

Regulation on Prohibiting Products made with Forced Labour on the Union Market

POLICY BRIEF

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BACKGROUND

The European Commission cites the International Labour Organisation's (ILO) statistics in highlighting how forced labour remains a prevailing issue worldwide. In recent years, there has been a registered increase in people working in forced labour with 27.6 million said to be working under "forced labour" with 86% being imposed by the private sector. As a result, the EU is proposing this regulation with the aim of banning products within the single market that have been produced under forced labour conditions.

The ILO defines "forced labour" as:

"All work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily." [1]

Despite the EU's existent effort in eradicating forced labour, the continued existence of forced labour shows that there is a need for additional measures, that also take into account products. The proposal thus prohibits the placing of forced labour products on the EU market.

[1] <https://www.ilo.org/global/topics/forced-labour/definition/lang-en/index.htm#:~:text=The%20Definition%20of%20forced%20labour,offered%20himself%20or%20herself%20voluntarily.%22>



THE INSTRUMENT

The EU is proposing a marketing prohibition on forced labour products that would apply to EU-manufactured products as well as imported products. All industry sectors are covered by this initiative. This instrument is also set to complement existing EU initiatives especially the Corporate Sustainability Due Diligence Directive – which aims to address human rights and environmental abuses within value chains.

Cases are to be identified through ‘risk-based enforcement’ method which is to be coordinated through cooperation between national authorities, customs and labour offices. The European Commission would play a coordinating and supporting role.

The costs to companies will depend on the size of the company, the sector and on the supply chain for a given company. The costs borne will be as a result of the procedures needed to monitor the supply chain and additional administrative costs for engaging with competent authorities and customs authorities.

THE PROCEDURE

- The first phase will include data collection, forming a database and as much information as possible on the case. This will involve the authorities assessing if there are well-founded reasons to suspect that products were made with forced labour or otherwise. In the case of substantiated concerns, the authorities will proceed to the investigation phase.
- This is to be followed by a second phase of further information gathering.
- In the event that substantial concerns are raised, will lead to a further in-depth investigation.
- Based on evidence, the authorities will be able to call for a marketing prohibition and a withdrawal from the EU market. If the national authorities cannot gather all the evidence they require, they will be able to make a decision based on the available facts.
- Case reviews will be possible.

ONCE CASES ARE IDENTIFIED...

The EU is proposing a marketing prohibition on forced labour products that would apply to all cases of products which are determined to have been produced by forced labour, products cannot be sold in the EU, or exported from the EU. In case the product is already on the market, the company in question will be required to withdraw it from the market. Companies will also be responsible for the task and cost of disposing of these products. In the case of continued non-compliance, companies face penalties under national law.

SMES

The Regulation focuses on products, irrespective of the size of the companies involved. Having said this, the proposal does take into account SMEs and in such cases, competent authorities will consider the size and resources of the economic operators concerned and the scale of the risk of forced labour before initiating a formal investigation. SMEs will also benefit from support tools.

THE NEXT STEPS

The Commission will also issue guidelines within 18 months from the entry into force of this Regulation. The new EU Forced Labour Product Network will serve as a platform for structured coordination and cooperation between competent authorities and the Commission.

The proposal will now be discussed and agreed by the European Parliament and the Council of the European Union (before it can enter into force). It will apply 24 months after its entry into force.

The full text of the Commission proposal may be found [here](#).

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