

**Written submission of FIAN International and FIAN Germany to the 66<sup>th</sup> –Session of the  
Committee on the Elimination of All Forms of Discrimination against Women – Pre  
sessional Working Group on Germany**

**25<sup>th</sup> – 29<sup>th</sup> July 2016**

**List of issues proposed in connection to the seventh and eighth periodic report of Germany.**

FIAN is an international human rights organization that advocates for the realization of the right to adequate food. FIAN consists of national sections , coordinations, and individual members in over 50 countries around the world. Moreover, FIAN collaborates with different partners at the national, regional and international level. FIAN is a not-for-profit organization without any religious or political affiliation and has consultative status to the United Nations.<sup>1</sup>

In this submission FIAN draws the attention of the Committee to illegal eviction against the affected communities in Mubende/Uganda due to a coffee plantation of a local company Kaweri Coffee Plantation Ltd., a 100% subsidiary of the Neumann Kaffee Gruppe (NKG) based in Hamburg/Germany.

**List of Issues**

**1. Violent eviction in Mubende District in Uganda in favour of the German owned Kaweri Coffee Plantation**

From August 17-21, 2001, the inhabitants of the four villages Kitemba, Luwunga, Kijunga and Kiryamakobe (approximately 4,000 women, men, girls, boys<sup>2</sup>) in Mubende District (Buwekula County, Madudu Sub-County) were violently expelled from the land of 2,524 hectares they have been living on for years. The inhabitants were threatened and forced to leave by the state army Uganda Peoples Defence Force (UPDF) at gunpoint and several of those being evicted were beaten in the process. The soldiers set houses on fire and demolished them, including the fully equipped private clinic of the community and six churches. Movable

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<sup>1</sup> <http://www.fian.org/about-us/who-we-are/>

<sup>2</sup> 2,041 of the 4,000 inhabitants have sued the Ugandan Government and Kaweri Coffee Plantation Ltd. Those 2,041 plaintiffs belong to 396 families of which according to the list of plaintiffs are at least 42 female headed households.

properties were looted and crops were cut down and uprooted. According to the testimonies of the evictees and several documentations of the eviction<sup>3</sup> the evictees have not been compensated. Until today, their case is still pending at the high court after the Court of Appeal has redirected the case to it (the Court of Appeal of Uganda at Kampala, Civil Appeal No. 144 of 2013 arising out of H.C. Civil Suit No. 1779/2002).

The eviction took place despite the fact that many of the evictees were lawful customary tenants who are guaranteed security of occupancy under the 1998 Land Act of Uganda. Article 30 guarantees that “Land in Uganda shall be owned in accordance with (...) customary tenure, if the owner has not been asked to leave the land for 12 years.”<sup>4</sup> Furthermore, Article 237 of the Constitution of Uganda<sup>5</sup> on Land Ownership says: “Land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the land tenure systems provided for in this Constitution.”

As a direct impact of the forced eviction without provision of compensation nor provision of alternative land and resettlement, many of the evictees still face hunger and extreme poverty until today – 15 years after the eviction. The destruction of livelihoods has additionally aggravated discrimination of and violence against women and girls (details see below).

According to FIAN case research and documentation, the above mentioned forced eviction was conducted by the state army UPDF because the semi-statal Uganda Investment Authority (UIA) had agreed with the foreign investor Kaweri Coffee Plantation Ltd., a 100% sub-company of the German Neumann Kaffee Gruppe based in Hamburg, to lease Kaweri that land - 2,524 hectares - for a period of 99 years to set up a coffee plantation. Affidavits of evictees confirm that two representatives of the German investor were present when the Deputy Resident District Commissioner threatened the inhabitants of the four villages to

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<sup>3</sup> For instance, ActionAid Uganda 2002: The Impact of Foreign Direct Investment on the Local Economy: The case of Kaweri coffee and Kalangala palm oil investments.

<sup>4</sup> Article 30, 2a Land Act 16 of 1998, available at: <http://www.ulii.org/ug/legislation/consolidated-act/227>;

<sup>5</sup> Constitution of Uganda available at:

[http://www.statehouse.go.ug/sites/default/files/attachments/Constitution\\_1995.pdf](http://www.statehouse.go.ug/sites/default/files/attachments/Constitution_1995.pdf)

leave their land<sup>6</sup>. Immediately after the forced eviction Kaweri occupied the land and has continuously grown coffee for export until today.

