

## Forced labour: Council adopts position to ban products made with forced labour on the EU market

The Council has today adopted its position (negotiating mandate) on the regulation prohibiting products made with forced labour on the EU market. The negotiating mandate of the Council supports the overall objective of combatting forced labour, and it introduces several improvements to the proposed text.

The Council mandate clarifies the scope of the regulation by including products offered for distance sales, envisages the creation of a forced labour single portal, and reinforces the role of the Commission in investigating and proving the use of forced labour, while aligning the proposed measures with both international standards and EU legislation.

It is appalling that in the 21st century slavery and forced labour still exist in the world. ILO estimates that 27.6 million people were in forced labour. This hideous crime must be eradicated and the first step to achieve this consist in breaking the business model of companies that exploit workers. With this regulation we want to make sure that there is no place for their products in our single market, whether they are manufactured in Europe or abroad. The Presidency ambitions to finish the interinstitutional negotiations before the end of this legislative term.

*Pierre-Yves Dermagne, Belgian Deputy Prime Minister and Minister for the Economy and Employment*

### Commission's proposal

The proposal prohibits products made with forced labour (as defined by the International Labour Organization) from being placed or made available on the Union market or exported from the Union to third countries. The competent authorities should assess forced labour risks based on a range of different sources of information, such as submissions from civil society, a database on forced labour risk areas or products, as well as information on whether the companies concerned carry out their due diligence obligations in relation to forced labour.

In the event of reasonable indications that a product has been made with forced labour, the authorities should start an investigation. This can include requests for information from companies or carrying out checks and inspections either in the EU or in third countries. If the competent authorities find out that forced labour was used, they will order the withdrawal of the product in question and ban both its placement on the market and its export. Companies will be required to dispose of the goods concerned, and the customs authorities will oversee the enforcement of the prohibition on exports or imports of banned products at the EU borders.

SMEs are not exempted from the regulation, but the size and economic resources of companies, as well as the scale of forced labour, should be taken into consideration before initiating formal investigations. **The proposal also provides for specific support tools to help SMEs** with the application of the regulation.

The proposal foresees **the creation of a Union Network against Forced Labour Products**, which will coordinate the measures taken by the competent authorities and the Commission.

### Council's mandate

The Council negotiating mandate envisages the establishment of the Union Network against Forced Labour Products in order to ensure better coordination between the competent authorities and the Commission in the application of this regulation. The Council position formalises the administrative cooperation within the Network and ensures its active participation **in all phases of the process leading to the banning of a product**.

The mandate also envisages the creation of a **forced labour single portal**, which would provide easily accessible and relevant information and tools, including a **single information submission point**, a database and guidelines, and easy access to information on decisions taken.

The Council position anticipates the necessary collaboration between the competent Member State authorities and the Commission in the application of the forced labour ban regulation so as to ensure that its enforcement and implementation are in line with the requirements of the corporate sustainability due diligence directive and the whistleblowers directive.

## Commission's role in investigations and decisions

To reduce the administrative burden and simplify the allocation of cases, the mandate strengthens the role of the European Commission. The Commission, based on all relevant, verifiable and credible information, will assess whether the products concerned are of Union interest.

A "Union interest" is assumed to exist when one or more of the following criteria are met:

- the scale and severity of suspected forced labour is significant;
- the risks of suspected forced labour are located outside the territory of the Union;
- the products concerned have a significant impact on the internal market (they are presumed to have a significant impact when they are present in at least 3 member states)

If there is a Union interest, the Commission will automatically take over the pre-investigation phase. Otherwise, the pre-investigation phase will be carried out by a national competent authority.

## Investigations

The Council mandate simplifies coordination in cases of cross-border investigations, with the designation of a **lead competent authority** (which will launch the preliminary phase and ensure the continuity of the investigation and the participation of other authorities) and with greater involvement of the Union Network against Forced Labour Products to ensure transparency and a Union approach.

The mandate also clarifies the procedure for field inspections, envisaged as a last resort measure. These inspections should be based on the location of the suspected forced labour risks and be conducted with full respect for national sovereignty.

## Inspections in third countries

According to the Council's position, when there is a need to conduct inspections outside the Union, the Commission must establish contacts with third countries (at its own initiative, in cases of Union interest, or at the request of a competent authority) and ask the third country governments to conduct inspections on the suspected cases of forced labour. If the Commission's request is rejected by the government of the third country, this may constitute a case of non-cooperation and the Commission can take a decision based on other relevant evidence.

## Final decisions

The Commission will be responsible for preparing the final decision (i.e. to ban a particular product) via an implementing act to be adopted in accordance with the examination procedure, and it will provide a non-confidential summary of this decision on the forced labour single portal.

## Next steps

The mandate agreed today formalises the Council's negotiating position. It provides the Council presidency with a mandate for negotiations with the European Parliament, which adopted its position on 8 November 2023. Interinstitutional negotiations will start as soon as possible.

## Background

Around 27.6 million people are in forced labour around the world, in many industries and in every continent. Most forced labour takes place in the private economy, while some is imposed by public authorities.

The Commission proposed the regulation to prohibit products made with forced labour on the European market on 14 September 2022.

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