

ANNEX TO THE STUDY

**Land grabbing and human rights:
The involvement of European corporate
and financial entities in land grabbing
outside the European Union -**

**Exchange of letters between the Neumann
Gruppe and the authors of the study**

Introduction

Following the publication by the European Parliament of the study on “Land grabbing and human rights: The involvement of corporate and financial entities in land grabbing outside the European Union” in May 2016, the Neumann Gruppe GmbH wrote to the European Parliament, stating that the information provided in the study on the case of the Neumann Gruppe GmbH’s subsidiary in Uganda, the Kaweri Coffee Plantation Ltd, was incomplete or incorrect, and providing additional facts and arguments. On behalf of the team of authors, FIAN International replied to this complaint, by providing for its part additional facts and arguments. In response to this dispute, Parliament decided to publish, in agreement with the Neumann Gruppe and the authors of the study, the exchange of letters between both sides, providing additional arguments and information about the case, as an annex to the original study. With this complementary publication, the General Secretariat of the European Parliament is providing transparency on the case and the different and divergent viewpoints presented, allowing the reader of the original study to obtain a more complete understanding of the issues at stake, but without taking any side in the dispute.

Statement by Neumann Gruppe GmbH on the study on “Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union”, 21 June 2016



To:
The European Parliament
Directorate-General for External Policies
Ms. [REDACTED]
[REDACTED]

Statement by Neumann Gruppe GmbH on the study on "Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union" that was requested by the European Parliament's Subcommittee on Human Rights and authored by various representatives of FIAN and the International Institute of Social Studies

Hamburg, June 21, 2016

Dear [REDACTED]

Reference is made to the above mentioned study ("the Study"), for which you are named being responsible. The Study mentions Neumann Kaffee Gruppe in context with an alleged case of land grabbing and contains observations and recommendations which are based on incomplete, misleading, or even false information that directly affect one of Neumann Gruppe GmbH's subsidiaries in Uganda, Kaweri Coffee Plantation Ltd. ("Kaweri"). This will be further outlined below.

Neumann Kaffee Gruppe is known to be a group of reliable and highly trustworthy companies who are deeply concerned with all aspects of sustainable development of all areas of the international green coffee business. In line with our corporate values we intensely collaborate with our partners, both suppliers as well as customers, in nearly all coffee producing and consuming countries worldwide.

In order to make the sustainable cultivation of coffee more transparent and to improve the social and ecological infrastructure in the areas of cultivation, we have been successfully setting up our own farms in Mexico, Uganda and Brazil since 1991. Here, our main commitment is to promote the positive development of the rural areas. This is of singular importance to our management and shareholders. Of course, to be viable in the long term, these operations seek economic sustainability as well.

The above Study defines the term "land grabbing" as follows:

Contemporary land grabbing is the capturing of control of relatively vast tracts of land and other natural resources through a variety of mechanisms and forms that involve large-scale capital that often shifts resource use orientation into extractive character, whether for international or



domestic purposes, as capital's response to the convergence of food, energy and financial crises, climate change mitigation imperatives, and demands for resources from newer hubs of global capital.

As a general observation, this definition, which is just one of many, ignores positive social and economic impacts by investments, know-how transfer and other benefits that might be attached to it and denounces literally all large scale agrarian investments with the negatively perceived expression "land grabbing".

The Study exemplifies the involvement of EU corporate entities being involved with "The case of Germany-based Neumann Kaffee Gruppe" (p. 17, Box 1). It is alleged that *"In August 2001, the inhabitants of four villages [...] (approximately 4,000 people) in Mubende District, Uganda were violently evicted from their 2,524 hectares of land, on which they had been living for years."*

This is not true. In 2000, the land that the Kaweri farm is on today was chosen together with the Ugandan government for the set-up of a sustainable coffee farm. Kaweri, a subsidiary of Neumann Gruppe GmbH, does not – and never has – owned the land, which is registered in the name of the Uganda Investment Authority (UIA). Rather, Kaweri leased the land from the Ugandan state in 2001 for the duration of 99 years – subject to NG's requirement that it have a clean title, i.e. the land would be unencumbered by any claims.

In 2001, the previous owner had sold the land to the Republic of Uganda. Prior to that, he had informed the people having settled there – also via local government representatives – about the upcoming sale and subsequently made offers of compensation. The compensation comprised allocation of new land and free transport to the new land or statutory monetary compensation. Also, a state-approved and chartered surveyor surveyed the land, and a consulting firm looked into the possible social and ecological impacts of the project.

166 families entitled to compensation accepted compensation and verifiably confirmed this. The families were specifically permitted to harvest their crops after the relocation period had expired.

A few residents, i.e. 25 families – some of whom erroneously believed that that they lived on another property than the one in question – refused to move and did not accept compensation payments. These persons were subsequently forced to leave the land; government authorities assisted the former owner in this process. Neither NG nor Kaweri were involved in any part or aspect of this process.

NG very much then and now regrets how these 25 families were treated. After hearing of these events, NG and Kaweri immediately got in contact with the Catholic diocese of Mityana and initiated a relief programme for the people involved.



The Study further alleges *“The establishment of the coffee plantation on the cleared land was supported by the German development agency GIZ (then GTZ) and the African development Bank (AfDB).”*

This is not true. At no time were the GTZ (now GIZ) and/or the AfDB involved in the establishment of the coffee plantation. There had been negotiations between Neumann Kaffee Gruppe and the AfDB about a potential financing, but this never materialized.

The Study furthermore refers to a judgment by the High Court in Kampala from 2013 (rendered by Justice Choudry Singh) which demanded the payment of damages amounting to EUR 11 Mio. from Kaweri's lawyers, thereby harshly criticizing the role of Neumann Kaffee Gruppe. The Study omits an important fact, though, i.e. that on July 21, 2015 the Court of Appeal in Kampala set aside the judgment of 28. Mar. 2013 by Justice Choudry Singh in its entirety and ordered a retrial at the High Court with a recommendation for expeditious disposal.

The Study's general problem lies in the overall fact that most contributors are working for or are related to FIAN.

FIAN accuses NG of land grabbing, and of having tolerated or endorsed the displacement of smallholder farmers. What's more, the German chapter of this NGO is also publicly negating the compensation payments to the other rural inhabitants despite comprehensive documentation to the contrary. One of the allegations is that Kaweri is unlawfully claiming land in addition to the actually leased area itself. NG unconditionally denies these allegations.

To give further evidence on NG's rightful cause of activities, a new survey of the land was commissioned by the Uganda Investment Authority and carried out in December 2012 together with all parties involved, including representatives of the 25 families referred to above. This was done although the initial survey was correct and conducted professionally to prove that FIAN's claims are lacking any evidence. As was to be fully expected, the results of this survey conclusively disprove the allegations.

Among others, FIAN filed a complaint against NG in 2009 because of alleged violations of the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Companies. In 2011, the National Point of Contact of the OECD in the German Federal Ministry of Economics (NCP) fully acquitted NG from all charges after a detailed investigation and hearing of all parties. It also requested the complainants to refrain from publicly attacking NG. Unfortunately, this has never been complied with.

