

**Oral Statement of FIAN International to the First Session of the Open-Ended  
Intergovernmental Working Group on Transnational Corporations and Other Business  
Enterprises with Respect to Human Rights - Panel VI - Geneva, July 8, 2015**

Mikel Jonsson

Madam chairperson:

States have the human rights obligation to protect against conduct of transnational companies and other business that impair the enjoyment of human rights. Obligations for TNCs and other enterprises to be incorporated in national civil, administrative and criminal law in should include the following:

- To abstain from any conduct, project or activity impairing the enjoyment of human rights, or causing ecological harm, or running a real risk of doing so
- To report on policies in place have, in order to prevent harm to the enjoyment of human rights and the ecology. This obligation can be regulated in different ways depending on the size, nature and capacity of the business legal entity.
- To carry out independent ex ante and ex post human rights and environmental impact assessments and adopt the required corrective measures in order to prevent or eliminate harm to the enjoyment of human rights and to the ecology. This obligation can be regulated in different ways depending on the size, nature and capacity of the business legal entity.
- To have effective and transparent information procedures for individuals and communities potentially affected by the activities or projects of the specific enterprise, without prejudice to their responsibilities to respect the results of prior and informed consent/dissent procedures.
- To establish a vigilance plan in order to be able to identify risks to the enjoyment of human rights and to the ecology and to adopt the needed measures in order to prevent or stop harm. The plans shall be available to the public. This obligation can be regulated in different ways depending on the size, nature and capacity of the business legal entity.
- To apply the precautionary principles when there is no certainty if an activity will impair the enjoyment of human rights or will harm the ecology.
- To abstain from influencing or impeding previous consultations with affected communities or individuals carried out by states in exercise of their obligation to protect. We affirm that previous consultations are a duty of states.
- To abstain from prosecution and criminalization of human rights defenders and whistleblowers.

- To abstain from abusive and dilatory use of recourse mechanisms and other legal remedies with the aim of impeding the protection of human rights. (obstruction of justice)
- To comply promptly and effectively with the commitments acquired as a result of negotiations with threatened or affected individuals and communities.
- To comply promptly and in good faith with administrative, judicial and quasi judicial decisions protecting the enjoyment of human rights of individuals and communities negatively affected by company conduct. This includes compliance with the ordered compensation, rehabilitation and adoption of measures to avoid repetition of the offenses.

Companies shall be held accountable for the compliance with these duties.

Thank you,