

**Wake Up and Fight
for Your Rights
Madudu Group**

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Kyengeza/Mubende/Cologne 15.6.2009

Complaint against Neumann Kaffee Gruppe on violation of the OECD Guidelines for Multinational Enterprises

Dear Madam, dear Sir,

The Ugandan association *Wake Up and Fight for Your Rights, Madudu Group* supported by the German section of the *Food First Information and Action Network (FIAN)* likes to hand in a complaint against the German based *Neumann Kaffee Gruppe* on violation of the OECD Guidelines for Multinational Enterprises. Please find the complaint attached.

We would appreciate if you could accept the complaint and investigate the case as you did in the case of Continental among others. If you need any further information, please do not hesitate to contact us.

In case you like to invite for a meeting please take into account that Peter Kayiira Baleke, the spokesperson of the complainant, is a school director and may only be granted a visa during Ugandan school holidays, which are in May, August, and in December/January.

Looking forward to your reply,
Yours sincerely

Executive Board *Wake Up and Fight for Your Rights*

- 1 Baleke Kayiira Peter *Baleke*
- 2 NVIIRI-YOSITAKI *K. Kayiira*
- 3 Sentume John Baptist *Sentume*
- 4 Nagawa *Nagawa*
- 5 Sebwaato *Sebwaato*
- 6 Nandyosse *Nandyosse*
- 7 Nanta *Nanta*

Gertrud Falk
FIAN Deutschland

**Complaint against Neumann Kaffee Gruppe
under the *OECD Guidelines for Multinational Enterprises (2000)* –**

Request to the German National Contact Point (Federal Ministry of Economics and Technology) to initiate the procedures for the solution of conflicts and problems in the implementation of the Guidelines

Submitted on 15.6.2009

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ANNEX

Studies:

Action Aid 2002
Action Aid 2008,
FIAN-Dossier

I. Summary

In August 2001 the Ugandan army violently expelled more than 2,000 people from their land in order to lease it to *Kaweri Coffee Plantation Ltd.*, a 100% subsidiary of the *Neumann Kaffee Gruppe* (NKG) based in Hamburg/Germany. *Kaweri* has since established the first Ugandan large scale coffee plantation on this land, which is located in the district of Mubende, Madudu Sub-county in central Uganda, about 200 km west-northwest of Kampala, and measures 2,524 hectares. The coffee plantation is one of the biggest investment projects in Uganda.

Until today, the evictees have not been compensated for the eviction and the loss of their property. They live in poorer conditions than before the eviction. Their association *Wake Up and Fight for Your Rights* demands redress and has sued the Ugandan Government and the investor.

However, since 2002 their case at Nakawa High Court (Kampala) has been delayed in a way that the complainants cannot expect any longer to get legal redress. During seven years the investigations of the court did not make any substantial progress. *Kaweri Coffee Plantation* contributed to that delay by demanding that the evictees had to deposit approximately 9,000 Euro at court and by applying to be released from the case. The latter appeal has been rejected by the court. The *European Convention for the Protection of Human Rights and Fundamental Freedoms* in articles 5-3 and 6-1 clearly states “the right to a fair trial within a reasonable time”. In this regard, the *European Human Rights Court* has ruled in several cases¹ that articles 5-3 and 6-1 are violated if a court proceeding has been unduly prolonged.

Furthermore, *Neumann Kaffee Gruppe* did not respond to the proposal of an out of court settlement, made by the judge.

According to the complainants, a larger size of land was leased to the investor than announced which made it impossible for the evictees to vacate the disputed land before the eviction took place. Although they approached the investor several times, *Neumann Kaffee Gruppe* has continuously refused to talk with them and to follow their demand to re-measure the land which *Kaweri* occupies. Although, before taking over the land, the investor had demanded from the Ugandan Government that tenants should be compensated, *Neumann Kaffee Gruppe* did neither follow international standards on eviction nor did the investor severely follow up whether compensation took place after being confronted with the complaints of *Wake Up and Fight for Your Rights*.

Consistently, *Wake Up and Fight for Your Rights* supported by the German section of the international human rights organisation *Food First Information and Action Network (FIAN Germany)* conclude that *Neumann Kaffee Gruppe* has violated a number of General Policies mentioned in Chapter II of the OECD Guidelines on Multinational Enterprises.

Therefore, *Wake Up and Fight for Your Rights* and *FIAN Germany* ask the National Contact Point to accept this case as it did in the case of Continental.

II. The Case

In 2000 the *Neumann Kaffee Gruppe* (NKG) was, in cooperation with the Ugandan government, searching suitable land to rent and to build a coffee plantation. As a precondition for its investment in Uganda, the NKG had demanded for bare land.

Adequate, but inhabited land was found in Mubende district and on 11th June 2001, the residents of the villages Kitemba, Luwunga, Kijunga and Kiryamakobe were requested by the Ugandan Government to vacate their homes by the 31st August 2001. *Kaweri Coffee Plantation* was aware that the land was inhabited since their managers attended a meeting on 18th June 2001.

¹ Neumeister v Austria (27.06.1968), Golder v The United Kingdom (21.02.75), König v Germany (14.03.77), Frydlender v France (27.06.00), Sehur v Slovenia (6.06.06)

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However, between 17th and 21st August 2001, the military stormed the villages and brutally evicted 401 peasant families (2041 persons) from their land. Not only was the victims' land taken away brutally, their houses were demolished, properties destroyed, and staple crops as cassava and potatoes were confiscated. The land was then leased to *Kaweri Coffee Plantation Ltd.* To date, only about 2 % of the evictees have been compensated, but not adequately.

On 24th August 2001, the President of Uganda, H.E. Yoweri K. Museveni, and the Chairman of the Board of *Neumann Gruppe*, Michael R. Neumann, jointly inaugurated the *Kaweri* coffee plantation. *Kaweri Coffee Plantation* then continued the cutting of trees and to pull out plants to prepare the land for the planting of coffee bushes. They carried out those activities although the leasing contract with the Government of Uganda had been signed only in December 2001.

The affected communities had deemed themselves safe from such displacement since the Ugandan constitution and Ugandan law allow for dispossession only under very strict regulations. Moreover, to their knowledge this land belonged to a proprietor other than the one who had sold it to the Ugandan government. While Government had announced to lease block 99 to *Kaweri Coffee Plantation* they finally included part of block 103 to the leased land. Block 99 had been public land while block 103 had been private land. Hoping that they would be safe, families who lived on block 99 as bonafide squatters bought or leased land on block 103 after they had been informed about the investment project of *Neumann Kaffee Gruppe*.