Furthermore, FIAN is making the false accusation that NG has been delaying court proceedings in Uganda since 2002 in this same context. This claim again is completely untrue: quite to the contrary, it is



very much in the interest of NG to clarify the legal situation quickly and fully. From the beginning of the court proceedings we have assumed a cooperative and communicative position, complying with all the reasonable expectations towards Kaweri.

Kaweri pursues its economic interests with strict consideration of social and ecological aspects. The very positive effect of the farm on the region as a whole is being confirmed in many different ways. Today, Kaweri employs 250 local people full-time, up to 800 carry out various responsibilities on the farm on a daily basis, and during harvest up to 3,250 direct and further indirect jobs are created. The wages paid are at par or above that for similar work on Ugandan tea and sugar plantations; there are no other large coffee plantations in Uganda for comparison's sake.

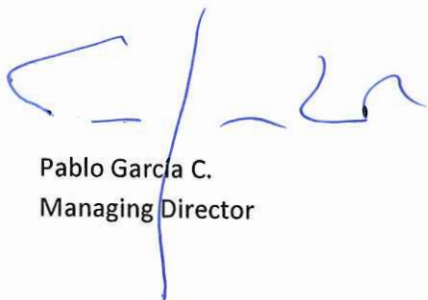
A better infrastructure, access to free medical care, electricity and school education improve the quality of life for local people. In addition, Kaweri has built several water boreholes with unlimited and free of charge access in neighboring villages, supplying the people there with fresh drinking water free of charge. Furthermore, biodiversity in Kaweri is being maintained in an exemplary way through protected areas, biological corridors and shade trees. Please find attached our sustainable commitment for the region.

Although Kaweri has yet to be financially profitable, Neumann Gruppe remains committed to Uganda. We firmly believe that our sustainable approach on our coffee plantations will pay off in the medium term. This is why we believe in the Kaweri project, even though circumstances have not always been easy. Once such a project is started one has a responsibility to the local population – we are aware of that and we see it as an incentive to continue our work in Uganda.

As the Study refers to the Kaweri situation in a very biased way, we expect that the addressees will be informed in an adequate manner about the actual situation, as the continued false allegations add to the damage of Neumann Kaffee Gruppe's reputation that has already been done by FIAN.

Please do not hesitate to get in touch if you have any comments or additional questions. Please also refer to the attached description of the chronology of events. We will be happy to try to clarify any doubts.

With best regards,



Pablo García C.
Managing Director



ppa. Jochen Michalak
Legal Counsel



Chronology of events, Kaweri Coffee Plantation – 2000 to 2016 –

- 2000 Neumann Gruppe GmbH (NG) is looking for a suitable location to set up a socially and ecologically sustainable plantation for coffee of the Robusta variety. Various countries in South America, Asia and Africa are taken into consideration. Uganda was chosen for the following reasons:
- relative political stability
 - favorable climatic conditions
 - high quality standard of Ugandan coffee
 - availability of land in form of registered private ownership
 - support from the Ugandan Investment Authority (UIA) and the entire government
 - the opportunity to set up a sustainable model farm in an impoverished region in Africa and making a positive contribution to developing the region this way at the same time

- 2000 From the outset, NG never intended to acquire land in Uganda . Instead, the company seeks to enter into a long-term lease contract with the Ugandan government. Together, suitable land is found in Mubende district. The so called “Block 99” comprises 2,512 ha land, which at that point had been privately owned for more than 35 years.

– Side note: the previous history of Block 99, 1964 to 2000 –
Block 99 had been privately owned since 1964 (Annex 1 available on request). Since 1977 the land had been owned by Emmanuel Bukko Kayiwa. During the dictatorship of Idi Amin (1971–1979), Mr Kayiwa had left the country temporarily and returned in the 1990s. In the meantime, the Ugandan military built a base for former members of the army in the northern part of the property, which was inhabited by around 2,500 people. These people farmed a large part of the northern territory of Block 99. And grew mostly maize and Tapioca. There was also a very small number of coffee plants. Some people had built clay huts in the area, others lived outside the area. When Mr Kayiwa contacted NG in July 2000 regarding the land, he had already been engaged in sales negotiations with the Ugandan army for more than two years.

- Oct. – Dec. 2000 The lawyers of buyer (the Ugandan government/Ugandan Investment Authority) and seller (Mr Kayiwa) carry out due diligence audits and establish that Mr Kayiwa’s ownership of the land is beyond doubt and that the area is free from third-party claims.

Aug. – Oct. 2001 The state-approved Ugandan survey company MAP carries out a survey of the land. During the survey most of the original boundary stones are found, and there is no doubt at all that all aspects of the survey were carried out professionally and properly (Annex 3 available on request). For Block 99 the survey results are 2,510.2 ha compared to the 2,512 ha mentioned in the title.



2001

Mr Kayiwa sells Block 99 to the Ugandan government, represented by UIA. Neumann Gruppe GmbH / Kaweri Coffee Plantation Ltd. (Kaweri) will lease the land from the UIA for 99 years free from encumbrances.

– Side note: preliminary agreements regarding the purchase/sale of Block 99 and compensation payments –

From the outset Kaweri agreed with the Ugandan government that only so-called clean title land will be considered for leasing – i.e. land that is free from third-party claims. Before the Ugandan government bought the land from Mr Kayiwa, Kaweri, in a preliminary agreement, demanded for all people living in Block 99 to receive full compensation in accordance with Ugandan law (Ugandan Land Act of 1998). According to the act, the seller, Mr Kayiwa, is solely responsible for compensation payments. In addition, Kaweri demanded to see receipts of the compensation payments as a precondition. These receipts were all produced: each individual compensation is documented and signed by the recipient, the village leader, the Resident District Commissioner and the lawyers of buyer and seller. The compensation comprised either allocation of new plots of land and free transport to the new plot of land or monetary compensation. To ensure that the purchase of the new plots of land for the people and the compensation payments could be made, Kaweri transferred part of the later leasing price to a trust account in advance (Annex 4 available on request). The relevant Ugandan and German government authorities are given copies of the documents in question. Overall, compensation in the form of land was provided to 102 families. Another 64 families were given monetary compensation because they did not live in the area but did farm land there. Mr Urban Tibamanya, the seller's lawyer, was personally present when several claims were checked and during the relevant proceedings in various villages; he later testified in court that the compensation payments had taken place in accordance with the rules (Annex 14 available on request).

2001

Near the south-western border of Block 99, in an area called Kitemba and Luwunga, a conflict develops between 25 small farmers and the seller Mr Kayiwa. The small farmers falsely believe that they are in area of the neighbouring Block 103 and therefore refuse compensation payments; in reality, however, they do live in Block 99. As far as Kaweri knows there had been several, unfortunately unsuccessful, attempts at solving the conflict amicably.

Unfortunately, this development leads to these persons being forced to leave the land by the Ugandan military.

– Side note: statement by NG on these forced relocations –

NG very much regrets that these forced relocations of the 25 small farmers took place and condemns the actions of the army. At no time could NG have foreseen this tragic development, and even less have influenced it. Although NG genuinely regrets that these events unfolded it should be noted that the people in the region were very much aware that Block 99 was privately owned.



What's more, the sale of Block 99 including the corresponding and full compensation for resettlements in accordance with Ugandan law (after all, the land had been privately owned since 1964) is a transaction perfectly conformant with the law.

