

Factsheet 4

EU Forced Labour Regulation & Guide

An Apparel Supplier's Guide

**Key Sustainability Legislation
in the EU, US, and UK**

EU Corporate Sustainability Due Diligence Directive

EU Corporate Sustainability Reporting Directive

New York Fashion Act

EU Forced Labour Regulation & Guide

US Uyghur Forced Labor Prevention Act

EU Ecodesign for Sustainable Products Regulation

EU Packaging & Packaging Waste Directive & Proposal

EU Microplastics Regulation

UK Plastic Packaging Tax

EU Product Environment Footprint Guide

EU Textile Regulation

EU Taxonomy

Acknowledgements

This resource was commissioned and led by:

Epic Group
Norlanka Manufacturing Colomo Ltd.
Shahi Exports Pvt. Ltd.
Simple Approach
Transformers Foundation



In addition, this research was also supported by:

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, GIZ FABRIC Asia
Transformers Foundation



Author:

The Remedy Project is a social enterprise that works to improve access to justice and remedy for migrant workers in global supply chains. They work constructively with governments, civil society, law enforcement, and the private sector to translate the UN Guiding Principles on Business and Human Rights into practice. For more information please see www.remedyproject.co.

Graphic Design:

Fiona Fung

This document should not be construed as legal advice or a legal opinion on any specific facts or circumstances. This document is not intended to create, and receipt of it does not constitute, a lawyer-client relationship. The contents are intended for general informational purposes only, and you are urged to consult your legal counsel concerning any particular situation and any specific legal question you may have.

In addition, many of the legislations covered in this document remain at the early stages of the relevant legislative procedure. The information provided herein has been developed based on the latest draft of the proposed legislation at the time of writing. It is intended that the guidance and recommendations provided in this document will be updated as the legislation develops.

Introduction

a. Objective

This document is intended to enable suppliers in the apparel value chain that are established or headquartered outside of the Global North¹, or whose operations are based outside these jurisdictions or whose supply chains extend to the Global South, to better understand how sustainability-related legislation in the Global North could potentially impact them. While suppliers may not, in all cases, be directly subject to the obligations created by these Global North laws, they may still experience knock-on effects as they form an integral part of the global apparel value chain and produce goods for multinational brands and retailers who have increasing compliance obligations as they adopt new practices in order to respond to the increased legislation. As such, this document aims to:

- Offer a public resource and roadmap for suppliers to proactively respond to and prepare for the requirements of these Global North laws.
- Provide a platform for dialogue and information exchange where suppliers and manufacturers can explore engagement (where possible) with policy makers in Global North jurisdictions.
- Support suppliers in delivering the fashion industry's social and environmental performance goals, and drive meaningful change for rights holders – whether workers, local communities, cotton farmers– globally.

b. Who commissioned this resource and why

This resource was initiated and led by suppliers across production tiers and locations facing many of the same challenges. Despite these shared challenges, rarely do suppliers come together to address these challenges collectively.

Specifically, this resource was commissioned by: Epic Group, Norlanka, Shahi Exports & Simple Approach. In addition, this research was also supported by Transformers Foundation and GIZ FABRIC.

It is important to note the symbolic significance of this piece of work: this is a project initiated and led by fierce – and in some cases direct – commercial competitors. The entities commissioning this resource hope this inspires more apparel suppliers to join forces.

c. Which legislation is covered & why

The entities commissioning this work began by crowdsourcing a longlist of legislation which industry representatives feel are pertinent to the apparel and textile sector (thank to everyone who generously shared their time helping to develop this long list). The entities commissioning this work, in consultation with the Remedy Project, based on significance and impact, narrowed the longlist down to twelve pieces of legislation. The twelve pieces were selected based on the potential scale of cascading impacts and the business risk they pose to suppliers. It is therefore important to emphasize that this resource is not exhaustive.