**Proposed issue:**

*The Committee should ask the state which measures it has put in place to ensure that investments of German companies will not contribute to violations of the rights of rural women as composed in article 14 of CEDAW and its respective General Recommendation .*

**2. German Government has supported the investment of the German company**

This investment of the German Neumann Kaffee Gruppe is – according to the German Ministry of Economic Cooperation and Development – the biggest German investment in Uganda<sup>7</sup> and has been supported by the German Government in several ways:

1. From October 2000 until May 2003 by a Public Partnership Project conducted by the state development agency gtz (today giz) to which the German Government has contributed 0.316 Million Deutsch Mark (approx. 160,000 Euro)<sup>8</sup>
2. In 2002, the African Development Bank has granted 2.5 million US-Dollar for a period of 4 years to Kaweri Coffee Plantation Ltd. Germany is a member of the Executive Council of the Bank<sup>9</sup>.
3. In 2009, the evictees together with FIAN submitted a complaint to the German National Contact Point for violations of the OECD Guidelines on Multinational Companies by Neumann Kaffee Gruppe. The German National Contact Point is integrated into the department of External Economic Promotion of the Ministry of Economy and Technology. On March 30<sup>th</sup>, 2011, the OECD National Contact Point

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<sup>6</sup> The Republic of Uganda in the High Court of Uganda at Nakawa Central Circuit, Civil Suit No. 179 of 2002, eg.:  
- Sebwato Patrick's Affidavit Evidence, 12<sup>th</sup> of July 2011

- Kyambadde John Patrick Sendijja's Affidavit, 23<sup>rd</sup> June of 2011

- Serugo George Wilson Salongo's Affidavit, 23<sup>rd</sup> of June 2011

<sup>7</sup> Letter of former German Minister of Economic Cooperation and Development to FIAN Germany, 25.6.2013

<sup>8</sup> Deutsche Entwicklungszusammenarbeit mit Uganda: Kurzfassung zur Evaluierung „Public-Private Partnership (PPP) - Länderstudie Uganda“, February 2002.

<sup>9</sup> African Development Bank. Press Release No. SEGL3/B/45/02, 26.6.2002

closed the case. In its final declaration, the National Contact Point twisted the situation and demanded mainly from the evictees efforts to solve the case<sup>10</sup>.

4. On June 25<sup>th</sup>, 2013, the former German Minister of Economic Cooperation and Development intervened and demanded from FIAN Germany to reconsider our presentation of the case<sup>11</sup>.

By financially supporting the project through the gtz (today giz) and the African Development Bank, Germany breached its obligation to respect the human rights of the affected people, among them many women, most of them with limited literacy<sup>12</sup>. Despite its support of the investment, Germany has not contributed to remedy the evictees and especially the evicted women with limited literacy<sup>13</sup>.

#### **Proposed issue:**

*The Committee should ask the state which measures/instruments it has put in place to ensure that the women of the evicted communities, especially those with limited literacy levels, have access to effective remedies in line with CEDAW's General Recommendation on Women's Access to Justice to hold the German State responsible for breaching its obligation to respect the human rights of the affected women.*

### **3. Severe human rights violations of rural women and girls as an impact of the forced eviction**

After the forced eviction, the evictees, former inhabitants of the four villages Kitemba, Luwunga, Kijunga and Kiryamakobe (approximately 4,000 people) had to camp in the nearby forests and were left without access to food, clean water, and health care. As a consequence of those harsh conditions, there has been an increase of illnesses like Malaria and infectious diseases like diarrhea<sup>14</sup> and some people died because they were not treated.

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<sup>10</sup> Federal Ministry on Economy and Technology: Final Declaration on the complaint in accordance to the OECD-Guidelines for Multinational Companies, March 30<sup>th</sup>, 2011.

<sup>11</sup> Letter of former German Minister of Economic Cooperation and Development to FIAN Germany, 25.6.2013

<sup>12</sup> CorA-Netzwerk et al., 2014: Neumann Kaffee Gruppe – Vertreibung für den Kaffee-Import: [http://www.cora-netz.de/cora/wp-content/uploads/CorA-ForumMR\\_Steckbrief-KaweriCoffeePlantation.pdf](http://www.cora-netz.de/cora/wp-content/uploads/CorA-ForumMR_Steckbrief-KaweriCoffeePlantation.pdf)

<sup>13</sup> European Parliament, Directorate-General for External Policies 2014: Addressing the Human Rights Impacts of Land Grabbing,

[http://www.europarl.europa.eu/RegData/etudes/STUD/2014/534984/EXPO\\_STU%282014%29534984\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/534984/EXPO_STU%282014%29534984_EN.pdf)

<sup>14</sup> ActionAid Uganda 2002: The Impact of Foreign Direct Investment on the Local Economy: The case of Kaweri coffee and Kalangala palm oil investments.

Michael Enger: Coffee to Go – with the taste of eviction, documentary, available at:

<http://www.fian.org/library/multimedia/coffee-to-go-with-a-taste-of-eviction/>

Since then, they have been allowed to build new houses by the owner of a neighbourhood registered as Block 103. However this permission to build houses does not include land tenure to cultivate own crops. At the same time, the salary for unskilled workers paid by Kaweri Coffee Plantation is only 3,300 Uganda Shilling (UGX)<sup>15</sup> – approx. 1 US-Dollar<sup>16</sup> - per day and defined task which is below poverty line. Other jobs are rare in the neighbourhood of Kyengeza - the new settlement of many of the evictees. This situation has led to severe poverty and hunger among the evictees, mainly among the women.

