

EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS



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ECCHR Background Paper

Cotton Produced Through Forced Child Labour?

OECD Complaints Filed by ECCHR and its Partner Organizations against European Cotton Dealers

On 25.10.2010 the European Center for Constitutional and Human Rights (ECCHR) and its partner organizations filed OECD complaints against four cotton dealers from three different European countries. ECCHR, the Uzbek-German Forum for Human Rights, UGF (Germany), Guido Ehrler (Switzerland) and Sherpa (France) allege that corporations purchasing cotton from Uzbekistan that was harvested by children violate the OECD guidelines. There are strong indicators for the assumption that the corporations in question are trading Uzbek cotton. Cotton is harvested in Uzbekistan through a state-organized system of forced child labour. In the opinion of ECCHR and its partner organizations, purchasing this cotton violates OECD-guidelines for multi-national organizations.

1. Cotton Harvest in Uzbekistan

Uzbekistan, an authoritarian state, is the world's fifth largest cotton producer and its third largest cotton exporter. Generating more than half a billion US dollars per annum, cotton is Uzbekistan's highest grossing export. However, only a fraction of this profit benefits the population. The Uzbek Government controls all revenue through three state-run trade corporations. The Government system for dealing with this income is opaque.

This abuse of state revenue is all the more striking in light of numerous reports which claim that the cotton is produced through the regime's systematic and comprehensive use of child and forced labour. In contrast to other cases of child labour, children in Uzbekistan are forced to work by the State, and their work does not benefit them or their families. Despite the high level of unemployment in Uzbekistan, children are forced to work out in the fields for up to three months a year, often seven days a week. Their work is not only strenuous but also carried out in highly unhygienic conditions.

Many of the investigations carried out in Uzbekistan confirm that children aged 10 or over are regularly sent out to work in the harvest. At times, much younger children are sent to work alongside them. Estimates of the extent of forced child labour in the Uzbek cotton sector range from 1 to 2.7 million school children per season. It is estimated that around 57% of the entire Uzbek harvest during the 2006/2007 season was gathered by children.

Cotton harvest is extremely strenuous physical work. The children pick cotton by hand and have to carry heavy loads of cotton for long distances. Children sometime have to dispense pesticide without adequate protection against the toxic materials. Often, children are separated from their parents during the harvest and forced to sleep without supervision in unhygienic and unheated (machine) shelters. The children are provided with neither adequate sanitary facilities nor clean drinking water, and their food is substandard. Accidents at work occur frequently. Agricultural chemicals lead to hepatitis and many children break their arms and legs by falling from the tractors provided to transport them. Furthermore, the aforementioned hygiene conditions and inadequate food provision lead to the risk of serious health problems like meningitis, hepatitis and intestinal and respiratory infections.

2. International Protests and Corporate Initiatives Against Forced Child Labour in Uzbekistan

For several years now, the problem of forced child labour in the Uzbek cotton production has been a recognized problem among the international community.

In April 2006 the UN Committee on the Rights of the Child (OHCHR) expressed its concern about the use of forced child labour in Uzbekistan and the negative effects this has on health. The committee called on the Uzbek Government to implement adequate measures in compliance with international standards on the Rights of the Child.¹

Since 2007, in the wake of media attention focused on Uzbek forced child labour, several retail corporations have responded to calls from human rights organizations and announced their boycott of Uzbek cotton. Large international retail chains such as Wal-Mart and C&A, for example, have announced that they will not be buying any products containing Uzbek cotton.

Following such international pressure, Uzbekistan participated in two important anti-child labour conferences organized by the International Labour Organization (ILO) in 2008.² The ILO, then, has also been involved in the current situation in Uzbekistan. In 2010, the ILO Committee of Experts on the Application of Conventions and Recommendations raised its 'its serious concern at the situation of children who, every year, are taken from school for up to three months and made to work in the cotton fields in hazardous conditions.'³ The situation in Uzbekistan was also raised at the 99th Session of the International Labour Conference in Summer 2010. EU representatives of both employers and employees expressed their concern about the systematic and persistent use of forced child labour during the cotton harvest in Uzbekistan.⁴ As a matter of urgency, they called on Uzbekistan to allow an ILO observation mission to travel freely in Uzbekistan with full access to the cotton fields.

¹ Concluding Observations of the Committee on the Rights of the Child: UZBEKISTAN, Forth-second Session, CRC/C/UZB/CO/2. 2 June 2006.

² ILO-Convention 138, on the minimum working age; ILO-Convention 182, concerning the prohibition of and immediate measures for the abolition of the worst forms of child labour.

³ 2010 Report of the ILO's Committee of Experts on the Application of Conventions and Recommendations http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_123424.pdf, S. 388.

⁴ 99th Session of the International Labour Conference, June 2010, <http://www.ilo.org/ilolex/cgi-bin/pdconv.pl?host=status01&textbase=iloeng&document=877&chapter=13&query=Uzbekistan%40ref&highlight=&querytype=bool&context=0>.