d. Important legislative context to understand

As governments in the Global North embark on ambitious plans to transition towards climate neutrality, inclusive and sustainable growth, the body of sustainability legislation is expanding rapidly. The European Union (EU) is at the forefront of these changes, introducing a plethora

of legislative and non-legislative measures to implement priority policies such as the [European Green Deal](#). The European Green Deal is a cornerstone of the EU's industrial strategy, comprising a series of proposals to make the EU's climate, energy, transport, and taxation policies fit for reducing net greenhouse gas emissions by at least 55% by 2030, and to secure the global competitiveness and resilience of European industry². There are also sector-specific initiatives such as the EU Strategy for Sustainable and Circular Textiles, which aim to implement the commitments made under the European Green Deal, by setting out measures to address the design and consumption of textile products, and promote a greener and fairer value chain in the textiles industry. The legislations covered in this document such as the EU Ecodesign for Sustainable Products Regulation and Digital Product Passport, EU Corporate Sustainability Due Diligence Directive, EU Regulation on Prohibiting Products Made With Forced Labour on the Union Market (**Forced Labour Regulation**), are only some of the initiatives taken by the EU to execute on the European sustainability policy objectives³.

These legislations create legally binding obligations on companies to consider how they are managing their social and environmental impact. Many of these laws and regulations have global application and/or will impact apparel manufacturing and sourcing hubs outside of the Global North. As such, while these laws originate from the Global North such as the EU, United Kingdom, and United States, they will impact companies operating outside of these jurisdictions. It is therefore a prescient time for companies directly subject to these legislations, and for those who have business relationships with them, to align their sustainability policies and practices with these laws.

At a high level, these laws (especially those relating to mandatory human rights due diligence) can be collectively understood as a legal framework that translates elements of the [United Nations Guiding Principles on Business and Human Rights \(UNGPs\)](#) into binding legal obligations. The UNGPs represent the authoritative framework on how businesses should operationalize their commitments to human rights. As businesses are increasingly required to comply with different (and sometimes overlapping) laws in this area, it is The Remedy

Project's view that businesses that are able to operate in accordance with the UNGPs and other international frameworks such as the [OECD Due Diligence Guidance for Responsible Business Conduct](#) will be more successful in making this transition. Complying with the highest international standards could help future-proof business against future legislative changes and may also be more efficient from a process perspective. Furthermore, the Remedy Project sees a trend of many brands upgrading their internal compliance and value chain requirements based on the UNGPs and international frameworks. Thus, complying with these international standards could help businesses position themselves to align with brands' expectations and easily and effectively adapt to future legislative requirements, as well as satisfy the requirement of other business partners and customers. Instead of having to operate in accordance with different standards of compliance for each jurisdiction and each counterparty, the business can adopt a less fragmented, and thus less burdensome, approach to compliance. Of course, even if suppliers align with established international frameworks, different brands will continue to set varying detailed procedural requirements on their supply chain partners, particularly in the near future. We therefore continue to recommend that suppliers proactively work with brands and retailers on implementation to reduce the risk of multiple interpretations.

e. General implications for companies supplying apparel & beyond

These legislative developments make clear that businesses will need to re-think the way they approach sustainability. This new era of legislation moves sustainability from "nice to have" to "must-have" and requires companies to implement human rights and environmental risk management practices. With this transition, we expect to see more cross-functional efforts to embed considerations of human rights and environmental impacts into business' day-to-day operations and overall strategy. In this new landscape, in-house legal teams must work closely with procurement and sourcing, operations, product teams, and in-house sustainability experts to achieve compliance. There must also be executive and management level buy-in, and attention given to sustainability issues.

f. Likely implications for suppliers

Some of the key and recurring operational implications for suppliers are likely to include:

- Increased demands from brands for visibility into upstream supply chain partners' practices and full supply chain traceability
- More stringent codes of conduct and contract clauses from brands who work to protect themselves in case of legal investigation and penalties.
- Increased reporting requirements and data requests. This will require stronger supply chains and data storage.
- Until legislative frameworks fully mature, different EU states may interpret requirements differently and brands are likely to set different requirements. However, given the common trend of adopting rules and requirements on the basis of international principles and standards, such as the UNGPs and OECD Due Diligence Guidelines, aligning internal systems and procedures with those principles and standards can be a good start towards satisfying varying requirements.
- Increased emphasis for suppliers to implement due diligence processes to identify, prevent, remediate and report on social and environmental impacts.
- Increased focus on grievance mechanisms. Here too there is a risk that different brands will interpret new requirements differently and that this could lead to varying standards within a single facility.

