The experience of work of FIAN has shown the key challenges in regulating Transnational Corporations. An existing gap is the lack of determination of liability of parent and controlling companies under the jurisdiction of states other than those of the affected. Also enterprises related through contractual relationships or part of the supply chain shall be covered in the treaty. Therefore the treaty has to focus on TNCs. In order to cover these regulatory needs the treaty shall include clear regulations on the separate and joint extraterritorial obligations of states, in line with the Maastricht Principles on these Obligations of States in the Area on Economic, Social and Cultural Rights. Legally this will imply setting standards for national companies belonging to TNCs and economic groups. This could provide orientation on the regulation of other national companies.

TNC are licensed by states and shall not have standing in international human rights law. Human rights historically and conceptually are there to instruct and limit the powers of states, based on peoples sovereignty. Transnational corporations have no legitimacy, nor governance functions in this context.

FIAN is concerned about the ongoing corporate capture of policy spaces, internationally and nationally. In some countries corporations have also captured the territories, and the administrative, legislative and even the adjudicatory systems. To give transnational companies international legal status would further empower corporate capture of human rights.