

# Proposal for a ban on goods made using forced labour

## OVERVIEW

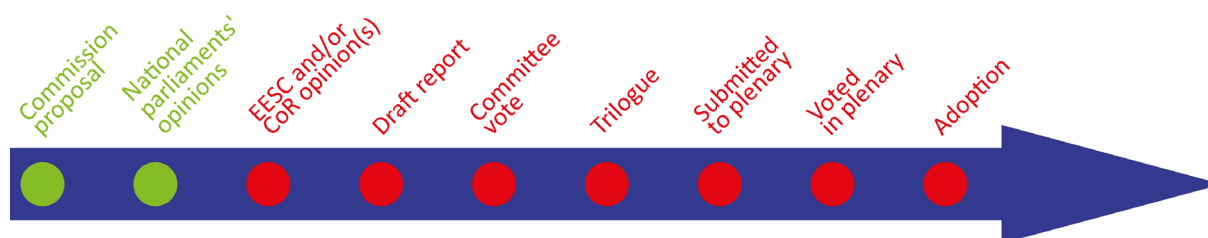
On 14 September 2022, the European Commission presented a proposal for a regulation to prohibit products made using forced labour, including child labour, on the internal market of European Union (EU). The proposed legislation fits into the context of EU efforts to promote decent work worldwide.

The proposal covers all products made available within the EU market, meaning both products made in the EU for domestic consumption and for export, and imported goods. The provisions of the proposal would apply to products of any type, including their components, regardless of the sector or industry.

Member States would be responsible for the enforcement of the regulation's provisions. Their national authorities would be empowered to withdraw products made using forced labour from the EU market, following an investigation. Customs authorities would identify and stop products made using forced labour at EU borders.

In Parliament, the file has been referred to the Committee on the Internal Market and Consumer Protection (IMCO). Maria-Manuel Leitão-Marques has been appointed as rapporteur.

<b>Proposal for a regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market</b>		
<i>Committee responsible:</i>	Committee on the Internal Market and Consumer Protection (IMCO)	COM(2022) 453 final 2022/0269(COD)
<i>Rapporteur:</i>	Maria-Manuel Leitão-Marques (S&D, Portugal)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Shadow rapporteurs:</i>	Krzysztof Hetman (EPP, Poland)	
	Svenja Hahn (Renew, Germany) Anne-Sophie Pelletier (GUE/NGL, France)	
<i>Next steps expected:</i>	Publication of draft report	



## Introduction

Forced labour, including forced child labour, is still widespread across the world. The International Labour Organization (ILO) estimates the global number of people in a situation of forced labour at around 27.6 million, including 3.3 million children.<sup>1</sup>

Forced labour is defined by the ILO forced labour convention 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'.<sup>2</sup> It refers to situations in which persons are coerced to work either through the use of violence or intimidation, or by more indirect means such as manipulated debt, retention of identity papers or threats of denunciation to immigration authorities.<sup>3</sup>

The majority of forced labour takes place in the private economy, while some is imposed by State authorities. Forced labour can be found in a large number of sectors; some economic activities, such as the service, textiles, mining and agriculture sectors, are however particularly affected.

The European Commission proposal builds on international standards and agreements as well as on EU commitments and existing legislation, for instance on [combating human trafficking](#) and on [sanctions against illegal employment](#).

While there is EU legislation in force to combat forced labour, neither existing nor pending legislation includes a prohibition on placing and making available products made using forced labour on the EU market. The new proposal would ban these products from the market.

## Context

According to the [2021 Eurobarometer on social issues](#), nine in ten Europeans consider a social Europe to be important to them personally. Fair working conditions were highlighted as one of the key issues, and 71 % of respondents see a lack of social rights as a serious problem. With its proposal, the European Commission wants to step up efforts to ensure the respect of labour rights and other human rights, thus meeting citizens' expectations. The European Commission proposal follows the commitment made by President von der Leyen in her 2021 [State of the Union](#) speech.

The proposal is equally in line with the [EU's 2020-2024 action plan on human rights](#), which includes as a priority the eradication of forced labour and the implementation of international standards on responsible business conduct.

The Commission communication on [decent work worldwide](#) reaffirms the EU's commitment to decent work both within the EU and globally and sets out the internal and external policies the EU uses to fulfil its commitment.

Furthermore, the European Commission together with the European External Action Service (EEAS) issued forced labour business [guidance](#), which explains the practical aspects of due diligence and provides an overview of EU and international instruments on responsible business conduct that are relevant for combatting forced labour.