It is hoped that this document will provide companies – especially those engaged in the apparel value chain – a roadmap to navigate this fast-evolving regulatory landscape.

How to Use ● This Document

This document comprises a series of factsheets. For each legislation, the factsheet will cover the following topics:

1. Overview

A summary of the key aspects of the legislation.

2. Context

A description of the political context and policy objectives that the legislation seeks to address or achieve.

3. Status

Whether the legislation is in effect and if not, the current stage of the legislative procedure. If known, the expected timeline for implementation is also provided. For proposed EU legislation, users may find it helpful to refer to the [European Parliament's infographic](#) for information on the different stages of the EU legislative procedure.

4. Scope

This section sets out the types of companies or products that fall within the scope of the legislation. This may include, for example, an explanation of the thresholds that a certain company must meet for the legislation to apply. Our suggestion to suppliers is to start by identifying whether they are directly in-scope and, if so, review the obligations and compliance recommendations for companies in-scope (Sections 5 & 6). If a supplier has established that they are not directly in-scope, it is our suggestion that those suppliers review whether the brands for which they produce are in scope. If a supplier's customer is within scope, our suggestion is to review the potential implications for suppliers to companies in-scope (see Section 7).

5. Obligations for companies in-scope

A description of the duties and responsibilities that must be undertaken by the companies that are directly subject to the legislation.

6. Compliance recommendations for companies in-scope

Suggested recommendations for companies to prepare for compliance with the legislation (where the legislation is not yet in effect), or considerations for companies seeking to improve their compliance (where the legislation is already in effect). For the avoidance of doubt, these compliance recommendations do not constitute legal advice or opinion; companies should seek legal advice from attorneys concerning any specific situation or legal question they may have. Moreover, as the text of the laws in many cases remains subject to change, companies should refer to the most updated version of the legislation in developing their compliance strategy. The enforcement actions undertaken by the relevant regulator (once the law is in effect) will also determine the scope of compliance obligations.

7. Potential implications for suppliers to companies in-scope

In some instances, suppliers in the apparel value chain who are not directly subject to the concerned legislation, may still be impacted by the legislation as they supply to companies in-scope (i.e., a fashion brand or fashion retailer in-scope). These may include requirements around transparency and traceability, or obligations to undergo audits or obtain certifications. This section sets out the potential implications of the legislation for suppliers. For the avoidance of doubt, companies in-scope will approach compliance differently and many of the legislations covered in this document are in nascent stages of development. Moreover, the enforcement actions undertaken by the relevant regulator will also affect how companies in-scope respond to the legislation. As such, the guidance provided herein is only intended to represent our best estimates of the knock-on effects of the concerned legislation and is for informational purposes only.

8. Penalties for non-compliance

Where applicable or known, the penalties for companies in-scope that fail to comply with the legislation are set out.

9. Form of Enforcement

A description of the key forms of enforcement action that may be taken by the relevant authorities.

10. Reporting/disclosure for companies in-scope

An overview of the key information disclosure obligations (if any) for companies in-scope.

11. Access to remedy mechanisms and litigation risk

This section notes where the relevant legislation provides a right for legal action to be taken against a company for alleged non-compliance.

12. Opportunity to participate and engage in legislative developments

Where applicable, opportunities to participate in public consultation.

13. Useful resources to support compliance

Links to third-party resources and guidance are provided for further detail on how companies in-scope may approach compliance and how suppliers or business partners to companies in-scope may prepare for cascaded compliance requirements.

Glossary

A glossary of key terms used in this document is set out below.

Brands: For the purposes of this document, this refers to a multinational company that is engaged in the business of offering branded apparel products.

Companies in-scope: Companies that are directly subject to the obligations set out in the relevant legislation.

Due Diligence: A process that businesses should carry out to identify, prevent, mitigate, and account for how they address the actual and potential adverse human rights or environmental impacts in their operations, their value chain and other business relationships.

EU Decision: A “decision” is binding on those to whom it is addressed (e.g., an EU country or an individual company) and is directly applicable⁴.

