
- Allocate resources to assist the client with the implementation of mitigation measures;
- Publicly disclose the project implementation monitoring reports in local languages;
- Oversee ongoing stakeholder engagement throughout the project life-cycle and communicate it;
- Control land acquisition undertaken by the client to ensure human rights protection;
- Condition the EBRD's loan disbursement on effective implementation of key mitigation measures;
- Integrate these requirements into the loan agreement and ensure incentives for compliance.