**27/10/2020 Statement European Center for Constitutional and Human Rights (ECCHR)**

(check against delivery)

Thank you, Mr. Chair Rapporteur,

The European Center for Constitutional and Human Rights is honoured to further contribute to articles 6 and 7 of the second revised draft of the treaty.

Article 6. Prevention

Article 6.3 could benefit from several additions and clarity. Article 6.3 c should include “trade unions in its list”.

It is positive to have a separate section 6.3.d dedicated to the specific rights enjoyed by indigenous peoples. However, we feel that the international recognised standard is Free Prior and Informed Consent and would encourage aligning the language with the international standard, as opposed to the weaker concept of “consultation”. It would be detrimental to organise confusion between both concepts within this Legally Binding Treaty.

Similarly, as section 6.3.d we feel trade unions also enjoy specific rights and protections as enshrined in core ILO conventions, which go beyond meaningful consultation. We propose to explicitly recognise the higher standard awarded to trade unions in a specific section.

We would further suggest adding a specific section on the use, and if necessary, the increase, of leverage, to further align with the UNGPs on this point.

Similarly, there are a number of situations where companies can no longer secure rights compatible outcomes through a due diligence process and should in a responsible fashion disengage. It would be useful to add language to that effect.

Article 7. Access to remedy

Under article 7.5, it is unclear what “legitimate judicial proceedings” are and we propose to remove this notion from this article.

Article 7.6 could be further strengthened by replacing “may” with “shall” in order to make this a state obligation instead of an optional obligation.

Thank you very much,