During a visit to the affected communities in October 2014- 13 years after the forced eviction, FIAN asked 19 women individually and during a focus group discussion about their living conditions. All of them reported that the following severe rights violations occurred as a direct impact of the eviction:

- Hunger and lack of sufficient nutrition caused by lack of access to land: they cannot grow enough to feed their families adequately, and without land, they hardly have space to keep livestock; many families eat only one meal per day.
- Income below poverty line of 1,25 US-Dollars through paid jobs because of undernourishment, especially women above the age of 50 years feel too weak to reach the set daily task at Kaweri Coffee Plantation or to work for other farmers.
- Separation of families leaves especially women alone with responsibility to care for children and disabled family members: the lack of food and extreme poverty causes separation of families. Especially men look for other women who can offer them more food. Taking into account that fetching water and firewood has become more difficult and more time consuming since the eviction, women are now even more bound to their homes and their mobility has been further reduced.
- Increase of domestic violence against women: The above outlined domestic conflicts sometimes lead to domestic violence – women interviewed reported that husbands beat their wives.
- Increase of early pregnancies: Increased poverty due to the eviction has resulted in the increase of early pregnancies among the daughters of the evictees because men can easily attract them by giving them small amounts of money or food.

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<sup>15</sup> Kaweri Coffee Plantation even states only 3,200 UGX on their website:

<http://nkg.net/userfiles/Documents/2013-02-01-nachhaltiges-engagement-en.pdf>, page 2.

<sup>16</sup> <https://www.oanda.com/lang/de/currency/converter/>, accessed 7/06/2016

- Early school drop-out: Girls drop out of school because they either get pregnant (s.o.) or because their parents fear for their security on their way to school.

**Proposed issue:**

*The Committee should ask the state how it guarantees that its support of investments in rural areas does not lead to violations of rights of women under the CEDAW.*

**Violation of Ugandan Laws**

According to the Investment Code Act of the year 2000<sup>17</sup>, Section 9 (1), a foreign investor means “a company in which more than 50 percent of the shares are held by a person who is not a citizen of Uganda.” According to its “Memorandum and Article of Association” of February 15, 2001, Kaweri Coffee Plantation Ltd. is a 100% owned by the two German companies based in Hamburg which had the same German director at that time. The Uganda Investment Authority (UIA) has leased the land to the foreign investor despite Section 10 (2) of the Investment Code Act of the year 2000 on Regulation of foreign investment which says: “No foreign investor shall carry on the business of crop production, animal production or acquire or be granted lease land for the purpose of crop production or animal production;” Section 10 (4) of the Investment Code Act says: “The Minister may, on the advice of the authority and with the approval of Cabinet, by statutory instrument, exempt any business enterprise or class of business activities from the provisions of this section where, in the opinion of the Minister, it is necessary that for the purpose of ensuring a regular supply of raw materials the enterprise should lease land.” However, neither Kaweri Coffee Plantation nor the Uganda Investment Authority has proved that such an exemption has been issued by the Minister.

Therefore it can be stated that by supporting the investment of the German investor Germany has disregarded Ugandan law.

**Proposed Issue:**

*The Committee should ask the state why the investment of Neumann Kaffee Gruppe has been supported despite the fact that Section 10 (2) of the Investment Code clearly prohibits the lease of land to foreign investors for the purpose of crop production.*

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<sup>17</sup> Investment Code Act can be downloaded from: <http://www.ugandainvest.go.ug>

*The Committee should ask the state how it is guaranteed that the enjoyment of the rights of the Convention by rural women is given priority to the rights of German investors in foreign countries.*

#### **4. Access to justice and legal remedy**

In August 2002, the evictees of Kaweri Coffee Plantation sued the Government of Uganda and the company at the High Court Nakawa (Kampala). The court case has been delayed since then. Only eleven years later, on March 28<sup>th</sup>, 2013, the first judgment has been made in favor of the evictees<sup>18</sup>. Until then, the judges had been exchanged six times, several announced hearings had been cancelled on short notice, the Attorney General had not been prepared or did not even appear at court, the file was lost, etc. In August 2015 the Court of Appeal redirected the case to the High Court. Since then, the High Court has not held any hearing of the case. This delay has demotivated the plaintiffs. Especially the elderlies among them fear that they will die before being compensated and their rights will be restituted.

##### **Proposed issue:**

*The Committee should ask the state which measures it has taken to guarantee the right to remedy of the evictees, especially the women, against the company under German legislation and in line with CEDAW's General Recommendation on Women's Access to Justice.*

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<sup>18</sup> The Republic of Uganda, In the High Court of Uganda at Kampala, Civil Suit No. 179 of 2002, Judgement, 28.03.13.