

CASE REPORT _____

Pakistan – cheap clothes, perilous conditions

In September 2012, 258 workers died in a fire at the Ali Enterprises textile factory in the district of Baldia in Karachi, Pakistan. 32 people were injured, many of them seriously. Several 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.

On the initiative and with support by [ECCHR](#) and [medico international](#), four of those affected by the factory fire went before a court in Germany against KiK. In March 2015, they filed a [civil action against KiK](#) at the district court of Dortmund seeking €30,000 each in compensation. The lawsuit was the first of its kind in Germany.

KiK knew or should have known about the working conditions, as well as construction details, such as the barred windows – in its CSR (corporate social responsibility) 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. In September 2016, KiK

announced in the course of a dialogue moderated by the International Labour Organization (ILO) that the company was prepared to pay US\$5.15 million in pecuniary damages to those impacted by the fire. The civil suit in Germany played a key role in the ILO negotiations.

Survivors and the bereaved 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 Affectedes Association that was unacceptable to the injured parties. KiK made it clear to those concerned that it did not want to pay any damages. Even after talks with the claimants' lawyer and ECCHR in January 2015, KiK was not willing to improve its offer. For these reasons, more than 160 families rejected the offer made by KiK. At a meeting held in February 2015, the organization also chose the four claimants who were going to submit the complaint in March 2015.

Criminal investigation into cause of fire and liability of international corporations

In Pakistan, the opening of a criminal investigation into the owners of the factory immediately after the fire was a historic step. The owners were temporarily taken into custody but the proceedings were ultimately discontinued in spring 2016. There are however still a number of pending complaints brought by the lawyer for the victims against the Pakistani regulatory and law enforcement authorities on the basis of negligence in the investigations into the causes of the fire.

In proceedings in Pakistan there remains some suspicion of a possible arson attack by local extortionists, but 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 encompasses 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 Regional Court in Dortmund on 13 March 2015 in connection with human rights violations in the supply chain. On 10 January 2019, the court decided to not investigate the facts in the case. KiK managed to evade its share of responsibility and due diligence for the 258 persons who died in its supply factory: the court rejected the lawsuit referring to a statutory limitation. KiK had agreed to waive a possible statutory limitation, but afterwards insisted that its waiver was void.

In February 2019, the applicants filed an application for legal aid for the second instance with the Higher Regional Court in Hamm. The court rejected the application in May 2019.

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 clothing 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 the Global South.

Transnational 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. What Germany needs is a fundamental reform of its corporate due diligence laws.

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