Children's rights are a key focus of the Commission proposal. In this respect it follows the EU Charter of Fundamental Rights, which explicitly prohibits child labour (Article 32). It is also in line with the 2021-2024 [EU strategy on child rights](#), which aims at protecting and promoting the rights of children both in the EU and across the world. The proposal is also in tune with the Council-led [European Child Guarantee](#) initiative promoting equal opportunities for all children in the EU.

Other relevant international standards cover responsible business conduct more generally, and include the [United Nations Guiding Principles on Business and Human Rights](#) and the Organisation for Economic Co-operation and Development (OECD) [Guidelines on Multinational Enterprises and Due Diligence](#).

## Existing situation

At international level the Commission proposal ties in with the guiding principles of the ILO's [Convention 29 on Forced Labour](#) and [Convention 105 on Abolition of Forced Labour](#), together with the [Protocol to Convention 29](#) and [ILO Recommendation 203](#). Eradication of forced labour by 2030 and child labour by 2025 is enshrined as a specific target in the UN [Sustainable Development Goals](#). The proposal is also in line with the EU's commitment to the respect of human rights, as enshrined in the [Treaty on the European Union](#), which binds the EU's activities to the [Charter of the Fundamental Rights of the European Union](#) and the [European Convention on Human Rights](#) (Article 6). The EU Charter of Fundamental Rights explicitly prohibits forced labour ([Article 5](#)), as does the European Convention on Human Rights ([Article 4](#)).

The proposed regulation is intended to complete the EU legislative framework on forced labour. Currently, no Union legislation exists that empowers Member States' authorities to ban a product made with forced labour from the market. The EU has several pieces of legislation in place to tackle forced labour, in particular Directive 2011/36/EU on [combating human trafficking](#) and Directive 2009/52/EC on [sanctions against employers of migrants in an irregular situation](#). In February 2022, the Commission submitted a proposal for a directive on [corporate sustainability due diligence](#) (CSDDD). All EU Member States have ratified ILO Convention 29 and are obliged to take measures against forced labour.

The pending proposal on [CSDDD](#) addresses companies' global value chains. While this directive would require companies to remedy possible violations of due diligence obligations, the proposal does not require Member States or companies to prohibit the placing and making available of any product on the market. The **new proposed regulation on forced labour** would therefore complement these measures with an obligation that **specifically prohibits** the placing of products made using forced labour on the EU market. Unlike the proposed CSDDD, the proposed regulation on forced labour would not introduce any specific requirements for companies to carry out due diligence on forced labour or any other human rights aspects. Businesses falling within the scope of the proposed CSDDD would need to address the risks of forced labour in their supply chain, in line with the obligations under the future CSDDD legislation, which may be sufficient to ensure that no forced labour is involved in their respective supply chains. For these companies, no additional compliance needs will arise from the current proposal on prohibiting products made using forced labour.

The two proposals differ also in their respective scope: while the proposed CSDDD covers both human rights and environmental aspects, the proposed forced labour directive covers only one aspect of human rights. Moreover, not all obligations for due diligence included in the proposal for the directive are necessary to address forced labour risks.<sup>4</sup>

Following ratification of ILO Forced Labour Convention 29) and the Abolition of Forced Labour Convention 105 by all EU Member States, most of them have developed national action plans for the implementation of the UN Guiding Principles on Business and Human Rights. Some Member States have adopted national due diligence legislation, others are considering such legislation.<sup>5</sup>

At international level, the [United States](#) (US) for instance has taken a range of steps to strengthen US legislation and enforcement practice in the fight against forced labour. A recent prominent example is the Uyghur Forced Labour Prevention Act of 2021, which bans imports from the Xinjiang Uyghur Autonomous Region (XUAR) in the north-west of China.

## Parliament's starting position

In several resolutions, the European Parliament has called for a ban on products made with forced labour, in particular:

- in a June 2022 [resolution on a new trade instrument to ban products made by forced labour](#), Parliament called for cooperation with partners who support ending forced labour globally and banning goods made by forced labour;
- in a March 2021 [resolution regarding sustainable and responsible corporate behaviour](#), the European Parliament called for a ban on importing products related to severe human rights violations such as forced or child labour. It also stressed that the objective of combating these practices must be included in all EU free-trade agreements;

Furthermore, the European Parliament adopted resolutions on specific issues related to forced labour, such as:

- in December 2021, Parliament adopted a [resolution on forced labour in the Linglong factory](#) in Serbia;
- in December 2020, Parliament adopted a [resolution on forced labour and the situation of the Uyghurs in Xinjiang](#);
- in February 2020, Parliament adopted a [resolution on child labour in mines in Madagascar](#).