Following the displacement there was an increase of illnesses and deaths as these internally displaced people lost much of their access to clean water and health care. Many of the evictees have been living since then on the border of the plantation and have constructed makeshift homes there. In order to sustain their livelihood, some evictees have found shelter on the neighboring land for temporary small-scale farming, while others have taken up a job as casual workers on the plantation. However, they only have small plots of land for farming which are insufficient to provide their families with adequate food.

The evictees have organised themselves in a group called *Wake Up and Fight for Your Rights, Madudu Group*. After seeking for redress from political institutions in vain, the evictees decided in 2002 to sue the Ugandan Government as well as *Kaweri Coffee Plantation*. The case is still pending at Nakawa High Court, Kampala. Until today there has not been a decision yet.

In the meantime, *Wake Up and Fight for Your Rights* always has been trying to dialogue with the NKG and the Ugandan government in order to reach an out of court settlement, without success.

In August 2008, a new report about the living conditions of the evictees was published. This follow up survey, conducted by *ActionAid*, has found that the situation of the affected communities has not improved significantly, but rather is further deteriorating, particularly with regard to the housing conditions.²

Wake Up and Fight for Your Rights supported by the human rights organisation *Food First Information and Action Network* (FIAN) have decided to hand in this complaint against the *Neumann Kaffee Gruppe*, represented by *Neumann Gruppe GmbH*³

- to demand them to dialogue with them,
- to contribute to reaching an agreement how to solve the case
- to stop their blockage of the legal case.

² Action Aid (2008): Effects of MNCs on Food Security. The Case of Neumann Kaffee Group in Mubende District, Uganda.

³ „Neumann Gruppe GmbH, located in Hamburg, directs and coordinates all activities of the group and gives impulses for its development.“ <http://www.nkg.net/aboutus/nkgcompanystructure> [18.05.2009]

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- to use their sphere of influence towards the Government of Uganda to participate on a tripartite dialogue with the evictees and NKG
- to participate on that tripartite dialogue.

The complaint is handed in now because of an alarming situation of the evictees proofed by the Action Aid study 2008 and because of the continuous denial to enter into dialogue with the evictees.

III. Complainants and Respondent

III.1 The Complainants

Complainants are *Wake Up and Fight for Your Rights, Madudu Group* (Wake Up and Fight for Your Rights) supported by *FoodFirst Information and Action Network German Section* (FIAN).

III.1.1 Wake Up and Fight for Your Rights, Madudu Group

More than 2041 persons have been evicted from their land due to the building of the Kaweri Coffee Plantation. Since then they have been struggling for remedy. They are organized in *Wake Up and Fight for Your Rights, Madudu Group* which is chaired by the executive committee comprising: Peter Kayiira Baleke (chairman and spokesperson), Nviiri Y.K. (vicechairman), John Baptiste Sentume (general secretary), Nora Nagawa (treasurer), Patrick Ssebawato (secretary for youth), Anna Nandyose Katende (secretary for elderly, children, disabled), Annet Mary Nankabala (secretary for women).

The evictees demand an independent land survey to determine the land's real ownership, and based on this the possible restitution of their land, or at the very least adequate compensation. They always have been expressing their willingness to come to an amicable solution of the problem.

III.1.2 Food First Information and Action Network, German Section

FIAN is an international human rights organization that since more than 20 years advocates for the realization of the right to food. FIAN consists of national sections and individual members in over 50 countries around the world. FIAN is a not-for-profit organization without any religious or political affiliation and has consultative status to the United Nations.

FIAN Germany, the German section of FIAN International, which is based in Cologne, has been supporting the victims of the eviction from the beginning of their struggle in 2001 until now,. FIAN has investigated the case on site and has intervened several times. As a result of the first interventions, a better access to clean water has been achieved and the position of the victims has been strengthened in the legal action they have taken.

III.2 The Respondent

Respondent is the *Neumann Kaffee Gruppe* with its sub-company *Kaweri Coffee Plantation Ltd.*, with its holding *Neumann Gruppe GmbH* (see foot note 3).

III.2.1 Neumann Kaffee Gruppe and its sub-company Kaweri Coffee Plantation Ltd.

The Kaweri Coffee Plantation Ltd. with its headquarters in Mubende-Kitemba is an enterprise of NKG Tropical Farm Management GmbH, in short Tropical, with headquarters in Zug in Switzerland. Tropical in its turn is a 100 % subsidiary of the NKG Farms GmbH, which itself is an enterprise of the Neumann Kaffee Gruppe (NKG) with headquarters in Hamburg. The

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holding company of the NKG is the Neumann Gruppe GmbH. It is the private property of the Neumann family.

The NKG is one of the leading raw coffee specialists in the world. According to their own data they have a share of 7 % of worldwide raw coffee exports and 15 % of worldwide coffee imports. In 2007 the turnover was USD 1.7 billion. In total 47 enterprises in 28 countries are working under the umbrella of the NKG. Each single enterprise functions as independent profit center within the strategic planning of the Neumann Gruppe GmbH. In its role as management service unit Neumann Gruppe GmbH develops the corporate strategy for individual companies together with the local management.⁴

NKG describes all NKG group companies as being committed to Corporate Social Responsibility.⁵

Tropical presents itself as frontrunner with respect to sustainability⁶ not only of the coffee sector but also of farming as a whole. “By acting responsible towards the natural and social environment, we want to be seen as a model for other farming businesses. In every activity location we shall be recognised as good business people, offering fair employment and showing respect for the local law and culture.”

At the time of founding of Kaweri Coffee Plantation Ltd. NKG was already present in Uganda through another sub-company called Ibero Ltd. operating as a coffee exporting company.

IV. The hitherto Contact between the Complainants and Neumann Kaffee Gruppe

IV.1 Denial to dialogue

Neumann Kaffee Gruppe repeatedly refused to dialogue with the evictees and FIAN in order to find a common solution for the displaced people. They demonstrated reluctance to give information about their activities, answer letters written by the evictees and to discuss the situation of the evictees.

