

Prohibiting products made with forced labour on the Union market

2022/0269(COD) - 14/09/2022 - Legislative proposal

PURPOSE: to lay down rules prohibiting the placing on the EU market of products made with forced labour, as well as their export from the EU.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: forced labour, including forced child labour, continues to be a major global issue, with the ILO estimating the global number of people in a situation of forced labour at around 27.6 million in 2021. Vulnerable and marginalised groups in a society are particularly susceptible to be pressured into performing forced labour. Even when it is not state imposed, forced labour is often a consequence of a lack of good governance of certain economic operators.

The eradication of forced labour is a priority for the Union. However, there is no Union legislation that empowers Member States authorities to directly detain, seize, or order the withdrawal of a product on the basis of a finding that it was made, whether in whole or in part, with forced labour.

CONTENT: the objective of this proposal is to effectively prohibit the placing and making available on the EU market and the export from the EU of products made with forced labour, including forced child labour.

The prohibition covers domestically produced and imported products. In order to ensure the effectiveness of the prohibition, such prohibition should apply to products for which forced labour has been used at any stage of their production, manufacture, harvest and extraction, including working or processing related to the products. The prohibition should apply to all products, of any type, including their components, and should apply to products regardless of the sector, the origin, whether they are domestic or imported, or placed or made available on the Union market or exported.

The prohibition will contribute to the international efforts to eradicate forced labour. As for companies, the Regulation will act as an additional incentive to ensure that their supply chains are forced-labour free.

Designated competent authorities

EU Member States will be required to designate competent authorities responsible for implementing and enforcing the Regulation, with the necessary powers and resources. Member States' customs authorities will be in charge of enforcement at the EU borders. They will rely on the decisions by Member States' competent authorities to identify the products concerned and carry out controls for imports and exports.

Investigative process

The proposal puts in place an investigative process which will be carried out in two phases. In the preliminary phase, the authorities assess if there are well-founded reasons to suspect that products have been likely made with forced labour. If they determine that there is a substantiated concern of forced labour, they will proceed to the investigation phase.

Competent authorities will in all phases have to follow a risk-based approach. This means that they should focus their enforcement efforts where they are likely to be most effective, namely on the economic operators involved in the steps of the value chain as close as possible to where the risk of forced labour is likely to occur.

In carrying out investigations, competent authorities will examine all the information available to them. This includes: (i) independent and verifiable information on risks that forced labour has been used in the production process; (ii) information on market surveillance and compliance of products shared by other Member States; (iii) submissions made by third parties including civil society; (iv) information on whether a company carries out forced labour due diligence in its operations and supply chains.

Database and platform

The proposal also provides for the creation of a database of forced labour risk areas or products. Furthermore, a new platform (EU Forced Labour Product Network) will be created to ensure structured coordination and cooperation between competent authorities and the Commission.

Non-compliance and penalties

If the authorities have established that a product was made by forced labour, it 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. It will also be required to dispose of the products. The economic operator concerned will bear the costs of disposing of the prohibited product. This will provide a strong deterrent and incentive for companies to comply. Furthermore, if a company does not follow the decision of a Member State under this Regulation, they face penalties under national law.