## Preparation of the proposal

The Commission deems a regulation necessary to avoid obstacles to the free movement of goods in the internal market, and to prevent possible distortions of competition caused by diverging national laws.<sup>6</sup> The proposal is therefore based on Articles 114 and 207 of the [Treaty of the Functioning of the European Union](#) (TFEU), which lay down the principles of the functioning of the internal market and of the common commercial policy respectively.

Many stakeholders consulted for input on the proposal questioned the absence of a dedicated impact assessment. The [Commission](#) justifies the lack of an impact assessment with the need for urgent action and time constraints. The Commission refers instead to evidence collected in the impact assessment of other initiatives, such as the due diligence directive and the sustainable products initiative. Furthermore, analysis and supporting evidence are presented in a separate [staff working document](#).

## The changes the proposal would bring

The proposed legislation would complete the existing EU legislative framework on forced labour mentioned above, in so far as it would provide the legal basis to prevent a product made using forced labour from circulating within the internal market as well as being exported. Indeed, Article 3 of the proposed regulation on the prohibition of products made using forced labour provides that businesses must not place or make available on the Union market products that are made with forced labour, nor must they export such products. Consequently, the proposed legislation would have a direct impact on trade and export policy.

It is expected that the ban would contribute to international efforts to eradicate forced labour and to protect workers' rights, as well as children's rights. Consumers could have greater confidence that the goods they buy have been made in full respect of human rights. For businesses, the proposal would help to facilitate social sustainability and to increase public trust and credibility among customers.

## Member States

Member States' authorities would enforce the regulation. The Commission proposes a combined approach, with Member States ensuring the effective surveillance of their respective national markets and the Commission providing accompanying measures to ensure coordinated implementation at EU level.

Member States would be required to appoint one or more competent authorities responsible for the tasks laid down in the regulation (Article 12). These authorities would be asked to follow a risk-based approach (Article 4), meaning that they should focus their efforts on products, companies and places where the risks of forced labour are most prevalent and where the impact is likely to be largest. The emphasis will thus likely be on businesses at early stages of the value chain (importers, manufacturers, producers, product suppliers).

The authorities would be asked to start investigations on products for which there are well-founded suspicions that they have been made using forced labour (Article 5). Should they find evidence for these suspicions, they would take a decision to order the withdrawal of the products already placed on the market, and prohibit placing the products on the market, or exporting them. The decision would be communicated to the company concerned, which would be obliged to dispose of the products in question (Article 6). The authorities' decision would also have to be communicated to the national customs authorities (Article 15), which should then prohibit the release for circulation or export of the product concerned (Article 17). Customs authorities would also take measures to ensure that the product concerned is disposed of in accordance with national and EU legislation (Article 20). The national authorities would be obliged to inform the Commission, as well as the other Member States, of their decision (Article 9).

## Industry

All businesses making products available on the EU market or exporting from it would be covered by the new rules.

The Commission excluded a minimum threshold for the volume and/or value of products, below which no investigation would be launched. While such a threshold would exempt small and medium-sized enterprises (SMEs) from the new measures, the Commission deemed such an exemption likely to jeopardise the effectiveness of the proposal and create legal uncertainty. The proposal instead envisages specific measures for SMEs: before initiating a formal investigation, competent authorities would for instance consider the size and resources of the economic operators concerned, as well as the scale of the risk of forced labour. All companies would receive guidelines, giving advice on where and how to detect forced labour in their supply chains for instance. SMEs would benefit from additional support tools.

Companies would be required to dispose of the goods in question and bear the costs of disposal. Furthermore, if a company does not follow the decision of a Member State under the proposed regulation, they would face penalties under national law.

## Role of civil society

Information regarding alleged violations of Article 3 of the proposed regulation could also be submitted to the competent authorities by private persons or associations.

## Cooperation between Member States and European Commission

In view of an effective cooperation between the Member States' authorities and the Commission, a new platform, the EU Forced Labour Product Network, would be established.

The Commission would support Member States by providing a public database of forced labour risks in specific geographic areas or with respect to specific products including with regard to forced labour imposed by state authorities. Decisions taken by a national authority in one Member State would be recognised in other Member States (Article 14).

The proposal envisages the adoption of delegated and implementing acts. Delegated acts would supplement the legislative act, specifying in particular certain information to be made available to customs authorities, for instance regarding the products and product groups subject to the

provisions, as well as manufacturers and suppliers (Article 16). Acting by the majority of its Members, Parliament can object to the delegated act, in which case it would not enter into force.