- Oct. 2001 –
May 2002 Kaweri contacts the Catholic diocese of Mityana and immediately initiates a relief programme for the forcibly displaced people thus ensuring that they are supplied with food and medical care.
- 2002 The non-governmental organisation FIAN (FoodFirst Information and Action Network) German Chapter, accompanied by Peter Kayiira, who describes himself as the representative of the displaced people, starts the first campaign (in and outside of Uganda) against NG and Kaweri:
- a) according to the accusations 2,000 people were displaced without
 - b) having received any kind of compensation.
 - c) FIAN also accuses Kaweri of having taken possession of a further 664 ha in addition to Block 99.
 - d) FIAN and Mr Kayiira also claim that the farm makes it more difficult for the people in the region to support themselves.

– Side note: statement by NG on these accusations –

a) alleged dislocation of 2,000 people

The claim that 2,000 people were displaced during the sale of Block 99 is entirely without foundation and preposterous. It was quite unfortunate that 25 small farmers were displaced, this development was beyond the control of NG; nonetheless NG responded swiftly with a relief programme (see above). There were no further displacements. This is further highlighted by the fact that the people in the region very much knew about who owned Block 99. Unfortunately, Mr Kayiira subsequently incited his neighbours to refuse to relocate and to reject the compensation. He thus significantly contributed to the unfortunate development experienced by the 25 small farmers.

b) alleged failure to provide compensation payments

As already stated, all compensation payments to the people who moved away from Block 99 were carefully documented and signed by several parties. Once they had seen the relevant documents, FIAN and Mr Kayiira changed their original allegation that no compensation was paid to claiming that the agreements were concluded under duress. NG knows of no proof that this was the case and would under no circumstances imaginable have supported such a course of action at any time. The fact that the compensation in form of another plot of land did indeed take place is being confirmed by villagers who said that the new land has a smaller area than the area they cultivated in Block 99. Whatever the size of the new plots of land, this confirms that the people were given new land, which also, from a purely legal point of view, turned them into land owners rather than users. Especially a woman called Anna Nandyose repeatedly claimed (for example in a video published by FIAN) not to have received any form of compensation. Quite to the contrary, there is documentary evidence that



she received compensation payment on 27 October 2001. What's more, in April 2002 Ms Nandyose requested arbitration and in this context she later confirmed that she had not lived, as she had assumed, in the neighbouring Block 103, but erroneously in Block 99 (Annex 5 available on request).

c) alleged appropriation of 644 ha of land outside of Block 99

Kaweri operates exclusively on the 2,510.2 ha area of Block 99, which it was allocated by the UIA after the initial survey. The plantation has never claimed additional land. The 644 ha cited by FIAN and Mr Kayiira are part of the neighbouring Block 103 and are thus owned by Mr David Ssekande. Mr Ssekande publicly declared that he agrees to the boundary line between blocks 99 and 103. The correctness of the boundary line was later confirmed by measurements (see December 2012). The sheer size of 644 ha makes it further highly unlikely that such an immense stretch of land can simply be "overseen" and thus not be accounted for.

d) regarding the accusation that the people cannot subsist because of Kaweri

In the area around Kaweri there is a surplus harvest yield. Kaweri itself buys several truckloads of maize from its neighbours each year. The maize is given to farm employees free of charge to make the traditional maize porridge.

15 Aug. 2002

Mr Kayiira and an alleged 400 co-accusers instituted civil proceedings against the state of Uganda and against Kaweri. The plaintiffs thus claim alleged damages resulting from the supposed displacements during the sale of Block 99. The proceedings are also about the alleged appropriation of crops of the plaintiffs by Kaweri. The proceedings continue to this day.

– Side note: NG's response to the legal action –

At no time was Kaweri the responsible party with regard to the events in question. The sale of Block 99 took place between a Ugandan owner (Mr Kayiwa) and the Ugandan state as buyer, and the accompanying compensations were paid to Ugandan citizens. Any points of disagreement must thus be settled between these parties. Kaweri, as a foreign owned company, was not involved in these processes, which is why the associated information can be provided only by the parties directly involved. Nonetheless, through the above-mentioned preconditions and ensuring that the compensations could be paid by paying part of the lease in advance, NG showed responsibility in line with its corporate culture. Although NG believes that it is being wrongfully addressed by the plaintiffs, NG nonetheless has a strong interest in the matter being settled and supports such a settlement.

Feb 2004

FIAN continues its campaign against NG, and now, in addition to the initial accusations, also accuses Kaweri of poor working conditions on the farm, the use of violence and colluding with the government with the aim of gaining advantages in court matters as well as land grabbing. All these accusations are entirely without foundation.



- May 2004 Ms Nandyose and Mr Kayiira visit NG's office in Germany. Subsequent to their description of the case, NG agrees to lobby for the Ugandan government to review the compensation procedure.
- 4 Jun. 2004 NG officially asks the Ugandan government to deal with the accusations levelled against Kaweri.
- 23 Aug. 2004 The Ugandan Minister of State Hon. S. Kutesa writes a letter to the German embassy in Kampala confirming that the accusations made against Kaweri are untenable and that Kaweri or NG can in no way be held responsible in this matter (Annex 7 available on request).
- 7 Feb. 2005 Representatives of NG meet the Ugandan Minister for financial planning and economic development, Hon. S. Kiwanuka, in the presence of local and international members of the press. During this meeting, the accusations are once again talked about. The minister repeats once more that his government views these events as internal Ugandan matters that a foreign company should not interfere in.
- Dec. 2008 – Jun. 2009 NG initiates discussions with Prof. Herta Däubler-Gmelin in her capacity as chairperson of the Committee on Human Rights and Humanitarian Aid of the German Bundestag. NG also contacts Thilo Hoppe, the chairman of the Committee on Economic Cooperation and Development. The aim is to arrange a moderated talk with FIAN, which will in fact take place in Aug. 2009 (see there).
- 15 Jun. 2009 FIAN files a complaint against NG with the National Point of Contact of the OECD in the Federal Ministry of Economics (NKS) because of alleged violations of the OECD Guidelines for Multinational Companies (Annex 8 available on request). The complaint includes the following points:
- NG supposedly delays the pending court case against the Ugandan government and Kaweri (for details of this civil lawsuit see above).
 - NG allegedly refused an out-of-court settlement.
 - Kaweri supposedly leased land other than Block 99, which made it impossible for the displaced people to move away from the land before the displacement.
 - NG supposedly refused a new survey of the land leased from the government.
 - NG supposedly did not provide compensation to the displaced people. The compensations that were given were insufficient.
 - The government apparently included unlawfully large areas of the neighbouring Block 103 when leasing out Block 99 to NG. People who had occupied the land in good faith, then supposedly after leaving Block 99 bought land in Block 103, from which they supposedly were displaced at a later date.
 - Supposedly employees of the Kaweri farm raided the crop of displaced small farmers.



