

## Case 2023/09 Indorama

**Note by IPAM**

The Requesters have asked for confidentiality due to the high risk of retaliation that they allege facing. As a consequence, the original Request cannot be disclosed and IPAM has produced this summary for public disclosure. It should be noted that in summarising the information, IPAM has sought to maintain the original text as much as possible, with due regard for security concerns.

**Request Summary**

On 3<sup>rd</sup> August 2023 the civil society organization Uzbek Forum for Human Rights submitted a request on behalf of residents of Uzbekistan, in relation to the Indorama Agro Capex Loan (OP 50879), Indorama Agro Working Capital (OP 51011), and Indorama Kokand WC II (OP 54302).

The international civil society organisation CEE Bankwatch acts as advisor.

The Requesters have asked for confidentiality of their identities and that of their representatives. They have asked for their Request to be considered for a compliance review.

The following allegations of harm have been raised in the Request.

- (i) **land confiscation and loss of livelihoods.** Indorama Agro LLC (IAL) received 50,000 hectares of farmland via “voluntary” land lease terminations in accordance with a Cabinet of Ministers Decree of August 2018. The transfer of land to IAL took place between 2018 and 2019 on the condition that farmers would be offered employment with the company. However, these commitments have not been upheld in full. Land was transferred to the company with no regard for the long-term leases that farmers had with local administrations (hokimiyats) and without meaningful prior consultations or compensation from the state for the unilateral termination of land leases. Instead, farmers were forced by officials to sign “voluntary” statements to terminate their land leases. In many cases, farmers did not have copies of their land leases which were held with hokimiyats. Despite the company’s commitment to ‘identify, agree and pay compensation to the affected farmers’ stated in the Environmental and Social Impact Assessment (ESIA), there is no available information that compensation was actually paid.
- (ii) Moreover, no compensation has been paid for the termination of land lease agreements to those farmers who refused to be employed by the company. Despite recognizing the risk that farmers would not be able to claim compensation for the termination of land-lease agreements. No prevention or mitigation measures have been developed by the company.  
As a means for compensating livelihood loss, the company proposed the planting of mulberry trees to support communities engaged in silkworm cocoon production and the building of greenhouses for use by project-affected stakeholders. However, the silk sector has been shown to rely on the forced labour of farmers and is strictly controlled by the government, despite privatization.

- (iii) **violation of labour rights.** The Client purposely classifies workers who should be considered permanent as seasonal. This does not allow them access to rights such as pension, sickness and holiday pay. Workers were reclassified as Nano Unit Managers (NUMs), requiring them to form Limited Liability Companies (LLCs). This shifted entrepreneurial responsibilities to them. Later, with a lack of stakeholder engagement, NUM contracts were replaced with Nano Unit Contractor (NUC) contracts, which are exploitative, setting high production targets, harsh penalties for not meeting them and low pay, disregarding the Uzbek Labour Code.
- (iv) **obstruction of freedom of association and collective bargaining.** In addition to eliminating trade union membership by changing the status of workers from employees to service providers(NUCs).
- (v) **negligence of health and safety procedures.** The Client has neglected worker safety by not providing protective gear, proper training for handling hazardous substances, and appropriate equipment. Workers have reportedly been exposed to chemicals without protective clothing, posing health risks.
- (vi) **exploitation of cotton farmers.** Allegedly, farmers were coerced into signing contracts with the Client without clear terms and many contract terms were violated. In addition, they alleged that the Client provided agricultural inputs which affected crop yields.
- (vii) **environmental pollution.** Several incidents have been observed in relation to pollution of the environment, allegedly due to chemical exposure and pollution of the water streams. In the allegations the ESIA overlooked significant environmental risks, lacking effective mitigation measures. Many potential impacts like asbestos exposure, pollution, and health risks were either not predicted or not identified and mitigation plans were often deemed unnecessary. Relevant documents on mitigation measures were never disclosed.
- (viii) **lack of meaningful stakeholder engagement.** The Client repeatedly disregarded stakeholder concerns and failed to involve them in project planning and operations while public consultations were carried on in an inappropriate manner. The grievance mechanism in place was ineffective, lacking impartiality, safety measures and third-party involvement while the information disclosure was limited. The EBRD's monitoring results were not disclosed.

