

CASE REPORT _____

Lafarge in Syria: accusations of complicity in war crimes and crimes against humanity

Sherpa, the European Center for Constitutional and Human Rights (ECCHR), and eleven Syrian former employees of Lafarge, all acting as civil parties, have filed a criminal complaint in Paris against the French company Lafarge concerning illegal activities by its subsidiary in Syria in 2013-14. The complaint names as defendants the group Lafarge itself, its CEO at the time of the facts, Bruno Lafont, the Syrian subsidiary Lafarge Cement Syria, along with its CEO until June 2014 Bruno Pescheux and its CEO since June 2014 Frédéric Jolibois, concerning:

- financing of a terrorist enterprise (Art. 421-2-2, French criminal code);
- complicity in war crimes (Art. 461-2s., French criminal code);
- complicity in crimes against humanity (Art. 212-1s., French criminal code);
- deliberate endangerment of people (Art. 223-1 French criminal code);
- exploitative labor work, undignified working conditions, and forced labor (Art. 225-13, 225-14-1 et 225-14-2 French criminal code).

Subject to final ruling, this case may be a good illustration of how multinational enterprises doing business in conflict zones can directly fuel armed conflicts and contribute to grave human rights violations committed therein. ECCHR, Sherpa, and Lafarge's former employees are demanding that this time, criminal courts take action in order to hold the company responsible for these actions.

What are the accusations against the French company?

In order to file their complaint Sherpa and ECCHR gathered witness testimonies and accessed a large amount of evidence. Some of that evidence was already reported and commented on in Le Monde newspaper in June and November 2016.

Accusations of complicity in serious crimes

In 2010, Lafarge started running a cement factory in Jalabiya, in North-East Syria. The rise of conflicts in 2011 led to the fall in cement production and an explosion in cement prices. While other companies in the region stopped all activities because of the dangerous conflict situation, Lafarge decided to remain active. In 2013, the Islamic State of Iraq and the Levant (ISIL; in the following also Islamic State of Iraq and Syria – ISIS) took gradual control of the cities and roads surrounding the factory. The city of Rakka which is 90 km away from the factory was conquered by ISIS in June 2013, the city of Manjib which is 65 km away from the factory, where most of the factory's employees were housed, fell to ISIL in March 2014.

War crimes and crimes against humanity have been perpetrated by ISIS in a very widespread and systematic manner since the beginning of its engagement in Syria and were also publically reported. The crimes include mass slaughters of ethnic or religious groups, sexual violence, sexual slavery and forced pregnancies, and summary executions, amongst others.

Despite this situation, information submitted to the court indicates that Lafarge may have entered, via intermediaries that it hired, into negotiations with ISIS to purchase ISIS-controlled raw materials such as oil and pozzolana. Information further points to possible large amounts of monetary fees that would have been paid by Lafarge to ISIL for the crossing of checkpoints as a result of which it appeared they obtained official passes from the group – a copy of which was submitted to the court.

These allegations of commercial transactions with ISIS form the basis of the plaintiffs' claim that Lafarge should be investigated for complicity in war crimes and crimes against humanity committed by ISIS, and for the crime of financing a terrorist enterprise.

Violations of Syrian employees' rights

The information obtained further indicates that while Lafarge issued a repatriation order for its foreign employees in 2012, it decided that its local Syrian employees would continue working. Several workers from the Jalabiya factory testified that they kept working despite them having to cross dangerous checkpoints amidst intense fighting or were required to stay in the factory overnight. The complaint further alleges that some workers were threatened by the management team to continue coming to work, some sanctioned with suspension of salaries should they be absent, and at least one worker was fired. Several employees, including one of the plaintiffs in the complaint, were victims

of kidnapping as Lafarge's employees, including on their way to work and at the factory, without Lafarge seeming to intervene or compensate them, including after their release.

Despite the increasing security threats, the former employees claim that Lafarge took no adequate precautionary protection measures for its employees and had no functioning evacuation plan for the factory site in case of an emergency. When the factory was attacked and taken over by ISIS on September 19, 2014, employees survived only because they found their own way to escape.

"For sure there was fear before the attack. There was a lot of pressure around us with fights and bombings," tells a former employee of the factory.

"The management and the safety managers [...] knew that ISIS [ISIL] was near the plant and nobody took any action to protect employees. As normal people we knew where Daesh [aka ISIL] was, how many kilometres away. We tried to make personal arrangements to keep safe, but nothing was made by Lafarge's management to protect us. We made this 'evacuation' individually as simple people, on our own," reveals another employee who was at the factory on the day of the attack by ISIS.

According to Sherpa and ECCHR, Lafarge was thereby complicit in the abductions of its employees by ISIL, which is a war crime. Further, the above allegations put Lafarge in violation of the French criminal law for a series of labor rights violations and for endangering its workers' lives.

Legal grounds for France to hold companies to account for crimes committed abroad

In force since 2005 in France, article 121-2 of the criminal code states that corporations can be held criminally liable when perpetrators of crimes act on the company's behalf. This does not exclude the criminal responsibility of the acting individuals.

French courts also have jurisdiction over crimes committed abroad by both French individuals and French companies, as stated in article 113-6 of the criminal code. In addition, with regard to the charges of complicity in war crimes and crimes against humanity and the charge of financing a terrorist enterprise, the principle of universal jurisdiction under which serious international crimes can be prosecuted in national courts worldwide, also applies, according to articles 689-1, 689-10 and 689-11 of the criminal procedure code.

About Lafarge

Lafarge, a French company created in 1833, is the global leader in construction material and one of the major actors in cement, aggregates and concrete production. Lafarge's headquarters are in Paris, France. The transnational corporation is active in 61 countries, including Syria, and recorded a 12.8 billion euro annual sales revenue in 2014.¹ Following its merger with Swiss company Holcim, the company has a presence in 2500 factories worldwide. Lafarge is led by Eric Olsen who took over from Bruno Lafont as CEO in July 2015.

Lafarge is the global leader in cement production, which represents the main segment of Lafarge's activities. In 2015, the company owned 149 cement production sites in 55 countries, employed 37,000 people and declared a sales revenue of 8.6 billion euro in this sector.² The Middle East is an important market for the company, with almost 5,500 employees in the region.

Lafarge Cement Syria is a subsidiary almost 99% owned by the French group Lafarge. Formerly known as Syrian Cement Company, Lafarge bought it in 2008 when it acquired the leading Egyptian cement company, ORASCOM.

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European Center for Constitutional and Human Rights (ECCHR) e.V.

www.ecchr.eu

¹⁰ <http://www.lafarge.com/fr/finance-chiffres-cles>

² <http://www.lafarge.com/fr/ciment-en-bref>