Conversations with representatives of *Wake Up and Fight for Your Rights* only once took place due to public pressure:

In May 2004, two representatives of the evictees, Anna Nandyose and Peter Kayiira, did a two-week tour through Germany in order to mobilise public support and talk to German decision-makers. They also wished to talk to representatives of the *Neumann Kaffee Gruppe*. After the NKG initially refused to meet the Ugandan representatives, they finally accepted a meeting, when the evictees appeared in the NKG headquarters in Hamburg accompanied by a journalist. The NKG representatives apologised for their earlier accusations that the evictees were prepared to use violence and promised to establish a tripartite dialogue between themselves, the evictees and the Ugandan government. However, apart from one letter to the Ugandan government, these promises have not been fulfilled. In fact, the letter stated that the case was a matter between the government and the evictees and not a matter for the NKG to be involved in.

⁴ <http://www.nkg.net/> [18.05.2009]

⁵ “All NKG group companies are committed to a growing and sustainable coffee economy.

In our role as intermediary we stand for a balance between the varying interests and possibilities of producers and consumers. Our group companies are proactive partners in their local communities. Cooperation goes far beyond purely commercial relationships and contributes significantly to improving the livelihoods of farmers and their families in coffee-producing countries”. <http://www.nkg.net/corporatesocialresponsibility> [18.05.2009]

⁶ “To us, sustainable coffee farming means acting socially responsible, environmentally sensitive and economically efficient. Our aim is to avoid inadequate use of natural resources, conserve nature sensitively and guarantee a respectful and fair treatment of all people working on the farm.”
http://www.nkgtropical.com/our_products/finca_la_puebla/sustainability [18.05.2009]

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Phone calls made by the evictees to the NKG headquarters in the following time were not returned and there was no indication that the company made any effort to organize a tripartite dialogue, nor did it demonstrate willingness to participate in such a dialogue.

In July 2004 members of the German management of NKG visited the *Kaweri Coffee Plantation* and in October 2004 a representative of the company participated in a conference about sustainable coffee production in Uganda. In both cases the NKG representatives did not use the opportunity to meet the evictees, as proposed by those and FIAN.

In 2007/08 NKG reacted only after several letters and a phone call from FIAN on the demand of an appointment to hand over approximately 2700 petitions from people in Europe, US and Uganda and to discuss the potential contribution of NKG to solve the conflict. In their answer they explicitly refused dialogue.

Furthermore, NKG did not react to the FIAN's request to dialogue with Peter Kayiira Baleke, the representative of the evictees in the context of his stay in Germany between 7th and 18th December 2008.

Only when the invitation to a dialogue was made by German Members of Parliament Thilo Hoppe and Dr. Herta Däubler-Gmelin the request was answered by NKG. However, the company refused to talk to Peter Kayiira Baleke.

IV. 2 Delay of the lawsuit

With regard to the lawsuit, *Neumann Kaffee Gruppe* is pursuing tactics which seem designed to delay it, instead of using their influence to ensure that the claims of the affected people will be assessed in an orderly and fair procedure.

Such strategies include demanding financial securities, as the company did in 2002, when Kaweri's attorney demanded a cautionary deposit of the equivalent of 9,000 Euros from the evictees. The sum was then raised by the organisation ActionAid. In June 2007 the lawyers of *Kaweri* argued that the case should not be further pursued because several formal requirements had not been met. Inter alia, they claimed that the plaintiffs were not authorised to sue on behalf of the community. This claim has been rejected by the judge.

Furthermore, the NKG did not take position on the reiterated proposal of the judge to reach an out of court settlement.

Consequently, until now there could not be held a constructive dialogue between *Wake Up and Fight for Your Rights* and the *Neumann Kaffee Gruppe*, due to the company's reluctance to meet the evictees and discuss the problem and possible solutions.

Thus NKG failed to build an "atmosphere of confidence between multinational enterprises and the societies in which they operate".⁷ (Statement by the Chair of Ministerial, June 2000)

V. Breach of the OECD Guidelines by Neumann Kaffee Gruppe

V.1. General Policies (Chapter II)

II. Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders.

The Commentary on General Policies further explains that, "enterprises are encouraged to co-operate with governments in the development and implementation of policies and laws. Considering the views of other stakeholders in society, which includes the local community as well as business interests, can enrich this process. [...]" (Para.3)

⁷ Organisation for Economic Cooperation and Development. The OECD Guidelines for Multinational Enterprises. Revision 2000; Statement by the Chair of the Ministerial, June 2000.

Wake Up and Fight for Your Rights and FIAN consider *Neumann Kaffee Gruppe* as not complying with this provision. The company did not demonstrate any concern about the views of the local communities affected by the building of the coffee plantation. They did not assure that the principle of free prior informed consent was followed. The preoccupations of those and the losses they had to suffer due to the acquisition of the land on which they were living were not taken into account, when the investment agreement between the Ugandan government and NKG was made and the plantation was built.

V.1.1 Violation of Chapter II.1

II. In this regard, enterprises should:

1. Contribute to economic, social and environmental progress with a view to achieving sustainable development

and

4. There should not be any contradiction between the activity of multinational enterprises (MNEs) and sustainable development, and the Guidelines are meant to foster complementarities in this regard [...] (Commentary on General Policies)

The Action Aid Studies of 2002 (The Impact of Foreign Direct Investment on the Local Economy: The Case of Kaweri Coffee and Kalangala Palm Oil Investments) and 2008 (Effects of MNCs on Food Security. The Case of Neumann Kaffee Group in Mubende District, Uganda) show clearly that *Kaweri Coffee Plantation* does not contribute to a sustainable development, but to the opposite.

The implementation of *Kaweri Coffee Plantation* caused a number of social costs to the local populations as result of the displacement. It has negative impacts on alimentation, health and education. Today, less people than before the eviction enjoy food security. There are more cases of water born diseases due to less access to safe water. Still less children go to secondary schools due to lack of money to cover school fees. The majority of the evicted families have smaller land plots than before the eviction and thus are not able to produce enough food and income to cover their basic needs. And their situation has even further worsened after the eviction⁸.

V.1.2 Violation of Chapter II.2

The complainants allege that *Neumann Kaffee Gruppe* is in breach of the human rights provision of the OECD Guidelines for Multinational Enterprises which states,

“Enterprises should ... respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments”

[Chapter II, Para. 2].⁹

In the Commentary on General Policies this provision is further explained: “MNEs are encouraged to respect human rights, not only in their dealings with employees, but also with respect to others affected by their activities, in a manner that is consistent with host governments’ international obligations...The Universal Declaration of Human Rights and other human rights obligations of the government concerned are of particular relevance in this regard.”(Para. 4)

⁸ Actoin Aid 2008: Effects of MNCS on Food Security, p. 21.

