



FIAN
INTERNATIONAL

Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights

Seventh session (25-29 October 2021)

Statement by FIAN International (ECOSOC status)

Read by: Michael Nanz (FIAN Switzerland)

Article 14 – Consistency with International Law principles and instruments

Thank you Mr. Chairperson.

Concerning Article 14, we strongly suggest the retention of provisions included in this article that enable for the maximum protection of the rights of affected individuals and communities and strengthen their access to justice and remedies. In this sense, we reiterate the importance of article 14.3 that protects any national, regional or international instruments that may provide for stronger protection of affected individuals and communities and their access to justice and remedy in the context of human rights abuses by transnational corporations and other business enterprises. Therefore, we support the pertinent proposals made by Palestine, which strengthen the content of this third paragraph, although we defend the maintenance of “or restrict their capacity to fulfill their obligations” after “that does not undermine”, as also defended by other organizations.

We express disappointment to States reserving their position to this key Article 14.5. Article 14.5 a and b ensure that the human rights obligations of States arising from this legally binding instrument shall not be trumped by other international agreements, most notably trade and investment agreements. In addition to the current language, we propose for this article to also refer to “contracts” in addition to “international agreements”. We additionally support Palestine’s proposal for this Article 14.5.a to require States to review, adapt and implement such trade and investment agreements in compliance with the obligations under the present instrument. We again remind and reiterate to the states presenting reservations to this article, such as Brazil, Panama, Egypt and Pakistan of the primacy of human rights under international law.

Thank you Mr Chair.