**Oral Statement by FIAN International during the 6th session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights**

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Speaker: Hanne Flachet

Thank you Mr Chair Rapporteur. I will speak on behalf of FIAN International, Franciscans international, Society for International Development and The Women's International League for Peace and Freedom.

Many concrete cases of corporate human rights abuses have shown that a broad jurisdiction ensuring that affected persons have a **choice** between different courts to bring their claim, is essential to overcome current barriers in access to justice.

Therefore, we are pleased with some important improvements in article 9 of the second revised draft:

First, article 9 includes a provision to abolish the use of forum non conveniens. This provision should be kept as it is key to ensure access to justice. Furthermore, the inclusion of article 9.5 is a positive development as it attempts to establish the principle of *forum necessitaties*, which provides affected individuals and communities with a forum when no other forum is available or guarantees them a fair trial. In order to use less restrictive language and language used in other regulations, we propose to delete the word “sufficiently” from this paragraph.

Nevertheless, some changes in the second revised draft should be dropped and aspects from the 2019 draft reintroduced.

We propose that the domicile of the affected individual and communities be included under article 9.1 in the definition of jurisdiction, as it was the case in the 2019 draft under art. 7.1.b. This is particularly important for instance for migrant workers.

We regret the deletion of “substantial business interests” in the definition of domicile under article 9.2 (previously article 7.2b) as it would have opened further possibilities for affected individuals and communities to access justice, which is the principal aim of this legally binding instrument. We therefore propose to include an additional point under article 9.2 with the criteria of substantial business interests.

Finally, we recommend the inclusion of an additional paragraph in article 9, which would provide for universal jurisdiction in cases of human rights abuses and violations, that amount to international crimes, as defined under article 8.9, given that such crimes are of concern to the international community as a whole.

With regard to article 10 on statute of limitations:

We note that using the phrase “the most serious crimes of concern,” as under Article 10(1) and 10(2) may limit the reach of the Legally Binding Instrument; thus we recommend to change that sentence so that it reads: “[…] limitations shall not apply to the prosecution and punishment of all serious crimes of concern to the international community as a whole, including gross human rights violations.”

Finally, we recommend the inclusion of an additional paragraph to ensure that when future generations are affected by harm caused in the past, they can hold the responsible corporations liable.

Thank you,