– Side note: NG's response to the individual points of complaint –

a) the accusation of dilatory actions

At no point in time did NG and Kaweri dilate the lawsuit that started on 15 August 2002. On the contrary, it is in the interest of NG to finally create legal certainty for all parties. Rather, the non-appearance of the plaintiffs has led to several hearing dates getting postponed. Furthermore, in 2012 accusations by the plaintiffs against the Ugandan judiciary have led to the resignation of the presiding judge, which further delayed matters.

b) on the refusal to settle out of court

Kaweri sees no grounds for a bilateral out-of-court resolution, because at no point did Kaweri behave wrongly with regard to the lawsuit. However, Kaweri is prepared to take part in multilateral settlement discussions, i.e. with the participation of all parties to the dispute.

c) the accusation that Kaweri unlawfully occupies land in addition to Block 99

Kaweri has only leased Block 99 from the government and never claimed any other additional land. This misconception on the part of FIAN and Mr Kayiira significantly contributed to the unfortunate development of this matter.

d) the supposed refusal to allow a new survey of the Kaweri land

Kaweri is only the leaseholder of Block 99, while the Ugandan government, represented by the UIA, is the owner. Only the latter can make a decision regarding a survey. FIAN and Mr Kayiira were informed several times about this legal fact – together with the request to apply to the UIA for a new survey; this never happened at the time. The owner of the neighbouring Block 103 could also have asked to carry out a survey of his land – part of which supposedly unlawfully occupied by Kaweri. This also did not happen initially.

e) the accusation related to non-payment of or insufficient compensation

According to Ugandan law, paying compensation in the case of relocations is the exclusive responsibility of the seller of the land in question, it is neither the responsibility of the buyer nor of the leaseholder. Nonetheless, NG helped ensure that the compensations were paid by paying some of the lease in advance and by demanding to see receipts for the compensation payments – such commitment went far beyond the company's legal obligations.

f) the accusation of displaced people from Block 103

Kaweri only operates in Block 99. NG knows nothing about land purchases or sales in Block 103. If land belonging to Block 99 was bought or sold by anyone, then this happened unlawfully and without being officially registered.



g) the accusation of crop looting by Kaweri employees

Kaweri explicitly allowed the small farmers to collect their remaining harvest even after their relocation. In addition to a European manager and a few Kenyan employees, at the time of the takeover of Block 99 Kaweri mostly employed people from the surrounding villages. Kaweri never received reports about any lootings.

18 Jun. 2009 During a meeting in Berlin, Michael R. Neumann made the Ugandan president Yoweri Museveni aware of this matter, who promised to look into it. At the same time he emphasised the independence of the Ugandan legal system.

17 Aug. 2009 The moderated talk with FIAN organised through Prof. Däubler-Gmelin and Mr Hoppe takes place in the Paul Löbe House in Berlin – in the presence of the Ugandan ambassador and representatives of the DEG, amongst others.

31 March 2011 The National Point of Contact of the OECD (NKS) stops the proceedings initiated on the 15 June 2009 because of the complaint by FIAN after a detailed investigation and a hearing of all parties through unilateral declaration. After numerous meetings with representatives of the German and Ugandan governments, FIAN, representatives of NG and the local people involved, the NKS concludes that the accusations levelled by FIAN against NG are unfounded. This means that NG has acted correctly and in line with OECD guidelines (Annex 9 available on request).

28 Dec. 2011 UN Special Rapporteur on the Right to Food, Olivier de Schutter, contacts the UN High Commissioner for Human Rights. He talks about the allegations against Kaweri and NG. These include alleged displacements, alleged non-payment of compensation and the resulting consequences for the people involved. Mr de Schutter asks for support in the investigation of these accusations and clarification as to their truthfulness. The current state of the investigation – or whether such an investigation has even been instigated – is not known to us.

– Side note: response by NG to the accusations UN Special Rapporteur was told about –

As explained earlier in this document, NG considers the accusations regarding the alleged displacement of small farmers and the supposed non-payment of compensation as unfounded for reasons stated.

Dec. 2012 In order to resolve the dispute about the land boundaries once and for all, the UIA as the owner of Block 99 carries out a new survey of the land with the involvement of all parties, all of which themselves consult state-approved and independent surveyors. The result of the new satellite-based survey indicates an area that is the same as the one noted in the lease contract. This clearly proves that Kaweri has not taken possession of any land that is not part of the leased land (Annex 13 available on request).



Feb 2013

Judge, against whom impeachment proceedings are underway, sets new date for Kaweri case. Attorney General and Kaweri representatives are not willing to attend the hearing.

- Side note: why does NG not attend the hearing.

On 26 March 2012 Kaweri's lawyers are informed that the pending case against Kaweri (High Court no. 179/2002, Nakawa Division) has been assigned to a new judge called Choudry Singh for reasons of staff shortage. Singh was rejected as a judge by the Uganda Law Society because the professional association considers him the wrong choice.

Singh is well-known in legal circles in Uganda: he used to work as a lawyer in London, but he was accused of gross misconduct. In October 2000 the Solicitors Disciplinary Tribunal there described Choudry Singh as having committed "a dishonest course of conduct of a serious kind" (annex 15 on request).

Following these accusations the Uganda Law Society (the association of Ugandan lawyers) drew up a petition with the aim to dismiss Justice Singh. This petition was signed by the vast majority of Ugandan lawyers. In response Yorokame Bamwine, Principal Judge of the Uganda High Court, informed the representatives of the petition in a letter dated 5 April 2012 (annex 16 on request) that Justice Singh was directed not to handle any judicial work. What's more, the chairman also said, another judge will be assigned to the proceedings as soon as the acute shortage of human resource in the High Court has been resolved.

In May, 2012, Kaweri's lawyers had been selected by and as Counsel for Uganda Law Society in Constitutional Petition No. 11 of 2012; Uganda Law Society –vs. Attorney General which application is about the long awaited tribunal for the removal of Mr. Justice Choudry Singh from the bench. On 7 February 2013 (annex 17 on request) Kaweri's lawyers receive a court summons for 13 February 2013 which contains some formally erroneous content. When the representatives and lawyers of Kaweri appear at the hearing they find that the appointment had not been noted by the court and the responsible Registrar was not present. The lawyers inform the court of the procedural errors immediately. Investigations reveal that, interestingly, the summons was issued by Justice Singh.

On 14 February 2013 the representatives receive another summons, this time for 26 February 2013, and also chaired by Justice Choudry Singh.

As a result, Kaweri decides not to attend the hearing.

28 Mar. 2013

Justice Choudry Singh again shows himself to be unimpressed by the targeted impeachment proceedings and the request of his superior judge to give up the case. Choudry speaks a verdict which can be considered abuse of law; Kaweri and NG will use all legal means to have the verdict declared invalid.

- Excursion: The bizarre decision of the judge

Kaweri's attorneys are also representing the Uganda Law Society against



Choudry in the said impeachment proceedings. In the proceedings against Kaweri, however, these attorneys as well as the Uganda Law Society are not party to the proceedings. On 28 March, Judge Choudry now ordered Kaweri and the State of Uganda to pay the legal costs of the proceedings. He further used the case for purely personal reasons to order Kaweri's attorneys and the Uganda Law Society to pay an extraordinarily high sum. But it doesn't stop here: despite - or perhaps because of - the considerable public pressure in Uganda through the press against Justice Choudry (Annex 19 available on request), a few days later he caused the affair to become still more confusing:

Against all fundamental legal principles in an extract of the verdict, Choudry has included Kaweri in the judgment against the attorneys but not the State of Uganda. In so doing, it seems not to matter to the judge that he has essentially changed his verdict without previously listening to the side of the defendants or even informing them of it. This represents a complete break with customary Ugandan and international court practice.

