

CASE REPORT

Pakistan – cheap clothes, perilous conditions

In September 2012, 260 workers died in a fire at the Ali Enterprises textile factory in Karachi, Pakistan. 32 people were injured, some critically. Many of the windows were barred, emergency exits were locked and the building had only one unobstructed exit, impeding the exit of employees who suffocated or were burned alive inside.

The factory's biggest client was KiK, a German discount retailer which disclosed that it bought 70% of the textiles produced by the factory in 2011. KiK has stated that it was its business that enabled the Pakistani manufacturing firm to grow into a major company. KiK also stated that auditing companies were hired to review safety and other working conditions at the factory on a regular basis. KiK knew or should have known about the working conditions, as well as construction details, such as the barred windows – in its CSR reports, the company explicitly indicated that its supply factories are inspected on a regular basis. Just a few weeks before the fire, Italian company RINA issued the factory with an SA 8000 certificate, which is supposed to act as a guarantee of safety as well as social and environmental sustainability standards.

After the disaster KiK paid one million US dollars in emergency aid to the survivors and bereaved. The payout was coordinated by an independent commission, set up by the High Court of Sindh.

Those affected have been negotiating with KiK since the end of 2012, seeking compensation for the permanent loss of earnings from families' sole bread winners, as well as to discuss measures to increase fire safety standards and working conditions. Finally, in December 2014, KiK made an offer to the Baldia Factory Fire Affectees Association that was unacceptable to the injured parties. KiK made it clear to those concerned that it would not want to pay any damages. To date the company has not even paid the 250,000 US dollars it contractually agreed to pay for prevention measures and improving labor rights in December 2012. For these reasons, more than 160 families rejected the offer made by KiK at a meeting held in Karachi on 8 February 2014.

Criminal investigation into cause of fire and liability of international corporations

In Pakistan a criminal investigation into the owner of the factory was discontinued. There are however still a number of pending complaints brought by the lawyer for the victims against the Pakistani regulatory and law enforcement authorities. The accusation: negligence in the investigations into the causes of the fire.

In the proceedings in Pakistan there remains some suspicion of a possible arson attack by local extortionists, yet the cause of the fire is irrelevant for the clarification of KiK's shared legal responsibility for the deaths and injuries. Moreover, it is noteworthy that these suspicions have arisen three years after the fire and that previous investigation reports each identified different causes of the fire.

ECCHR considers it essential that a comprehensive investigation is undertaken into the circumstances of the fire and in particular the role of the international companies involved. Those affected by the disaster have a right to learn the truth, and an investigation may also help to prevent similar tragedies from occurring in the future. For these reasons ECCHR is lending its support to the legal proceedings underway in Pakistan, Italy and Germany.

In the ongoing proceedings in Pakistan, ECCHR has been granted permission to provide expert evidence to the court and in this role it has submitted a legal opinion (*amicus curiae* brief) to the High Court of Sindh in Karachi in May 2014, setting out the Pakistani state's obligations under international law. The aim of the submission is to ensure that the investigation covers not only local actors but also examines the roles played by buyer company KIK and auditing firm RINA. In Italy, ECCHR is also lending its legal expertise to investigation proceedings against the certification firm RINA.

In Germany, lawyer Remo Klinger, acting on behalf of four affected persons, filed criminal charges at the district court of Dortmund on 13 March 2015 regarding human rights violations in the supply chain. The claim is supported by a legal opinion from Essex University, among others.

Precarious working conditions in manufacturing for the European market

The disaster in Karachi is a drastic example of pervasive inhumane working conditions endured by the workers manufacturing textiles for the European market. Wages below subsistence level, overtime on six or seven days per week, abuse and discrimination in the workplace, serious work related accidents and the repression of trade unions – these conditions form part of the everyday reality for millions of manufacturing workers in South and East Asia.

European companies are directly implicated in this problem as their constant demands for lower prices and tight production deadlines exacerbate working conditions in production regions. The pressure to deliver goods quickly and for the lowest possible price is passed on directly to employees by factory owners. European companies, hoping to avoid becoming involved in scandals like the one that followed the Karachi factory fire, oblige supplier firms to adhere to codes of conduct and hire certification firms to audit working conditions in the factories. What the Ali Enterprises case shows, however, is that this system of auditing and certification is not a suitable tool for improving the working conditions for workers. It is therefore all the more important to clarify what responsibility is held by the certification company and by KIK.

Due diligence obligations also apply to supply chains

Under the UN Guiding Principles on Business and Human Rights, European companies are obliged to regularly undertake human rights due diligence reviews of their supply chain to ensure that human rights are not being violated or put at risk by the production process. Where problems are detected, companies must do everything within their power to prevent and remedy human rights violations and risks. ECCHR believes that companies in breach of this human rights due diligence obligation must face legal consequences.