

EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS



Procura della Repubblica presso il Tribunale di Genova

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Kind attention: *Procuratore Capo*.

Berlin, 04/03/2016

Dear Head of the Procura of Genova,

We would like to request your attention in relation to a highly important file that has been recently transferred to your offices in Genova from the Procura della Repubblica of Turin. It concerns a fire that broke out in a factory which killed 255 persons and injured a further 50 workers. The fire occurred on the evening of September 11, 2012 at the garment factory Ali Enterprises in Karachi, Pakistan. In August 2012, RINA Services S.p.A., an Italian company headquartered in Genova, issued the SA8000 certificate related to that factory.

The European Center for Constitutional and Human Rights (ECCHR) is an independent, non-profit legal organization dedicated to protecting civil and human rights. In this capacity, we work closely with the *Ali Enterprises Factory Fire Affecteds Association* in Karachi, an organization of survivors and families of deceased workers. They are interested in justice and in order to prevent future tragedies, they seek accountability of the owners and companies that bear responsibility for the working conditions at the Ali Enterprises factory. ECCHR supports the Affecteds Association in a lawsuit for fair compensation by four claimants against the retailer KiK Textilien und Non-Food GmbH in Dortmund, Germany, a major buyer at Ali Enterprises.

The victims' Association is represented in Italy by Italian lawyers Stefano Bertone and Marco Bona from Turin, with whom the ECCHR cooperates as well. Messrs. Bertone and Bona also represent several single members of the

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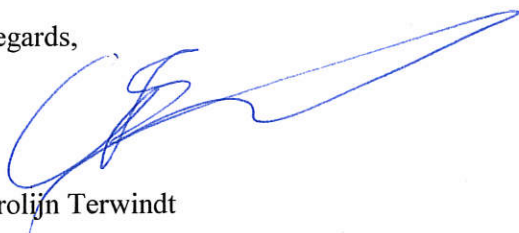
said Association within the criminal investigation that has now been transferred to your offices from Turin.

The SA8000 certification of Ali Enterprises was conducted by a local subsidiary of the Italian certification company RINA Services S.p.A, headquartered at Via Corsica 12, 16128 Genova, Italy. RINA offers conformity assessment, control and certification services in compliance with national and international standards.¹ The SA8000 standard is an auditable certification standard that encourages organizations to develop, maintain and apply socially acceptable practices in the workplace. We expect that a criminal investigation in Genova can clarify the role and responsibility of RINA Services S.p.A. for issuing the SA8000 certificate and failing to note obvious shortcomings in fire safety measures and the high risk for the health and safety of the workers at Ali Enterprises.

States are under an obligation to uphold human rights. The State duty in relation to corporate-related human rights violations was elaborated in the United Nations Guiding Principles on Business and Human Rights adopted by the Human Rights Council in 2011. The second foundational principle requires that *"States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations."*² It is explicitly noted in the commentary to the Guiding Principles that prosecutors are in a unique position to enforce such expectations to respect human rights due to their ability to open criminal investigations on the basis of the nationality of those held responsible.³ States are further encouraged to address accountability obstacles, such as the diffuse attribution of legal responsibility among members of a corporate group under domestic criminal and civil laws.⁴

We therefore respectfully request a meeting with the Procura of Genova at any given time that is suitable for you, in which the ECCHR will confirm it can put itself at disposal of the investigation by the Prosecutor in Genova with all the factual and legal knowledge it has about the present case: such criminal investigation would comply with the State duty to set out clearly the expectation that all business enterprises under Italian jurisdiction respect human rights throughout their operations.

Kind regards,



Dr. Carolijn Terwindt

Dr. Carolijn Terwindt
Legal Advisor
Business and Human Rights

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

¹ RINA Services, "Overview", undated, available at: <http://www.rina.org/EN/istituzionale/presentazione.aspx>

² Ruggie, J, "Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises: Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework", Principle 2.

³ Ibid., Commentary to Principle 2.

⁴ Ibid., Principle 26 and Commentary.