On the day of the proclamation of the judgement, Kaweri immediately filed an appeal.

- | | |
|--------------|---|
| 10 Apr. 2013 | The execution of the above judgement was provisionally suspended by the Registrar at the Court of Appeal. |
| 14 Aug. 2013 | In a letter to FIAN — later on made public — and an interview with Deutschlandfunk, German Federal Minister Dirk Niebel comments positively on NG's activities in Uganda. Amongst others, he writes that „...in the case of Kaweri, Neumann Gruppe cannot be reproached...“. In the interview he emphasizes once again this viewpoint by expressing that there is no reason for him to believe that the investment was not made in good faith. The investigation conducted by the OECD would have confirmed this result as well. At the same time, Federal Minister Niebel advocates cessation of the unbalanced presentation of the case on part of FIAN and, from the perspective of development policy; he invites them to rethink their attitude. |
| Apr. 2014 | The Court of Appeal determined 30 June 2014 for a preparatory meeting in respect of the appeals procedure. However, Justice Choudry Singh still withholds the judicial act. Consequently, the progress of the proceedings will presumably be deferred. |
| Aug. 2014 | The judicial act has reappeared surprisingly in late July 2014. There are preliminary court hearings, in which the plaintiff's legal representative does not participate. The registrar of the Court of Appeal has been requested to prepare a „Record of Proceedings“. |
| Jun. 2015 | In its concluding observations on the initial report of Uganda dated June 24, 2015, the United Nations' Committee on Economic, Social and Cultural Rights, states that it “ ... is particularly concerned about the case of Mubende District whose inhabitants were evicted from their homes in 2001 in the context of the Kaweri Coffee plantation and about the fact that so far the legal redress they could obtain did not include restitution of land rights. ” |



The Committee recommends that “[Uganda should] take immediate measures to ensure that the rights of the Mubende community are restored as well as of all other forcibly evicted communities.”

Neither Neumann Gruppe nor Kaweri, whose legal rights would be affected by any such matters, have been approached for their position on this matter. It is not even questioned that until March 2013 the restitution of land rights had never been a matter in the court case. It appears that the Committee solely relied on information provided by self-appointed spokesmen of people allegedly evicted, and by NGO Fian. On 9 July 2015 therefore, Neumann Gruppe has send a letter of protest to the Committee's Chairman.

21. Jul. 2015 The Court of Appeal allowed the appeal, set aside the judgment of 28. Mar. 2013 by Justice Choudry Singh in its entirety and ordered a retrial at the High Court with a recommendation for expeditious disposal.
12. Apr. 2016 A pretrial session that was set for today at the High Court in Kampala, division Nakawa Circuit, does not take place, although representatives of all parties are present. The division will be dissolved shortly, therefore the case will be reallocated by the Principal Judge. It is not foreseeable as of when a new hearing will be set, so Kaweri's lawyers have asked for a speedy reallocation. Prior to that Kaweri's legal representatives had forfeited the right to demand the re-deposit of the security for court costs by the plaintiffs.

Response of FIAN, on behalf of the team of authors, to the statement of Neumann Gruppe on the study on "Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union", 11 July 2016

Response of FIAN to the statement of Neumann Gruppe on the study “Land grabbing and human rights: The involvement of European corporates and financial entities in land grabbing outside the European Union”, dated June 21, 2016

Heidelberg, 11 July 2016

Dear [REDACTED],

Thank you for forwarding to us the statement of Neumann Gruppe (NG) regarding the study “Land Grabbing and Human Rights: The Involvement of European Corporate and Financial Entities in Land Grabbing Outside the European Union,” in which the company accuses the authors of giving “incomplete, misleading or even false information” (p. 1) and making “false allegations” (p. 4).

FIAN International is a human rights organization that supports individuals and communities whose human rights have been impaired. Based on this mandate, FIAN has been accompanying the people of Mubende that are affected by the Kaweri Coffee Plantation upon their request since 2001. Over the last 15 years, FIAN has documented the case on the ground during several visits, conducting interviews with witnesses and collecting documents that prove their testimonies. The information provided in the abovementioned study is based on this extensive research and first-hand information. The allegations against FIAN made by NG in its statement and the arguments brought forward by the company are known to us since we started to publish information on the case in 2003. We would like to highlight, however, that NG has never challenged FIAN legally.¹

NG’s statement addresses both the information on the case contained in the abovementioned study as well as general accusations against FIAN. We take the allegations of NG seriously and respond to each of them in the following pages. FIAN is able to provide documents and/or testimonies that prove the veracity of all the information provided in the study and the comments that follow.

1. Definition of Land grabbing

The term ‘land grabbing’ is the term most commonly used to describe the surge of large-scale land deals that have emerged globally in the past decade. While it is not a new term, it was popularized in relation to what is largely acknowledged as an unprecedented wave of large-scale land acquisitions stemming from the food price crisis in 2008/2009. The abovementioned study as a whole, as well as the definition of ‘land grabbing’ used in it in particular (p. 10) are based on the human rights framework. As outlined in chapter 4 of the study, secure access to and control over land and related natural resources is a core element of the human right to food and nutrition, the human right to housing, and is the precondition of the realization of

¹ NG did, however, take legal action in 2013 against the German journalist Michael Enger and the German newspaper Hamburger Morgenpost who published a documentary and an article on the Kaweri Coffee Plantation case respectively. NG demanded from the two to recall the statements that 1) Kaweri managers had known about the impending forced eviction, 2) soldiers had destroyed houses of 4 villages to establish Kaweri Coffee Plantation on that area. NG has withdrawn its action for injunction after the journalist and the newspaper had presented the court documents of proof to which we refer in this letter.

several human rights. In building on the human rights framework, the study focuses on the impacts of land deals on affected communities and people. It specifies that human rights issues arise “when land deals that have the character of a land grab (based on the definition offered above) are carried out in settings where the process, immediate outcomes, and broader, long-term implications are such that they effectively deny natural resource-dependent people from exercising or gaining access to land, water and forest to use for livelihoods or spaces to live in [...]” (p. 10). While NG may prefer different terms or a definition of the term ‘land grabbing’ which focus more on investors’ interests, FIAN considers that the case of Kaweri Coffee Plantation is covered by the definition of land grabbing used in the study in as much as it has without any doubt led to a deprivation of the livelihoods of local people and as such impaired the enjoyment of their human rights.

2. Forced Eviction of the inhabitants of four villages (approx. 4,000 people) in Mubende District, Uganda (study, p. 17, Box 1)

In its statement, NG states that the information regarding the forced eviction of the inhabitants of four villages is not true, arguing that NG has not and does not own the land. The abovementioned study does not say at any point that NG owns the land, but states that NG has leased the land from the Uganda Investment Agency (p. 17, Box 1, line 6f). Therefore FIAN rejects the allegation that the study provides wrong information. FIAN underlines, however, that leasing land for 99 years falls under the definition of land grabbing used in the study as the company has gained control over the land and related resources in question for a period of time which exceeds one family generation while at the same time the local communities have been deprived of it.