EU Delegated Act: A delegated act is an EU legislative mechanism to ensure that EU

laws that are passed can be implemented properly or reflect developments in a particular sector.

EU Directive: A directive is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals⁵.

EU Regulation: A regulation is a binding legislative act. It must be applied in its entirety across the EU⁶.

European Commission: The European Commission is the EU’s politically independent executive arm. It is responsible for drawing up proposals for new European legislation, and it implements the decisions of the European Parliament and the Council of the EU.

European Council: The European Council is the EU institution that defines the general political direction and priorities of the European Union.

European Parliament: The European Parliament is the EU’s law-making body that is directly elected by EU voters every 5 years.

Grievance Mechanism: Any routinized, State-based, or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought⁷.

Supplier: For the purposes of this document, unless otherwise specified, this refers to a supplier in the apparel value chain. While the information provided herein is applicable across the entire value chain, it is primarily intended for Tier 1 suppliers and sub-contractors who produced finished goods for fashion brands and retailers, and Tier 2 suppliers and sub-contractors who provide services and goods, such as knitting, weaving, washing, dyeing, finishing, printing for finished goods, and components (e.g., buttons, zippers, soles, down and fusible) and materials for finished goods.

Value Chain: A value chain encompasses all activities related to the production of goods or the provision of services by a company, including the development of the product or the service and the use and disposal of the product as well as the related activities of upstream and downstream business relationships of the company.



EU Forced Labour Regulation and Guide

1. Overview

The Regulation

On September 14, 2022, the European Commission published a proposal for a Regulation of the European Parliament and of the Council on Prohibiting Products made with Forced Labour on the Union Market (the **Forced Labour Regulation**). The objective of the Forced Labour Regulation⁸ is to prevent products made with forced labour (including forced child labour) from being sold in the EU market or being exported from the EU.

Overview (Continued)

The Guidelines

18 months after the Forced Labour Regulation enters into force, the European Commission shall issue guidelines which will include, among other things:

- Guidance on forced labour due diligence that takes into account applicable EU legislation setting out due diligence requirements with respect to forced labour, guidelines and recommendations from international organizations and the size and economic resources of economic operators.
- Information on risk indicators of forced labour based on independent and verifiable information, including reports from international organizations, in particular the International Labour Organization (the ILO), civil society, business organizations and experience from implementing EU legislation setting out due diligence requirements with respect to forced labour.
- A list of publicly available information sources of relevance for the implementation of the Regulation.
- Further information to facilitate the competent authorities' implementation of the Regulation.

As the Forced Labour Regulation has yet to enter into force, these guidelines are not yet available.

Previous Forced Labour Guidance

The European Commission and European External Action Service previously published a forced labour guidance in July 2021, to assist EU businesses in taking appropriate measures to address the risk of forced labour in their operations and supply chains (the **Guidance**).⁹ This Guidance is non-binding and is intended to provide practical guidance for European companies, ahead of the introduction of a mandatory due diligence obligations.

This factsheet will primarily discuss the Forced Labour Regulation but where applicable, the information provided in the Guidance is also referenced.

2. Context

The Forced Labour Regulation was first announced by Ursula von der Leyden, the President of the Commission, in her State of the Union address in September 2021.

The Forced Labour Regulation complements the CSDDD and CSRD by building upon the obligation to conduct supply chain due diligence and highlights the importance for companies to enforce their human rights due diligence programs.

3. Status

The Forced Labour Regulation will need to be adopted by both the European Council and the European Parliament. Once adopted and published, the Forced Labour Regulation will enter into force and, as per its current text, start applying two years later. It is difficult to predict when the Forced Labour Regulation will come into force given that it is still in the early stages of the legislative procedure.

4. Scope

The Forced Labour Regulation covers all products, including for example:

- Products manufactured in the EU for consumption in the EU;
- Products manufactured in the EU for export outside of the EU; and
- Products manufactured outside of the EU for sale in the EU (i.e., imported goods).

The Forced Labour Regulation does not target specific companies or industries, although the European Commission has recognized that forced labour has been more frequently reported in certain sectors, including services, textiles, mining, and agriculture.

The prohibition on forced labour will apply to all economic operators, which is defined as natural or legal persons or associations of persons placing or making products available on the EU market or exporting products from the EU. For ease of readability, we will use the term “company” in this factsheet, instead of economic operator.