### **Alleged Policy violations**

The EBRD has been active in facilitating dialogue with IAL during the last two-and-a-half years and has initiated independent auditing of the client's activities. However, these efforts have failed to address and remedy the scope and scale of rights violations and non-compliance of IAL with EBRD's performance requirements. We believe that the deficient environmental, social and human rights due diligence, impact assessments and mitigation strategies, as well as insufficient monitoring, have provided no firm basis upon which to fully and accurately assess the situation on the ground as it unfolds today.

The following Environmental and Social provisions were breached:

When host country regulations differ from EU substantive environmental standards, projects will be required to meet whichever is more stringent.

EBRD will require clients, in their business activities, to respect human rights, avoid infringement on the human rights of others, and address adverse human rights risks and impacts caused by the business activities of clients.

EBRD will require its clients to identify vulnerable people or groups who may be disproportionately impacted by projects and develop and implement mitigation measures so that vulnerable people are not disproportionately impacted.

EBRD requires its clients to comply with the applicable requirements of national law with respect to public information and consultation, identify stakeholders potentially affected by and/or interested in projects, and to develop and implement a grievance mechanism.

Proportionate to the nature and scale and environmental and social risks and impacts of the project, EBRD requires its clients to disclose sufficient information about the risks and impacts arising from projects, engage with stakeholders in a meaningful, effective, inclusive and culturally appropriate manner and take into consideration the feedback provided through such engagement

EBRD will facilitate the development of an enabling environment for its clients to achieve environmentally and socially sustainable outcomes in their projects.

The Bank's role is to: (i) review the client's information; (ii) provide guidance to assist the client in developing appropriate measures consistent with the mitigation hierarchy to address environmental and social impacts to meet the relevant PRs and (iii) help identify opportunities for additional environmental or social benefits.

The Bank will therefore (i) assess the investment based on the risks and impacts inherent to the particular sector and the context of the business activity, and (ii) assess the client's capacity and commitment to manage the environmental and social risks and impacts in accordance with the relevant PRs.

EBRD's appraisal requires clients to identify stakeholders potentially affected by and/ or interested in projects, disclose sufficient information about the risks and impacts arising from projects and engage with stakeholders in a meaningful and culturally appropriate manner.... The Bank may, in some cases, conduct its own public consultation activities to gauge stakeholder views.

The Board of Directors or Bank management, as appropriate, will take the comments and concerns of stakeholders into account in its decision-making process as part of assessing the overall benefits and risks of the project.

Legal documents will also include, where appropriate, rights and/or remedies for the Bank in the event that a borrower or investee company fails to implement the environmental or social provisions consistent with the requirements of the financing agreements.

If the client fails to comply with its social and environmental commitments, as set out in the financing agreements, EBRD may agree with the client remedial measures to be taken by the client to achieve compliance. In the event that the client fails to comply with the agreed remedial measures, the Bank may take such action and/or exercise such rights and/or remedies contained in the financing agreements that it deems appropriate.

When such material changes are envisaged, the Bank will carry out an environmental and social appraisal of the relevant changes in accordance with this Policy and any additional appraisal and stakeholder engagement requirements, and environmental and social mitigation measures will be incorporated into the modified/restructured project documentation.

It will publish an annual sustainability report that provides information on the environmental and social aspects of its investment activities and its own operations, and on the implementation of this Policy. EBRD will engage in meaningful dialogue with the relevant Bank's stakeholders, in accordance with the EBRD Directive on Access to Information (DAI).

The EBRD has failed to ensure compliance of its client, IAL, with the following performance requirements:

PR 1: Assessment and management of social and environmental risks and impacts.

PR 2: Labour and working conditions.

PR 4: Health, safety and security.

PR 5: Land acquisition, restrictions on land use and involuntary resettlement.

PR 10: Information disclosure and stakeholder engagement.

The following Access to Information Directive provisions were breached:

iii. For Category A Projects and Category B Projects associated with significant environmental and social risks and impacts, the environmental and social sections of the PSD will be reviewed annually and updated as appropriate.