There is ample proof that a violent eviction took place, among others the following sources:

- 10 Affidavits of evictees and local leaders
- The Monitor (Ugandan Daily Newspaper) 2001: UPDF evicts 300 families as foreign investor takes land, 25.9.2001, The Monitor No. 268, page 5.
- The New Vision (Ugandan Daily Newspaper) 2001: German firm displaces over 1,500 in Mubende District, 24.9.2001, The New Vision Vol 16, No .229.
- Nuwagabe, Augustus/Banga, Margret (Makarere University) 2002: The Impact of Foreign Direct Investment on the Local Economy: The Case of Kaweri Coffee and Kalangala Palm Oil Investments, Kampala: ActionAid.
- NDR (German Public TV station) Panorama segment 2013: Coffee to Go, available with English subtitles at <http://www.fian.org/en/library/multimedia/coffee-to-go-with-a-taste-of-eviction/coffee-to-go-panorama-segment/>.

FIAN can provide copies of all these documents.

3. Land lease “subject to NG’s requirement that it have a clean title” (NG statement, page 2, para 4, last sentence)

The study refers to this only by using a different wording (p. 17, Box 1, line 6f): “The agreement [...] included a clause that the land had to be uninhabited and former inhabitants were to be compensated.” Once again, we reject the allegation to have provided wrong information.

4. Lack of participation of the affected people

In its statement, NG states that the former owner of Buwekula Block 99, Plot 1 had informed the occupants about the sale of the land. However, according to Ugandan law, the sale of land does not imply automatically that all occupants have to leave. In fact, many of the evictees were lawful customary tenants who are guaranteed security of occupancy under the 1998 Land Act of Uganda. According to this Act, specifically Article 29(2-a),² the evictees were bona fide occupants of the land. This means that they had occupied and utilized or developed the land unchallenged by the registered owner or agent of the registered owner for twelve years or more. In these cases, the Land Act guarantees perpetual security of occupancy.³ This legal provision has been totally ignored by the Ugandan Government and NG.

In addition to this, the time between the announcement that people should vacate the land and the forced eviction was too short as to seek legal clarity e.g. by a court ruling. The affected people have also not been involved in the decision to give their land to a German company. The opportunity to participate in decisions and proceedings which affect one's livelihood is a basic condition and principle of human rights. The right of people to be protected against forced evictions and states' human rights obligations in this respect have been outlined (CESCR) as well as the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement.

5. Lack of compensation of the evictees

In its statement, NG states correctly that compensation was offered to the evictees. However, those offers and the compensation have never materialized. According to reports of the evictees (e.g. above mentioned affidavits), the study by Nuwagaba/Banga and reports of local leaders, the people of Mubende have been forced at gun point to sign already prepared "agreement to vacate Buwekula Block 99, Plot 1". Those "agreements" were written in English and had previously been signed and stamped by local leaders of different levels (Local Councils I and II, Resident District Commissioner), the former land owner and a lawyer. Those "agreements" do therefore not constitute a proof that the affected people have agreed to leave their land. Testimonies rather prove that:

- a) The later evictees were called into offices of the local leaders and were forced to sign those agreements in the presence of army soldiers.
- b) Most of the affected people are illiterate and do not speak English. Hence they could not read what they had to sign.
- c) Even local leaders do not always speak English. They further state that they were confronted with "agreements" that had already been signed by leaders of higher position.

Furthermore, those "agreements" say that the families would shift "to Buwekula Block 168, Plot 19, 22 and 23 at Kambuye where I [the head of the family] will be allocated land equivalent to what I have previously developed on the former land."

Consequently,

- a) these "agreements" cannot be considered as signed receipts of land but only declarations of intentions.

² See Ugandan Land Act, http://faolex.fao.org/cgi-bin/faolex.exe?rec_id=079962&database=faolex&search_type=link&table=result&lang=eng&format_name=@ERALL

³ Idem, article 3 (2-a).

- b) the land title of the mentioned Buwekula Block 168 does not show a change of ownership in the years 2000-2001.

This would have been a precondition to hand over that land. FIAN can provide copies of those “agreements” and the land title.

On 24 March 2013, FIAN visited the land plot proposed for relocation at Kambuye together with the local leader of that area. The plot turned out to be a forest without any sign of provided infrastructure for villages such as houses, roads, boreholes or school buildings. The local leader has confirmed that the later evictees did not occupy Buwekula Block 168, Plot 19, 22 and 23 at Kambuye because the promises that had been made have never been fulfilled.

Therefore, all former inhabitants of the four villages have been forcefully evicted not only “a few residents,” as NG claims in its statement (p. 2).

6. Involvement of NG and Kaweri in the forced eviction

Several evictees have stated in their Affidavits that two managers of Kaweri Coffee Plantation visited the four local villages together with the (Vice-) Resident District Commissioner (RDC) during the time of the eviction and were present when the latter threatened the inhabitants in case they would not leave. While the witnesses of the evictees appeared at court for cross examination, the witnesses of Kaweri Coffee Plantation Ltd. did not. Therefore we reject the claim of NG that Kaweri has not been “involved in any part or aspect of this process”.

7. Relief programme of NG/Kaweri

As of FIAN’s documentation of the case, in December 2001, Kaweri provided 4 Mio. Ugandan Shilling – at that time equivalent to approx. 2,000 EUR – to the Kiyinda-Mityana Diocese to provide “food, blankets and medical treatment to help the most needy and neglected people in the area” (letter of Kaweri Coffee Plantation Ltd. to Kiyinda-Mityana Diocese of December 2001). However, NG/Kaweri did not step back from their investment project when they learned about the forced eviction. Even if NG claims that the eviction was not demanded or wanted by them, it did not challenge the Ugandan Government of unlawful implementation of the leasing contract. Just “regretting” the treatment of 25 families without taking legal action does not take away the legal responsibility of being an accomplice in the illegal forced eviction that led to the illegal occupancy by NG.

In this context, it should also be mentioned that NG does not say in its statement that the head quarter of Kaweri Coffee Plantation Ltd. is located in what previously was the Kitemba Primary School, a fact that has caused the school’s pupils one year without school after the eviction.

8. Financial support of the establishment of Kaweri Coffee Plantation through the German Development Agency and the African Development Bank

The summary of the evaluation report “Deutsche Entwicklungszusammenarbeit mit Uganda – Public-Private Partnership (PPP) – Länderstudie Uganda” of February 2002,⁴ contains data of a project on ecological coffee production by NG which started in October 2000 and ended in October 2003 – the period of the establishment of Kaweri Coffee Plantation. According to that report, the German government supported the project through its agency GTZ (now GIZ) by 0,316 Mio. German Mark. The report does not explain if NG received these funds or whether the German Ministry of Economic Cooperation and Development subcontracted GTZ to assist the development of the project through provision of services. The abovementioned study, commissioned by the European Parliament, states merely that the German Government supported the establishment of the Kaweri coffee plantation through GTZ and does not only refer to direct financial support.