Points to Note

- The Forced Labour Regulation defines “making [products] available on the market” as supplying a product for distribution, consumption, or use within the EU. When the product is sold online or through other means of distance sales, the product is considered to be made available in the EU if it is targeted at users or consumers in the EU. The scope includes both products sold in exchange for payment and offered for free.¹⁰
- The “placing of products” under the Forced Labour Regulation means the first instance of making a product available on the EU market.¹¹



- Based on these definitions, the Forced Labour Regulation has a wide-reaching scope and broad extra-territorial application. For example, a garment supplier incorporated in Bangladesh that produces garments at its factories in Bangladesh and exports the garments to the EU for distribution by a European retailer may be subject to investigation under this Forced Labour Regulation.

The Forced Labour Regulation will require competent authorities to demonstrate that there is “substantial concern” that forced labour was involved at some stage of the supply chain before preventing a product from being made available in the EU market or exported from the EU market. A “substantiated concern” must be well-founded, and based on objective and verifiable information.

The definition of “forced labour” means **forced or compulsory labour**, including forced child labour, as defined in Article 2 of the [Convention on Forced Labour, 1930 \(No. 29\) of the ILO](#), i.e., “all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered him or herself voluntarily”.



Points to Note

- Based on the Forced Labour Regulation, a product made with forced labour is any product where forced labour has been used in whole or in part at any stage of its extraction, harvest, production, or manufacture, including working or processing related to a product at any stage of its supply chain.
- For example, if a cotton shirt is found to have used cotton that was farmed by workers in a situation of forced labour, the cotton shirt would be considered a product made with forced labour.

5. Obligations for companies in-scope

Companies placing or making available products on the EU market or exporting such products should take appropriate measures to identify and eliminate any forced labour risks in their supply chains. The scope of the measures and due diligence depends on the proximity to possible forced labour in the supply chain, the specific type of products and the resources of the relevant company. In other words, companies in-scope should take a [risk-based approach](#) to due diligence. A risk-based approach recognizes that companies may not have the resources to identify or respond to all risks of forced labour related to their activities and business relationships at the same time. As such, companies should prioritize their efforts based on the severity and likelihood of harm, focusing their attention and resources at their higher-risk operations and business relationships.

The Forced Labour Regulation does not include any formal or specific measures or due diligence obligations. However, it provides that the Commission will issue guidelines within 18 months after the entry into force. As explained above, these

guidelines have yet to be published and the text of the Regulation also remains under negotiation. As such, it is not possible at this early stage to provide further specificity with respect to companies' obligations.

That being said, the existing Guidance published by the European Commission and European External Action Service offers a framework for undertaking due diligence with respect to forced labour risks. For the avoidance of doubt, this Guidance is non-binding and the advice provided therein may not be aligned with the final text of the Forced Labour Regulation. As such, the below is provided for information purposes only:

According to the Guidance, due diligence should correspond with risks and appropriate to a company's circumstances and context. Due diligence should cover both the company's own activities and its business relationships, e.g, its upstream supply chain. It may also be important to consider how particular risks affect different groups, including

women, religious or ethnic minorities. The Guidance sets forth the following a **six-step framework for effective due diligence** which is based on OECD due diligence framework:

- 1 Embed responsible business conduct into the company's policies and management systems
- 2 Identify and assess actual or potential adverse impacts in the company's operations, supply chains and business relationships.
- 3 Cease, prevent, and mitigate adverse impacts.
- 4 Track implementation and results.
- 5 Communicate how impacts are addressed.
- 6 Provide for or cooperate in remediation when appropriate.

The Guidance also recommends specific measures to **address forced labour**, including:

- ▶ Policies and management systems should be tailored to the risk of forced labour.
- ▶ Risk factors should be considered as part of the due diligence process.
- ▶ Considerations when carrying out in-depth risk assessment of certain high-risk suppliers or supply chain segments.
- ▶ Considerations when taking action to address risks of forced labour.
- ▶ Considerations for responsible disengagement.
- ▶ Considerations for remediation.