⁹ The international obligations of the Ugandan government are found, inter alia, in the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the African Charter on Human and Peoples’ Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

V.1.2.1 Violation of Chapter II.2 with regard to forced eviction:

There are several international human rights standards relevant to security of tenure and forced evictions:

- Article 17 of the Universal Human Rights Declaration (UDHR) guarantees the right of all people to own property and prohibits the arbitrary deprivation of property.
- The African Charter on Human and Peoples' Rights guarantees the right to property (Article 14) and housing and demands compensation in case of dispossession (Article 21).
- The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides the right to adequate housing (Article 11.1).
When in exceptional cases it is inevitable to carry out forced evictions, certain procedural protections should be applied (General Comment No. 7).
- The International Covenant on Civil and Political Rights (ICCPR) provides in Article 17 that "no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence" and that "everyone has the right to the protection of the law against such interference or attacks."

The UN Commission on Human Rights has reaffirmed that every person has "the right to a secure place to live in peace and dignity, which includes the right not to be evicted unlawfully, arbitrarily or on a discriminatory basis from one's home land or community..." and urged Governments to eliminate the "practice of forced evictions."¹⁰ In resolution 1993/77 the Human Rights Commission has defined forcible evictions as a gross violation of human rights. It calls on all governments to provide immediate compensation as well as adequate and sufficient shelter or land meeting the wishes of the displaced people.¹¹

As a state party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and Peoples' Rights (ACHPR) and other international human rights treaties, which prohibit forced eviction and related human rights violations, Uganda has the obligation to protect the population from forced evictions.

With the conduct of the evictions in the villages between the 17th and 21st August 2001 the right of the affected persons not to be subjected to forced eviction and the guarantee of security of tenure as laid down by the mentioned human rights standards was violated.

V.1.2.1.1 Basic Principles and Guidelines on development-based Evictions and Displacement

In its General Comment 7 on forced evictions the CESCR has clarified that in exceptional circumstances when it is inevitable to carry out evictions, certain procedural protections should be applied, including:

- (a) an opportunity for genuine consultation with those affected;
- (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
- (c) information on the proposed evictions... to be made available in reasonable time to all those affected;
- (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction;...(g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.¹²

¹⁰ UN Commission on Human Rights, Resolution 2004/28 on Prohibition of Forced Evictions.

¹¹ UN Commission on Human Rights Resolution 1993/77, 10 March 1993, para. 1.

¹² Committee on Economic, Social and Cultural Rights, General Comment 7: The right to adequate housing (art. 11.1 of the Covenant): forced evictions; Sixteenth session, 20 May 1997, para. 15.

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Furthermore forced evictions must be planned and implemented in consultation with affected groups, in an effort to avoid use of force. It must be ensured that adequate alternative housing and compensation for all losses is made available to those affected. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights.¹³

The former UN Special Rapporteur on Adequate Housing, Miloon Kothari, has, with the support and contribution of the Governments of Germany¹⁴ and Finland, developed Basic Principles and Guidelines on Development-Based Evictions and Displacement (the Basic Principles) in order to address the human rights implications of development-related evictions and to procure guidance to governments on procedures to be adopted to ensure that those evictions are not undertaken in contravention of international human rights standards and do not thus constitute “forced evictions”.¹⁵

The guidelines reflect and develop standards of international human rights law on this issue and contain general obligations as well as measures which should be implemented prior to, during and following evictions.

A) Consultation and participation prior to evictions

In accordance with the General Comment 7 of the CESCR, which provides that states “shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons”¹⁶, the Basic Principles include that: “All potentially affected groups and persons, as well as others working on behalf of the affected, have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider. In the event that agreement cannot be reached...an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate.” (para. 38).

“During planning processes, opportunities for dialogue and consultation must be extended effectively to the full spectrum of affected persons...” (para.39)

In the present case no procedural protections were applied. No consultations with those affected took place. There was a lack of appropriate notification and the necessary time required for the evictees to prepare for the resettlement: On 11th June 2001, the inhabitants of the affected villages were given notice to vacate their homes by the 31st August 2001. However, the eviction already begun on 17th August¹⁷, before the expiration.

B) Basic Principles during evictions

The Basic Principles state that during evictions it must be ensured “that no one is subject to direct or indiscriminate attacks or other acts of violence...or arbitrarily deprived of property or possessions as a result of demolition, arson and other forms of deliberate destruction, negligence or any form of collective punishment. Property and possessions left behind

¹³ Ibid. para. 3, 16.

¹⁴ In June 2005, the Special Rapporteur co-organized, with the German Federal Foreign Office and the German Institute for Human Rights, an International Workshop on Forced Evictions, held in Berlin, for the purpose of elaborating guidelines aimed at assisting States and the international community in developing policies and legislations to address forced evictions at the domestic level. In light of the outcome of the workshop and in consultation with the participants the Special Rapporteur has elaborated a set of guidelines. (Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari, E/CN.4/2006/41, para. 33).

¹⁵ Basic Principles And Guidelines On Development-Based Evictions And Displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, E/CN.4/2006/41

¹⁶ CESCR, General Comment 7, para. 13

¹⁷ Foundation for Human Rights Initiative (FHRI): Land Rights Report, January-June 2008, p. 19-20.

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involuntarily should be protected against destruction, arbitrary and illegal appropriation, occupation or use.” (para. 50)

The process of eviction was reported as brutal and inhuman by the affected communities. The villages were stormed by military personnel and their inhabitants were violently expelled from the area. The evictees report that they were forced to leave at gunpoint and that some of them were beaten. There was arson, brutality and severe body harm inflicted on the population during the eviction. Houses were burnt and demolished, including the private clinic with all the equipment and six churches, movable properties were looted and crops were cut down and uprooted.

Immediately after the forceful eviction, when the evictees sought shelter in the nearby bushes, a 14 year old girl was bitten by a snake and died.¹⁸

C) Effective remedy after an eviction

The Basic Principles state the right to an effective remedy for forced eviction should include legal aid, return, restitution, compensation, resettlement and rehabilitation. (para. 59)

The Government and any other parties responsible for providing just compensation and sufficient alternative accommodation must do so immediately upon eviction. It must be ensured that evicted persons or groups have access to: (a) essential food, potable drinking water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities. (para. 52)

According to the CESCR, which provides that if an eviction is carried out “all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected”¹⁹, the Basic Principles state that fair and just compensations for any losses of property or goods must be ensured. It is further specified that “where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better.” (para. 60)

These provisions were not followed in the present case. There was no plan of resettlement and compensation complying with the above quoted standards of international law.

The local population lost its land and there was no appropriate compensation. Those who lost household property neither were compensated for their losses.

Only few families (about 2 % of the evictees), the “lawful occupants”²⁰, were compensated, but insufficiently. The land which was given to those families often was too small, inhabitable, in some instances particular plots were allocated twice, and the acres of land were far less from what they had been allocated. All of them were given two acres of land, irrespective of the size of the land they originally held.

The “bonafide occupants”²¹ were not compensated at all for their losses.

There was no adequate alternative housing made available: the area where the evictees were relocated lacked basic services such as safe water, health facilities and education services. Many families were rendered homeless.

¹⁸ Banga, Margaret / Nuwagaba, Augustus (2002): *The Impact of Foreign Direct Investment on the Local Economy: The Case of Kweri Coffee and Kalangala Palm Oil Investments*, Kampala, Action Aid, p. 61; Businge, Charles (2001): *Report on the Conditions of Life of the People Displaced by Kweri Coffee Plantation Ltd from Naluwondwa in Madudu, Mubende District, Uganda*, p. 2, 4.

¹⁹ CESCR, General Comment 7, para. 13

²⁰ The “lawful occupants” were tenants on the plantation land who were known and recognized by the landlord. According to Article 30 of the Land Act (1998) and Article 26 and 237 of the Ugandan Constitution (1995).

²¹ Tenants who could have unlawfully stayed on the land but having remained unchallenged for a period exceeding 12 years are also recognized by Article 30 of the Land Act (1998).

Due to the poor conditions within which the evictees were living in the aftermath of the eviction, five children died, according to Action Aid.²²

V.1.2.1.2 Norms on the role and responsibilities of transnational corporations concerning forced evictions

The Basic Principles emphasize that, regardless the fact that States bear the principal obligation for applying human rights, they do not absolve other parties “including project managers and personnel, international financial...organizations, transnational and other corporations...” of the responsibility to ensure respect for the human rights.²³ “Transnational corporations and other business enterprises”, in particular, “must respect the human right to adequate housing, including the prohibition on forced evictions within their respective spheres of activity and influence.”²⁴

V.1.2.2 Breach of Chapter II.2 with regard to human rights’ violations as a consequence of the displacement

The eviction has led to a series of human rights violation of the members of the affected communities.

Due to the deterioration of the evictees’ living conditions following the displacement, inter alia, their right to food (Art. 11 ICESCR), to health (Art. 12 ICESCR) and to education (Art. 13 ICESCR) have been violated.

V.1.2.2.1 The right to adequate food

As a party to the International Covenant on Economic, Social and Cultural Rights the Ugandan government is obligated to respect, protect and fulfill the right to adequate food as provided by Article 11(1):

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions....”

The General Comment by the UN Committee on Economic, Social and Cultural Rights argues that, although states are parties to the Covenant and are thus ultimately accountable for compliance with it, “all members of society - ...as well as the private business sector - have responsibilities in the realization of the right to adequate food.”²⁵ The basic responsibility of all actors is to respect people’s existing access to food and not to harm it.

With the displacement the right to feed oneself as laid down in Article 11 has been violated. According to the General Comment by the CESCR “the right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”²⁶ The possibility of feeding oneself and one’s family directly from productive land as laid down in the General Comment has been destroyed in the present case, since the affected communities no longer have access to their former land nor to adequate substitute land as productive resources due to the eviction.

Today most of the displaced people are still living on the borders of the plantation in nearby forests. They have only small plots of land for farming which are insufficient to provide their

²² Banga, Margaret / Nuwagaba, Augustus (2002): p.39-51, 82; FHRI: Land Rights Report, January-June 2008, p. 19-20.

²³ Basic Principles And Guidelines On Development-Based Evictions And Displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, E/CN.4/2006/41 para. 11.

²⁴ Ibid. para. 72.

²⁵ CESCR, General Comment 12, The right to adequate food (Art. 11), 20th session, E/C.12/1999/5, para. 20

²⁶ Ibid. para. 6

families with food for the whole year. As the baseline survey (2002)²⁷ and the follow up study (2008)²⁸ on the situation of the evictees, which was conducted by two researchers from Makerere University on behalf of ActionAid Uganda, show, the eviction has led to a significant loss of income as people no longer have enough land for production. The land size available for production was reduced drastically from an average of 17.7 acres per household before the evictions to an average of 3.9 acres currently. Furthermore, because of a lack of fodder part of their livestock has been destroyed. As a result of the food insecurity²⁹ due to the limited access to land for production, the majority of the children and the elderly of the affected communities are undernourished.

V.1.2.2.2 The right to health

Article 12 of the Covenant on Economic, Social and Cultural Rights states that “the States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”³⁰

In its General Comment 14 the CESCR interprets the right to health as “an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions”³¹

Further, “the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health” (para. 9).

The abrupt eviction led to the destruction of the social infrastructure and health facilities. During the eviction private clinics and drug shops were destroyed, as the baseline study (2002) shows and there has been made no attempt to provide health facilities in the place where the displaced families currently live. There is only one government aided dispensary, Madudu Health Centre, which is 10 miles away from the settlements.³² Thus, the evictees do no longer dispose of facilities and services to provide them with adequate health care. Consequently, many have turned to self medication.

Furthermore their access to safe and potable water has been limited. Whereas before the displacement 61.8 % of the evicted persons have been using boreholes as a source of domestic water and 26.5 % have been using unprotected wells, in 2008 the percentage of people using unprotected wells has reached 61.1 %, as the boreholes were taken over by the plantation. The result has been a high increase in the rate of diarrhoea and similar diseases. Due to the hygienic situation and the lack of health care, death rates have increased significantly.³³

V.1.2.2.3 The right to education

The right to education as laid down in Article 13 of the Covenant of Economic, Social and Cultural Rights also has been violated due to the eviction.

²⁷ Banga, Margaret / Nuwagaba, Augustus (2002): *The Impact of Foreign Direct Investment on the Local Economy: The Case of Kaweri Coffee and Kalangala Palm Oil Investments*, Kampala.

²⁸ Action Aid (2008): *Effects of MNCs on Food Security. The Case of Neumann Kaffee Group in Mubende District, Uganda*.

²⁹ Food availability, access, adequacy and stability of supply, the main indicators on food security, are not secured.