In its press release no. SEGL3/B/45/02 of 26 June 2002, the African Development Bank (AfDB) announced the approval of a 2.5 Mio. US-Dollar loan “to finance the Kaweri Coffee Plantation Project in Uganda”. The press release specified Kaweri Coffee Plantation Ltd. as the beneficiary. Even if the loan might have not materialized, as claimed by NG in its statement, it has been granted by the AfDB without a proper Human Rights Impact Assessment. The press release was published 10 months after the forced eviction.

9. The judgment by the High Court in Kampala from 2013

This judgement analyses the case very well and profoundly. It is correct that the Court of Appeal has since set it aside and referred the case back to the High Court. However, it should be underlined that this decision was not justified with mistakes or lack of rigor in the analysis of the case, but rather based on the fact that the judgement charged Kaweri’s lawyers, who had not been accused, to compensate the evictees. Sentencing someone who has not been accused is not following the rule of law. This, however, does not question the analysis of the case made by the court and the strong backing of the rights of the evictees that the judgement gave. FIAN’s statement on the judgment is available here:

http://www.fian.org/library/publication/ugandan_court_orders_compensation_be_paid_to_evictees_of_the_kaweri_coffee_plantation/.

It should be mentioned that until today the High Court has not followed the order of the Court of Appeal. No hearing has taken place at the High Court yet.

In addition to comments on the information contained specifically in the abovementioned study, NG uses its statement to accuse FIAN generally of what the company considers as false allegations. We see this as an attempt by NG to damage FIAN’s excellent reputation as an international human rights organization. While this is part of a strategy commonly used by corporations against human rights organizations and human rights defenders, we nevertheless respond to the points raised by NG, so as to enable you to get a clear picture of the case and its history.

10. Lack of compensation for the evictees

⁴ This document does not indicate an author’s name or publisher but according to our research it has been an evaluation done by consultancies in behalf of the German Ministry for development cooperation (BMZ).

Similar to the abovementioned “agreements to vacate,” testimonies revealed that some of the evictees were forced at gun point to sign receipts of 50.000 UGX as compensation. 50.000 UGX were equivalent to approx. 30 EUR in August 2001. To receive 30 EUR for the loss of someone’s property and livelihood cannot under any circumstances be called “compensation”. In the already mentioned documentary, a local leader speaks about this “compensation” from minute 8:10 onwards (<http://www.fian.org/en/library/multimedia/coffee-to-go-with-a-taste-of-eviction/coffee-to-go-panorama-segment/>). He clearly says that those 50,000 UGX cannot be called compensation.

11. Unlawful occupancy of land

As NG states in their letter, among the evictees are families who have proof that they have not been living on Buwekula Block 99, Plot 1, but on Buwekula Block, 103. Some of them have receipts of transfer of their land from their ancestors; one woman even holds a land title of her land. But this did not hinder the Ugandan Government from evicting them without previously conducting a profound research of land rights of the respective families. Even if land surveys have been done, further investigations would have been necessary in order to clarify why the results of the land surveys contradict the documents by some of the evicted families and the legitimate claims of the affected families that their eviction is unlawful. Anna Nandyose Katende, the woman who has a land title, is currently at court against Kaweri Coffee Plantation Ltd. because the company trespassed on her land. Court proceedings are continuously delayed, just as in the case of the trial against the Government of Uganda and Kaweri Coffee Plantation Ltd. filed by the evictees.

12. Complaint against violation of the OECD Guidelines on Multinational Companies

NG’s statement refers to the complaint on p. 3. As stated in the abovementioned study, in 2009, together with the evictees, FIAN handed in a complaint because of infringements of the OECD Guidelines for Multinational Companies to the German National Contact Point (NCP). The German NCP is integrated in the department for promotion of external economic affairs of the Federal Ministry of Economy and Technology. Civil society is not involved in the handling of complaints. This set-up of the NCP obviously leads to conflicts of interest of the NCP, for which the case with the complaint against NG is a good illustration. The demand brought forward by the evictees and FIAN towards the NCP was to mediate the conflict and to support round table conflict solutions between NG, the Government of Uganda and the evictees. The nature of this demand alone clearly shows the readiness of the evictees to solve the case amicably. However, instead of following this demand consequently, the NCP declared that the mediation had ended after the very first meeting between evictees, FIAN and NG had taken place, and totally turned around the situation by demanding from the evictees to contribute actively to the solution of the conflict. This was stated despite the NCP knowing e.g. that the evictees had attended all court hearings and had undertaken several attempts to contact NG.

It should be noted in this context that the German Government has often been criticized by civil society organizations for the biased set-up of the NCP. For example: in its annual review of NCPs in 2014, OECD watch has ranked the performance of the German NCP as relatively poor: fair Visibility, fair Accessibility, poor Transparency, poor to very poor Accountability. (Rankings are: excellent –good – fair – poor - very poor, http://www.oecdwatch.org/publications-en/Publication_4090/ , page 11). This is why the case is also mentioned in the abovementioned study (p. 55f.) as one example showing the limitations of OECD

Guidelines in terms of ensuring accountability as they have not provided remedy to affected people and communities.

Furthermore, the demand of the German NCP towards FIAN to refrain from publicly attacking NG clearly reveals a biased handling of the complaint and shows that the NCP is unjustly supportive of NG. It needs to be highlighted that PR work is a core instrument of human rights work and legitimate means of affected people asking for remedies. Overall, the way the German NCP has been set up and the handling of the complaint of the evictees and FIAN illustrate the neglect of Germany's Extra Territorial Human Rights Obligations (ETOs). FIAN's statement to the closing statement of the NCP is available here:

http://www.fian.org/library/publication/fian_criticizes_premature_closure_of_case_against_neumann_kaf_fee_gruppe/

13. Delaying of court proceedings

Kaweri Coffee Plantation Ltd. has tried to scotch the court case (No. 179/2002) from the very outset, demanding from the High Court that the evictees should be obliged to deposit 1 Mio. UGX per person as security of costs. With ruling from 22/07/2003 the High Court ruled in favour of Kaweri's application demanding the deposit of 20 Mio. UGX (in 2003 equivalent to approx. 9,000 EUR). It was only through support by the NGO ActionAid that the plaintiffs were able to pay the deposit, ensuring that the court proceedings went on. Between August 2002 and March 2013 during the case proceedings at High Court, Kaweri Coffee Plantation Ltd. did not attend 7 out of 15 hearings. In April 2016, the lawyers of Kaweri Coffee Plantation Ltd. demanded again the deposit of 20 Mio. UGX from the evictees and withdrew this demand only after FIAN's intervention.

14. Creation of jobs

The Kaweri Coffee plantation does employ people but, according to NG's own information (statement, p. 4) it has created only 250 fulltime jobs (in addition to not clearly defined other "responsibilities" and "indirect jobs", p. 4). This number has to be read against the figure of 4,000 people (at least 396 families) that lived on the land before the eviction and who have lost their livelihoods because of the eviction. Under these circumstances the number of jobs created turns out to be very small. Furthermore, according to FIAN's research, the majority of workers are daily and seasonal workers without long-term employment, health insurance, social security benefits etc. According to NG they receive a daily salary of only 3,200 UGX by the company which is equivalent to 0,93 US-Dollar, and thus far below the international poverty line of 1.25 US-Dollar per day and person. (<http://nkg.net/userfiles/Documents/2013-02-01-nachhaltiges-engagement-en.pdf>).