Implementing acts would be designed to ensure uniform conditions for the implementation of the regulation. These acts would in particular specify the procedural rules and implementation details (Article 22), as well as the details of the information to be included in the decisions of the competent authorities (Article 7). Parliament may oppose a draft implementing act, in particular if it considers the Commission's powers are exceeded or the act is not compatible with the aim of the basic legal act. However, Parliament has no power to block an implementing act.

The proposal entails enforcement costs for public authorities and compliance costs for businesses.

## Advisory committees

The [European Economic and Social Committee](#) is currently working on an opinion, with Thomas Wagnsonner (Group II, Austria) as rapporteur.

## National parliaments

The deadline for national parliaments to complete their subsidiarity checks was 1 December 2022. The Spanish Parliament, the Czech Senate and the Czech Chamber of Deputies have submitted [opinions](#) on the Commission proposal.

## Stakeholder views<sup>7</sup>

[Business Europe](#) (BE), an organisation representing European enterprises, generally welcomes the Commission proposal. However, the organisation would like to further clarify certain elements of the proposal and raise some broader concerns. In particular, BE sees some overlapping elements between the proposed regulation and the CSDDD, and would like to know how these will work together in practice, in particular in view of avoiding duplication and additional administrative costs for companies. The association also raises concerns regarding a possible fragmentation of the single market, given differing Member State approaches to implementation and enforcement. Furthermore, the association questions the proposed timelines for companies, as well as the proportionality in some cases. It also highlights possible implications for international trade partners and requests further explanations and a timely publication of guidelines.

A broad range of [civil society organisations](#), coalitions and trade unions signed a Civil Society Statement on the proposed regulation. While welcoming the regulation in principle, the civil society organisations consider the Commission's proposal as insufficient. The signees criticise in particular that the workers' fate is not taken into account, and demands amendments ensuring that workers' views and interests are considered at all stages of the investigation and decision processes. The organisations also find it regrettable that the burden of proof would be placed entirely on the Member State's competent authority and asks the co-legislators to seek alternatives to the destruction of goods. They also criticise the lack of remediation measures for affected workers and highlight ambiguities regarding the proposal's enforcement, insisting companies map and publicly disclose their suppliers, sub-suppliers and business partners throughout their value chains, for instance.

## Legislative process

In the European Parliament, the Committee on Internal Market and Consumer Protection (IMCO) will lead the file. Maria-Manuel Leitão-Marques (S&D, Portugal) has been appointed as rapporteur.

In the Council, the Working Party on Competitiveness and Growth has begun its work.

## EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

[Forced labour and child labour](#), Citizens' Enquiries Unit, EPRS, European Parliament, November 2022.

[External policy tools to address modern slavery and forced labour](#), Policy Department for External Relations, Directorate General for External Policies of the Union, May 2022.

Grieger, G., [US approach to preventing imports of goods made using forced labour](#), EPRS, January 2022.

Bakowski, P. et al., [Understanding EU action against human trafficking](#), EPRS, May 2021.

Zamfir, L., [Towards a mandatory EU system of due diligence for supply chains](#), EPRS, October 2020.

## OTHER SOURCES

[Prohibiting products made with forced labour on the EU market](#), Legislative Observatory (OEL), European Parliament.

## ENDNOTES

- <sup>1</sup> Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, International Labour Organization, September 2022, p. 2.
- <sup>2</sup> International Labour Organization Convention 29 on Forced Labour.
- <sup>3</sup> The convention has been ratified by 59 States Parties to ILO, meaning that following its entry into force on 9 November 2016, such states are legally obliged to respect their provisions and regularly report on them to the ILO's standards supervisory bodies.
- <sup>4</sup> Commission Staff Working Document, p. 34.
- <sup>5</sup> Ibidem, p. 17.
- <sup>6</sup> According to the Commission, several Member States have announced the need to adopt legislation to ban products made using forced labour from their markets. These national laws are likely to diverge and would, as a consequence, affect the movement of goods within the internal market.
- <sup>7</sup> This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.

## DISCLAIMER AND COPYRIGHT

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

© European Union, 2023.

[eprs@ep.europa.eu](mailto:eprs@ep.europa.eu) (contact)

[www.eprs.ep.parl.union.eu](http://www.eprs.ep.parl.union.eu) (intranet)

[www.europarl.europa.eu/thinktank](http://www.europarl.europa.eu/thinktank) (internet)

<http://epthinktank.eu> (blog)

First edition. The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure.