

by Anton Pieper

Accountability is clearly undermined when there is a lack of transparency in the handling of cases of violations of human rights by national and international authorities. It is also inappropriate for a human rights organization to be asked to refrain from public criticism of actors who are involved in, or benefit from, documented human rights violations. FIAN has recently encountered these challenges in relation to the Mubende-Neumann Case.

## BACKGROUND

The Case centers on the forced eviction of more than 2,000 Ugandans in the Mubende District on August 17 – 21, 2001. The eviction was carried out by Ugandan army following the government's lease of the residents' land to Kaweri Coffee Plantation, a subsidiary of the Hamburg-based Neumann Kaffee Gruppe (NKG, also referred to as 'the Company').

FIAN began supporting the struggle of "Wake Up and Fight for your Rights", an association of communities affected by the eviction, in 2002. In 2009 FIAN assisted the group in filing a formal complaint on the grounds that NKG breached the OECD Guidelines for Multinational Enterprises, arguing that the company was informed of, and benefitted from, human rights violations such as the forced eviction and the related destruction of evictees' property without compensation; in addition, the company had constantly rejected dialogue with representatives of the evictees.

In April 2011, almost 10 years after the eviction, Germany's National Contact Point (NCP) for OECD Guidelines for Multinational Enterprises, based in the Federal Department of Trade and Industry, declared the closure of the complaints procedure against NKG. FIAN has now been asked to refrain from public criticism of the actors involved.

## A DESPERATE SITUATION

The eviction was ruthless and effective, and has changed the lives of the residents irrevocably. People's houses were demolished with bulldozers, fields were desolated and personal belongings were looted. Many evictees were forced to leave their land at gunpoint.

The remaining evictees continue to suffer the loss of their land. Many now subsist on the border of the plantation in makeshift homes. Some have found shelter on neighboring land where they engage in temporary small-scale farming in order to sustain a livelihood. Their plots of land for farming are small, however, and are insufficient to provide their families with adequate food. The educational needs of young people have become secondary to survival. Due to reduced incomes the number of secondary school students has decreased.

## DELAYS AND OBSTRUCTIONS TO THE LEGAL PROCESS

The displaced citizens have been filing complaints against the Ugandan Government and the Kaweri Coffee Plantation since 2002. In these complaints they demand compensation and restitution of their land. Yet the trial, at Nakawa High Court, Kampala, has been systematically delayed. Over nine years the investigations of the court have not made any substantial

progress. The case is still pending - no decision has been made. Company representatives did not even attend the last two court dates.

Meanwhile the Company had also elected not to take part in 2010 talks initiated to negotiate an extrajudicial agreement.

Finally in December 2010, one and a half years after "Wake Up and Fight for Your Rights" and FIAN had lodged their formal complaint, the first and only joint meeting between the NCP, NKG representatives and the evictees took place. The meeting was an opportunity to initiate a serious process of clarification of the controversial issues involved in the case. The complainants remain unclear as to the reasons why the NCP stopped this process prematurely.

## TERMINATION OF THE APPEAL IS COUNTER-PRODUCTIVE

The NCP's closure of the complaint process is particularly inappropriate at a time when it is necessary to maintain international attention on the case and encourage mediation between the parties that could lead to a fair and sustainable solution. Additionally, the final declaration of the NCP is clearly biased in favor of Neumann Kaffee Gruppe and, further to this, the NCP calls on FIAN to stop public criticism of the eviction and its consequences.

FIAN does not accept demands to refrain from publishing public information in relation to human rights violations. The Secretary-General of FIAN, Flavio Valente, expressed his deep concern to the NCP after the initial requests to FIAN members were made:

"We will never accept demands that our information for the public in relation to the work on human rights violations such as the forced eviction in the Mubende case be stopped. Moreover, I would like to stress that the implementation rules of the OECD complaint do not demand a stop in media work on the handled cases<sup>1</sup> and FIAN has never committed itself to this. The guidelines demand confidentiality on information that has been gained during the proceedings and FIAN has always adhered to this rule."

Accordingly, FIAN will continue campaigning on the severe human rights violations that have taken place, and are still taking place, in Mubende, Uganda. Plans for 2011 include several initiatives to raise public awareness about the case in Uganda and Europe. In addition to this, a complaint is envisaged to be filed with the African Commission for People's and Human Rights if no judicial resolution has been issued by the 10th anniversary of the eviction in August, 2011. It is hoped that these measures will encourage the evictees to not give up their fight for justice, and will eventually lead to fair and just procedures that ensure adequate compensation and restitution of the land rights.

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<sup>1</sup> Please refer to OECD Watch, The Confidentiality Principle, Transparency and the Specific Instance Procedure, 2006, [http://oecdwatch.org/publications-en/Publication\\_1678](http://oecdwatch.org/publications-en/Publication_1678)