During FIAN's last visit to the evictees in October 2014, those interviewed said that workers of Kaweri steal food of the farmers around the plantation because they are hungry. In the documentary "The Mubende case and the bitter taste of eviction," one interviewed worker says that the migrant workers who stay at the plantation get food only once a day and have to sleep in beds without mattresses. (The documentary can be ordered here: <http://ezef.de/>).

15. Effects of Kaweri Coffee Plantation

NG claims that Kaweri Coffee Plantation has contributed to the development of the region around the plantation by improving infrastructure, providing access to medical care, electricity etc. but they have never provided any proof for this claim. An announced study has never been published. Local leaders of the area have told FIAN several times that the plantation has not brought development to them. Rather, the evictees continue to suffer from lack of land, access to water and firewood and as consequence suffer from hunger until today.

Overall, NG's statement proves that the case is a good example of human rights issues that arise in the context of land grabbing, including lack of accountability by public and private actors as well as effective remedies for affected persons, which are precisely the subject of the study commissioned by the European Parliament. The statement further illustrates how corporations seek to refuse any kind of responsibility for human rights abuses caused by their investments and how they try to denounce affected people and civil society organizations that make such human rights offenses and violations public and demand remedies.

██████████, please feel free to address any further questions to us. We can provide all mentioned documents and proof of our statement. We would also like to draw your attention to our documentation of the case:

https://www.fian.de/fileadmin/user_upload/bilder_allgemein/Fallarbeit/mubende/Chronologie_Kaweri_2001-2016.pdf

Yours sincerely,



Philip Seufert

Coordinator, Programme Access to and Control over Natural Resources

FIAN International Secretariat

Letter by the Neumann Gruppe of 15 November 2016



To:
The European Parliament
Directorate-General for External Policies
[REDACTED]
[REDACTED]

Statement by Neumann Gruppe GmbH on the study on "Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union" that was requested by the European Parliament's Subcommittee on Human Rights and authored by various representatives of FIAN and the International Institute of Social Studies

Your letter dated October 20, 2016

Hamburg, November 15, 2016

Dear [REDACTED],

Thank you very much for your above-referenced letter. We certainly appreciate your approach that our statement and response will be annexed to the study referenced above ("the Study"), although it would have been preferred if the authors had presented the information in an unbiased way.

We have received Mr. Seufert's response dated July 11, 2016 and would like to stress that our first statement and the chronology put the facts straight in general. However, there are few points that need to be clarified:

Neumann Gruppe GmbH (NG) acknowledges and respects FIAN International's important work all over the globe. However, in the particular case of the Kaweri Coffee Plantation they are wrong and rely on false sources. Still, as long as FIAN respects the law, there is no intention to challenge FIAN legally.

In his response Mr. Seufert mentions a legal action against a German journalist called Michael Enger, who is widely known to report on behalf of FIAN. Mr. Enger had written an article in a yellow press newspaper and had made certain wrong allegations about the case. Mr. Seufert errs when he claims that the legal action had been withdrawn under the impression of "proof" presented by the newspaper. The judge simply had expressed his opinion on a certain wording in the yellow press article that NG had challenged, which he deemed to be covered by the freedom of the press.

NG very much then and now regrets that 25 families were violently evicted by the Ugandan army. But the Study alleges that "[...] *the inhabitants of four villages [...] (approximately **4,000 people**) in Mubende District, Uganda **were violently evicted** from their 2,524 hectares of land, on which they had been living for years.*"

Neumann Gruppe GmbH

Coffee Plaza · Am Sandtorpark 4
20457 Hamburg · Germany
Tel. +49 (40) 361230 · Fax +49 (40) 36123400
board@nggh.de · www.nkg.net

Geschäftsführung: David M. Neumann
Pablo García C. · Peter Sielmann
Jörn Severloh

Vorsitzender des Aufsichtsrats: Dr. Claus-Georg Nette
Amtsgericht Hamburg · HRB 66888



This is not true in three aspects, namely (i) the total number of people on the land was much smaller and (ii) the majority of them were not violently evicted (iii) only a small number of people had been living on some parts of the land for a substantially longer time.

Neumann Gruppe GmbH regrets and condemns that violent actions took place at all. Still the communicated figures must not be put out of proportion. Apart from official local government records, NG has also an aerial picture from the first half of the year 2001, showing that Block 99 was not inhabited by 4,000 people. There was one large army settlement in the north (Kiryamakobe) with about 2,500 people, who left the area peacefully under army command in due course without any problems. Other settlements visible in the picture merely round up to the ca. 201 families affected, if at all, whereby many of them did not actually live on the land, but rather used parts of it to grow agricultural products. Moreover, correspondence between the former owner of the land and the army from 1999 mentions that there were only 50 families on the land at that time.

The Chronology of Events shows that people were timely informed about the upcoming sale of the property, all people entitled to compensation were compensated as foreseen in the 1998 Land Act of Uganda, a lot of people who were not entitled to a compensation, e.g. because they had not been using the land undisturbed for more than 12 years, still received a disturbance allowance of UGX 50,000.

We strongly oppose to Mr. Seufert's allegation that Kaweri managers had been present when the RDC allegedly threatened inhabitants in case they would not leave. NG has affidavits of the persons in question if and to what extent they attended information meetings, and it was expressly confirmed that no threats were made in their presence.

In any case, the facts and figures will be resolved in the court case at the High Court of Kampala. A preliminary hearing has been set for December 19, 2016.

The Study further alleges *"The establishment of the coffee plantation on the cleared land was supported by the German development agency GIZ (then GTZ) and the African development Bank (AfDB)."* As already outlined before, NG is unaware of any GTZ project at that time, and negotiations with the AfDB for a loan never went beyond a preliminary stage.

Mr. Seufert does not explain why the Study did not mention the fact that the High Court judgment had been put aside by the Court of Appeal, although this had been known at that time. The reasons for the Court of Appeal's decision given in the hearing were plentiful, and not just based on the fact that someone not being a party to the case cannot be the subject of a court order. However, the latter fact disqualifies the judgment in its entirety.

It is not NG's business to question the set-up of the German National Contact Point (NCP). It was FIAN's choice to file the complaint there, not NG's. It must be mentioned, though, that the decision was supported by the Steering Group of the NCP, which consists of representatives from all other relevant German Federal Ministries, and when the parties met in Berlin there were seven different Federal Ministries at the table.



The wages paid on the Kaweri Coffee Plantation are higher than stated by Mr. Seufert, currently UGX 4,065 (ca. USD 1.13) are paid per task; a task will take about 4 to 5 hours to be performed. The average daily wage therefore amounts to USD 1.82 – 2.42, many workers earn more than that.

NG has already outlined the positive effects of the Kaweri Coffee Plantation for the region. This had been confirmed by a social impact assessment study commissioned to renowned Environmental Resources Management Ltd. in 2010. The positive impacts can furthermore be seen on <http://www.kaweri.com/kaweri-videos.html> (please see the videos "Working and Living on Kaweri", "Kaweri – a Part of the Community", and "Kaweri – a Biodiversity Sanctuary").

With best regards,

Pablo Garcia C.
Managing Director

ppa. Jochen Michalak
Legal Counsel