³⁰ The right to health is also provided by the African Charter on Human and Peoples' Rights. Article 16: "Every individual shall have the right to enjoy the best attainable state of physical and mental health..."

³¹ CESCR General Comment 14, The right to the highest attainable standard of health (Art. 12), Twenty-second session, E/C.12/2000/4, para. 11.

³² Banga / Nuwagaba (2002), p. 64.

³³ Banga / Nuwagaba (2008), p. 29.

The former Kitemba Primary School was taken over by Kaweri Coffee Plantation and since then has been used as headquarters of Kaweri Coffee Plantation. Although Kaweri financed the construction of a new school with 16,000 Euros, between 260³⁴ (Action Aid) and 632 (report of the headmaster) pupils stopped schooling for one year after the closure of Kitemba School, out of which more than 30 % dropped out of school completely. The major reason for dropout was the distance from the new school (55%), which is located at the extreme end of the settlement where most of the displaced persons live. Lack of money due to the lost means of livelihood was another factor that caused school dropout.

Moreover, the new building's quality is significantly inferior to that of the old one, and due to its smaller size, the school is only able to accommodate five grade levels instead of the previous seven, so that two classes have their lessons under tree shades up to now.³⁵

V.1.3 Violation of Chapter II.7

II. In this regard, enterprises should:

7. Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.

In the Commentary on General Policies it is further explained that “an increasing network of non-governmental self-regulatory instruments and actions address aspects of corporate behaviour and the relationships between business and society. Enterprises recognise that their activities often have social and environmental implications. The institution of self-regulatory practices and management systems by enterprises sensitive to reaching these goals – thereby contributing to sustainable development – is an illustration of this. In turn, developing such practices can further constructive relationships between enterprises and the societies in which they operate. (Para. 8).

By refusing to dialogue with the affected communities and NGOs like FIAN and Action Aid Uganda and by therefore not trying to contribute to a solution of the problem, Neumann Kaffee Gruppe is failing to further such a “relationship of confidence and mutual trust between the enterprise and the society in which it operates”.

Though NKG disposes of detailed sustainability standards³⁶, in the view of *Wake Up and Fight for Your Rights* and FIAN those have not been taken into account in the present case.

VI. Violation of Ugandan Domestic Law

Obeying domestic law is the first obligation of business. (Commentary on General Policies, para. 2)

The eviction did not only violate international norms, but also domestic law. Neither the resettlement, nor the procedures of compensation comply with Ugandan laws.

³⁴ According to the former headmaster of Kitemba Primary School, Peter Kayiira.

³⁵ Banga / Nuwagaba (2002), p. 53-56; Banga / Nuwagaba (2008), p. 32-35.

³⁶ Excerpt of the **NKG Standards for Sustainable Coffee Production:**

2. SOCIAL ASPECTS

Objectives: The farm properly promotes the socio-economic well being and the quality of life of workers and their families. It respects the culture of the people and contributes to the development in the region where production activities are located.

2.1.1. Community Relations

2.11.1. The farm gives preference to local communities with regard to recruitment of permanent and temporary personnel, thus contributing decisively to the build-up of sustainable livelihoods.

2.11.2. The farm collaborates with local communities on aspects of environmental protection, health and safety, as well as basic professional training.

2.11.3. The farm establishes a continuous dialog with the local communities, in order to share the experience gained with the implementation of the present norms.

http://www.nkg-tropical.com/PDF_folder/NKG_1065002324 [18.05.2009]

Many of the evictees were lawful customary tenants who are guaranteed security of occupancy under the 1995 Constitution and the 1998 Land Act of Uganda.

The 1995 Constitution and the 1998 Land Act Cap. 227 recognise four systems of tenure: customary, mailo, freehold and leasehold. Both laws guarantee security of occupancy of bonafide and lawful tenants living on registered mailo, freehold or leasehold land.³⁷ The 1995 Constitution guarantees security of tenure to tenants on registered land commonly referred to as “lawful” or “bonafide” occupants³⁸.

With the Land Act of 1998 a law regulating the relationship between the land owners and the lawful or bonafide occupants of land has been passed.³⁹

Article 26 of the Constitution of Uganda is guaranteeing the right to property. However, the state is empowered to take possession of a person’s property when it is needed for public use. However, this is only possible under a law with prompt and fair compensation being made prior to taking over the property.⁴⁰

Thus, according to the 1995 constitution and the Land Act of 1998 dispossessions can

1. only be carried out in exchange for compensation, and
2. even illegal occupants may not be displaced against their will after a period of twelve years if within this time the proprietor has not told them to leave the land (bonafide occupants).

VI.1 The Lawsuit

After their attempts to reach a settlement by political means had failed, the evictees decided to go to court. However, the hearings were postponed several times without any prior notice, making the long and expensive journey to the court in Kampala futile for the evictees.

The statement of claim was submitted to the court in August 2002 and directed against the Attorney General of Uganda in his capacity as representative of the Ugandan government on the one hand and against Kaweri on the other. The first hearing was supposed to take place on 22nd December 2002, but before this date the attorneys for Kaweri, M/s Nangwala, Rezida Company, filed an application demanding that the case should not be pursued until the plaintiffs had furnished securities for the costs of the proceedings since there was reason to believe that they would not be able to cover these costs if they should lose the case.

In July 2003, the court finally ruled in favour of the application and decided that the plaintiffs had to deposit 20 million Shillings, about 9,000 Euros, within one month. ActionAid raised the sum when the evictees approached them for support, so that the case could be further pursued

Finally, the first and second hearings took place in November and December 2006 – more than four years after the evictees had filed the suit. The judge tasked with the case agreed that the eviction did take place; however, the lawyers of Kaweri/Neumann denied any involvement in and responsibility for the eviction.

The third hearing scheduled for February 2007 was postponed because of an internal seminar of the court, as well as the next hearing on 5th June 2007, due to the absence of Kaweri’s lawyers and the Attorney General of Uganda.

On 27th June 2007 the hearing took place with all parties concerned, and some issues were discussed. It was the first time that all actors sat together. However, the attorney general did

³⁷ Article 237 (8) and (9) of the 1995 Constitution and section 31 (1) of the 1998 Land Act.

³⁸ A „bonafide occupant“ is a person who has used land unchallenged by the registered owners for 12 years before the coming into force of the 1995 Constitution or more or a person who has been settled on land by government before 1995 (Section 29 (2) of the 1998 Land Act).

³⁹ See Foundation for Human Rights Initiative (FHRI): Land Rights Report. January to June 2008, p. 19.22.

⁴⁰ Article 26 (1) and (2) of the 1995 Constitution.

not take any position on the situation. The lawyers of Kaweri argued that the case should not be further pursued because several formal requirements had not been met. Inter alia, they claimed that the plaintiffs were not authorised to sue on behalf of the community.

The next substantive hearing scheduled for September 2007 in Mubende was postponed again.

The first substantial decision was taken in February 2008. The court dismissed Kaweri's applications to be released from the proceedings. Kaweri had claimed to be released from the judicial proceedings arguing that they had not been involved in the eviction. However, the judge agreed with the arguments and evidences presented by the evictees' lawyer and decided that Kaweri remains the second defendant.

Thus, the lawsuit has been retarding over seven years and still is far from reaching adjudication. In this regard, the *European Human Rights Court* reiterates that the "reasonableness" of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the claimant's conduct, the efficiency of the competent authorities' activity and the consequences for claimant of the failure to observe a reasonable time.

Furthermore, the evictees always have been emphasizing their willingness to follow the advice of the High Court to come to an amicable settlement of the lawsuit outside court. To the opposite, the *Neumann Kaffee Gruppe* did not respond to that advice.

VII. The Responsibility of Neumann Kaffee Gruppe

VII.1 Norms on the Responsibilities of Multinational Enterprises

According to the report of the Special Representative on human rights and transnational corporations, John Ruggie⁴¹, in addition to compliance with national laws, "the baseline responsibility of companies is to respect human rights". This responsibility exists independently of States' duties. To comply with the responsibility to respect⁴² requests *due diligence*.

The due diligence process contains three sets of factors to be considered by companies: "The first is the country contexts in which their business activities take place, to highlight any specific human rights challenges they may pose. The second is what human rights impacts their own activities may have within that context - for example, in their capacity as ...employers, and neighbours. The third is whether they might contribute to abuse through the relationships connected to their activities, such as with...State agencies, and...non-State actors."⁴³

Besides *due diligence* there are two main concepts related to responsibilities of multinational enterprises with regard to human rights existing in the wider area of corporate social responsibility— "sphere of influence" and "complicity".

Thus, the Global Compact under the United Nations demands from enterprises to "support and respect the protection of internationally proclaimed human rights within their *sphere of*

⁴¹ Protect, Respect and Remedy: a Framework for Business and Human Rights. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. <http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf> [18.05.2009]

⁴² "To respect rights essentially means not to infringe on the rights of others – put simply, to do no harm" (Protect, Respect and Remedy: para. 24)

⁴³ Ibid. para. 57

influence” (Principle 1) and to “make sure they are not *complicit* in human rights abuses.” (Principle 2)

Thereby there is a tight relationship between complicity and due diligence existing: companies can easily avoid complicity by implementing the due diligence processes.⁴⁴

VII.1.1 Complicity

The Global Compact and the Office of the High Commissioner for Human Rights define complicity as follows:

“A company is complicit in human rights abuses if it authorizes, tolerates, or knowingly ignores human rights abuses committed by an entity associated with it, (...)The participation of the company need not actually cause the abuse..”⁴⁵

According to Ruggie complicity refers to “indirect involvement by companies in human rights abuses – where the actual harm is committed by another party, including governments...”⁴⁶

In addition, the UN Global Compact further distinguishes beneficial complicity and silent complicity. Whereas beneficial complicity “suggests that a company benefits directly from human rights abuses committed by someone else. For example, violations committed by security forces...”, silent complicity refers to the “failure by a company to raise the question of systematic or continuous human rights violations in its interactions with the appropriate authorities.”⁴⁷

VII.1.2 Sphere of Influence:

Among other differentiations, according to the Report of the Special Rapporteur on Human Rights on the responsibilities of transnational corporations especially “large firms may have a significant degree of influence over some ... governments, especially those keen to attract new investment...As a major investor in a developing country, a large company may have considerable economic leverage with the Government, and thus be in a position to raise concerns about human rights abuses...”⁴⁸

Hence, enterprises are requested to use this influence in order to help secure respect for human rights.

VII.2 Conduct of the Neumann Kaffee Gruppe against the Background of the Norms

The complainants consider the NKG as not complying with the mentioned norms.

⁴⁴ Protect Respect and Remedy, para. 81

⁴⁵ The Global Compact and Human Rights: Understanding Sphere of Influence and Complicity: OHCHR Briefing Paper,” in ‘Embedding Human Rights in Business Practice’, 2004.

⁴⁶ The Business Leaders Initiative on Human Rights BLIHR furthermore illustrates different situations in which a company can be considered complicit of a human rights violation. This is the case for example, when the company is in a partnership with a government and knows, or should have known before agreeing to the partnership, that the government is likely to commit abuses in carrying out its part of the agreement e.g. forced relocation of peoples; or when the company benefits from human rights violations even if it does not positively assist or cause them. BLIHR: A Guide for Integrating Human Rights into Business Management http://www.blihr.org/Reports/GIHRBM_text_version.pdf [18.05.2009]

⁴⁷ http://www.blihr.org/Reports/GIHRBM_text_version.pdf [18.05.2009]

Also in the commentary on the UN Norms there is a reference to beneficial complicity: “Transnational corporations ... shall have the responsibility to use due diligence in ensuring that their activities do not contribute directly or indirectly to human rights abuses, and that they do not directly or indirectly benefit from abuses of which they were aware or ought to have been aware.” (Commentary on the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, U.N. Doc. E/CN.4/Sub.2/2003/38/Rev.2 2003).

⁴⁸ Ibid.

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The evictees and FIAN take the view that *Neumann Kaffee Gruppe* has a responsibility for the forced eviction. The company knew about the forced eviction and benefitted from it.

In 2000 NKG was, in cooperation with the Ugandan government, searching for suitable land to rent and build a coffee plantation.

The existence of previous inhabitants on the land that finally was chosen was known to those involved with the project, since during the planning phase the Ugandan consulting company Gissat Techno Consults Ltd. undertook an environmental and social impact assessment as required by Ugandan law. Among other things, this study found that the land was already inhabited and emphasised the necessity of an orderly resettlement and compensation of these inhabitants.⁴⁹ Nevertheless, there was no plan of resettlement and compensation complying with the standards of international law. Furthermore, before the eviction had been announced the company took soil samples in the respective area and around Kitemba Primary School.

The complainants hold that in the light of their proclaimed high standards the *Neumann Kaffee Gruppe* would have been obliged to influence the Ugandan government in this direction. Evidently, the Ugandan authorities had a big interest in the completion of this investment deal. In 2000, the Plan for Modernisation of Agriculture (PMA) was established as sectoral strategy of the Poverty Eradication Action Plan (PEAP), forming the basis of the state's agricultural policy. The aim of the PMA is poverty eradication through a profitable, competitive, sustainable and dynamic agricultural and agro-industrial sector, which is to be achieved primarily through the conversion of subsistence into commercial agriculture. The government considers the Kaweri plantation to be a key project in this plan.

On 24th August 2001, the President of Uganda, H.E. Yoweri K. Museveni, and the Chairman of the Board of *Neumann Gruppe*, Mr. Michael R. Neumann, jointly inaugurated *Kaweri Coffee Plantation* by planting the first two coffee trees.⁵⁰ A fact that shows the importance of the project and the good relationship between the Ugandan government and NKG.

This leads to the conclusion that a determined insistence by the *Neumann Kaffee Gruppe* on an orderly procedure would hardly have failed to have the desired effect.

In November 2001 Kaweri supported the humanitarian aid for the displaced people by the Kayinda-Mityana Diocese with a donation of the equivalent of 2,000 Euros- another evidence that they knew about the eviction due to the building of the coffee plantation and the precarious conditions under which the affected communities were living.

Furthermore, the leasing agreement was only signed later, in December 2001. Due to this fact NKG would also have had the necessary means to put pressure on the Ugandan government, i.e. the threat to withdraw from the investment.

Taking into account these facts, *Wake Up and Fight for Your Rights* and FIAN consider the NKG complicit of the eviction and the accompanying human rights violations.

The company has dispensed due diligence. One, it has not considered sufficiently the "country contexts in which their business activities take place" although through the activities of another subsidiary of the *Neumann Kaffee Gruppe*, *Ibero Uganda Limited*, the company knew about the political and social situation in Uganda. In consequence the NKG failed to include the "human rights impacts their own activities may have within that context" and to take into account adequately "whether they might contribute to abuse through the relationships connected to their activities".

The complainants consider the NKG as involved at least indirectly in the human rights abuses in connection with the forced eviction, and thus, according to the definition of the Special Representative Ruggie, complicit.

⁴⁹ Kugonza, Matama et al. 2001: Kaweri Coffee Plantation. Environmental and Social Impact Assessment. Final Report. March 2001, Kampala.

⁵⁰ http://www.nkgtrropical.com/our_products/kaweri [18.05.2009]

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The Ugandan government was encouraged to displace the communities living on the land, which finally was selected for the coffee plantation project, due to the fact that the NKG demanded as precondition for the realisation of this project that the land was vacant.⁵¹ To fulfil this condition the government evicted the majority of the inhabitants. Although the *Neumann Gruppe* also demanded that all rightful inhabitants were compensated, the company did not follow up this requirement thoroughly after the land had been vacated. In any case it seems obvious that without NKG's "participation, the abuses most probably would not have occurred to the same extent or in the same way."

The company did not make use of its sphere of influence in a positive way to ensure respect for human rights. As demonstrated above, the NKG has a very good relationship to the Ugandan government, which had been very interested in attracting new investment. As a major investor, the *Neumann Kaffee Gruppe*, is" in a position to raise concerns about human rights abuses.

Thus, the *Neumann Kaffee Gruppe* can be regarded as both beneficial complicit and silent complicit in accordance with the respective definitions of the UN Global Compact.

Moreover, alongside the indirect involvement in the committed human rights violations as described, there can also be stated an effective involvement in the displacement. Immediately after the violent eviction by the military, employees of Kaweri destroyed the smallholder farmers' banana plantations, coffee trees and cassava plants. This occurred before the Kaweri had become owner of the land *de jure*.⁵²

VIII The Complainants' Expectations

1. Expectations towards the National Contact Point

- *Wake Up and Fight for Your Rights* and FIAN expect the National Contact Point to institute and implement proceedings for the resolution of conflicts and problems in the implementation of the Guidelines in accordance with the "Procedural Guidance".
- *Wake Up and Fight for Your Rights* and FIAN expect the National Contact Point to implement fair mediation procedures between the representatives of the displaced people, FIAN, and the *Neumann Kaffee Gruppe* in order to reach an agreement. The NCP can help to provide the background for a constructive dialogue with the *Neumann Kaffee Gruppe*.
- *Wake Up and Fight for Your Rights* and FIAN expect the National Contact Point to make a public statement if the *Neumann Kaffee Gruppe* is not willing to enter into dialogue with the evictees and bring its business practices in line with the Guidelines.
- *Wake Up and Fight for Your Rights* and FIAN expect the National Contact Point to work towards the highest possible transparency in the procedure.

Wake Up and Fight for Your Rights and FIAN are looking forward to constructively cooperating with the National Contact Point in this spirit.

2. Expectations towards Neumann Kaffee Gruppe

- *Wake Up and Fight for Your Rights* and FIAN expect the *Neumann Kaffee Gruppe* to enter into dialogue with the displaced communities and to contribute to reaching an agreement.
- The complainants expect the NKG to participate in a tripartite dialogue with the evictees and the Ugandan government.

⁵¹ Kugonza, Matama et al. 2001: Kaweri Coffee Plantation. Environmental and Social Impact Assessment. Final Report. March 2001, Kampala.

⁵² Interview with Joseph Balikuddembe, lawyer of the evictees, Frankfurter Rundschau, 8th May 2008.

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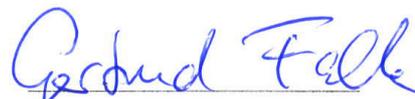
- The complainants expect the NKG to use its sphere of influence towards the Government of Uganda to participate on a tripartite dialogue with the evictees and NKG.

Wake Up and Fight for Your Rights

FIAN Germany



1. Baleke Kayiira Peter



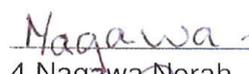
Gertrud Falk



2. Nviiri Y.K.



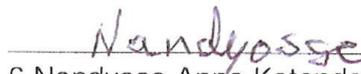
3. Sentume John Baptist



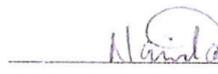
4. Nagawa Norah



5. Ssebwa Patrick



6. Nandyose Anna Katende



7. Nankabala Annet Mary