3. The Responsibility of European Corporations

Although reliable data is difficult to obtain, UN statistics show that around 20% of all Uzbek cotton exports are sold to EU states. This means that European trading firms purchase a considerable portion of the cotton produced through the most extreme types of child labour. The purchase price of the cotton ends up, almost exclusively, in the hands of the Uzbek regime responsible for organizing this labour. Some of the European companies involved in the trade of Uzbek cotton have built up long-standing, close contact with Uzbekistan. Some have established branch offices in Tashkent, others are considered to be among the principle trading partners of the Uzbek state-run enterprises.

In so far as they purchase cotton from Uzbekistan, these companies, play an important part in the maintenance of the system of forced child labour in Uzbekistan. The income generated through cotton exports makes the system lucrative for the Uzbek Government, which is able to skim off almost all of the profit. By forging trade relationships with the Uzbek firms, whether directly or indirectly via third parties, the cotton traders are providing a financial incentive to retain the systematic use of forced child labour.

OECD Guidelines for Multi-National Corporations

The OECD guidelines for multinational corporations are an international standard for responsible corporate behaviour. The guidelines include requirements pertaining to the maintenance of human rights, labour and social standards, and environmental protection. These recommendations are mandatory for the 31 member states of the OECD and the further 11 states that have adopted the directives. Those states who have signed up are obligated to establish national contact points to promote awareness of the guidelines and deal with possible violations. Although the corporate standards outlined in the OECD guidelines are not legally binding for companies, the provisions of the guidelines create an international standard of corporate responsibility. Since 2000 it has been possible for NGOs to utilize this mechanism by acting as complainant.

Once a complaint against a corporation is filed and judged to be suitable for extensive examination, the national contact point offers the corporation the opportunity to respond to the allegation and begins the consultation procedure, which can include independent investigations done by the NCP itself. If no agreement is reached, the contact point compiles its final report. Although these reports do not include any sanctions, they may contain a clear statement on the OECD guidelines that have been violated and recommendations for how they could be applied.

Concrete Violations of OECD Guidelines

In the view of ECCHR companies which have engaged in cotton trading with Uzbekistan may have breached the OECD-guidelines in two aspects. Firstly, it is possible that they did not monitor their supply chains sufficiently to ensure that their Uzbek suppliers are acting in compliance with OECD guidelines. This would be both possible and reasonable. If a company has long-standing connection with Uzbekistan it could use these relations to lobby for the abolition of forced child labour. Existing associations such as the Bremen Cotton Exchange and the International Cotton Advisory Committee (ICAC) could be used as a platform to expose the problem of forced child labour and the Uzbek trade partners. Boycotts would be possible, both for individual corporations as well as the whole branch. Given that Uzbekistan has ratified different ILO conventions against child labour following international pressure, it is clear that the Uzbek Government is susceptible to influence. It is frequently argued that were a boycott to be put in place, Uzbekistan would simply start selling cotton to China or Russia. This argument, however, is unconvincing. The Uzbek Government does not wish to become entirely reliant on China and Russia. The significance of the European market for the regime should not be underestimated. In addition, a boycott would not harm the Uzbek population, as they hardly profit from the situation as it is at present. A broad coalition of human rights activists from Uzbekistan have spoken out vehemently in favour of a boycott. According to their estimation, the damage caused by forced child labour is far greater than any damage that could be caused by a boycott.

Secondly, it is also possible that companies have aiding the Uzbek Government in its human rights abuses insofar they are trading Uzbek cotton. As the principle standards of corporate liability are defined according to international law, they might also be significant for the interpretation of the OECD guidelines.

The following OECD guidelines have been violated:

- Chapter II. 2 (Human Rights)
- Chapter II. 1 (Sustainable Development)
- Chapter IV. 1 b u. c (Abolition of Child Labour)
- Chapter II. 10 (Responsibility for Delivery Chains)

4. More strategic OECD complaints in addition to more European Corporate Responsibility

Following the successful proceedings taken against the retailer Lidl, a charge based on the inhumane working conditions in their textile supplier factories, ECCHR and its partner organizations would like to hold a further section of the cotton delivery chain accountable for its actions: the cotton wholesalers. As they are further removed from public, wholesalers are also further removed from the influence of social control. Perhaps as a result of this, only minimal action has been taken to date to prevent wholesalers – as opposed to retailers - from trading cotton that has been manufactured through forced child labour. ECCHR and its partner organizations demand that these cotton traders comply with internationally recognized OECD guidelines, and would particularly like to stress the European nature of this problem evidenced by the parallel proceedings begun against corporations in different European states.

In addition, ECCHR and its partner organizations would like to assist in strengthening the impact of the OECD soft law proceedings, which are not legally binding. Such so-called soft law mechanisms have been put in place to allow those affected by human rights abuses to make their claims against corporations. Even if these do not at present offer comprehensive, effective legal protection, ECCHR nonetheless views the use of such proceedings as an opportunity to expose cases where a corporation has abused the (human) rights of one or many persons and as such crossed the boundary between negotiable social engagement and corporate responsibility. The OECD proceedings will also offer the corporations the possibility to inspect and improve their corporate human rights practice.