6. Compliance recommendations for companies in-scope

The Regulation remains under development and proposed amendments may affect the scope of companies' obligations and the means of enforcement. The below section has been developed based on the current text of the Forced Labour Regulation as proposed by the European Commission.

Given the broad scope of the Forced Labour Regulation and significant consequences of non-compliance, companies in-scope should already ensure that they have an effective due diligence program to identify and address the risk of forced labour in their operations, supply chains and business relationships. This may include (but is not limited) to the following measures:

- Ensure that their policies (e.g., a human rights policy, or supplier code of conduct) and management systems address the risk of forced labour and are effectively embedded within their day-to-day business conduct and operations.
- Conduct and strengthen risk assessments in their own operations and in sourcing practices to identify and assess the actual or potential risk of forced labour. Manufacturing and/or sourcing countries, or raw materials supply chains (e.g., cotton), that are identified as higher risk or 'red flags' should be subject to enhanced due diligence. This process of risk prioritization will enable companies in-scope to determine where to place their time and resources.
- Conduct a comprehensive supply chain mapping and request upstream suppliers and business partners to provide data to enable traceability of materials.
- Require upstream suppliers and business partners to implement their own forced labour due diligence programs and disclose how they are seeking to identify and address the risk of forced labour. Any information or data provided by upstream suppliers and business partners should be verified, through conducting audits and on-site investigations, deploying worker engagement tools, and engaging with relevant stakeholders (e.g., trade unions, civil society, and worker organizations).
- Implement an effective grievance mechanism that is accessible to any stakeholder in their value chain to report allegations of forced labour. Grievance mechanisms should be considered by companies to be a "must-have" and a proactive way of engaging with risk, rather than a "nice to have".

In determining whether there is a violation of the Forced Labour Regulation, the relevant authorities shall take into account:

- Whether the company can demonstrate that it carries out due diligence on the basis of identified forced labour impact in its supply chain; and
- Adopts and carries out measures suitable and effective for bringing to an end forced labour in a short period of time¹²

Where the relevant authorities find that the company's due diligence actions effectively mitigate, prevent and bring to an end the risk of forced labour, they may not initiate an investigation. The safe harbour contained in the Forced Labour Regulation emphasizes the importance of having robust due diligence systems. Where companies have an effective due diligence system this may help protect them from liability.



7. Potential implications for suppliers to companies in-scope

As the text of the Forced Labour Regulation remains subject to change, it is not possible to include with specificity how companies that fall outside the direct scope of the Forced Labour Regulation may be indirectly affected by the law. Companies in-scope may take different approaches to compliance given that the practical application of the Forced Labour Regulation remains open to interpretation at this nascent stage. As such, it is difficult to concretely predict in practical terms the specific knock-on effects across value chains.



Suppliers should expect that companies in-scope will be strengthening their due diligence programs. Today, many European and US-headquartered apparel brands already have due diligence programs and policies that stipulate zero tolerance for forced labour. It is anticipated that these brands and retailers (if they aren't already doing so today) will seek “no forced labour” declarations from suppliers in light of the Forced Labour Regulation. Brands and retailers will also request their suppliers to provide contractual assurances, which may be in the form of warranties and indemnities.



It is expected that these measures will cascade down the supply chain, and consequently, that many suppliers will in turn require their upstream suppliers and business partners to provide similar declarations and contractual assurances. However, companies should be wary of over-reliance on such declarations, and must ensure that they proactively conduct robust due diligence programs and have an effective grievance mechanism in place.



Suppliers should also implement their own due diligence systems to identify, prevent and remediate the risk of forced labour in their operations and supply chain. These systems should be aligned with the OECD due diligence framework. Suppliers may find industry-wide tools and standards helpful.¹³ Suppliers may also invest in supply chain traceability technology or participate in industry-wide supply chain mapping tools. However, as explained above, it is important that suppliers ensure that any such tools or industry-wide schemes are effective and backed up by robust datasets and methodology.



Suppliers should also expect companies in-scope to require them to have an effective grievance mechanism in place, and to socialize the grievance mechanisms operated by companies in-scope. Companies in-scope may also seek to provide support and tools to their suppliers to build their upstream business partners' capacities to identify and address forced labour risks.

8. Penalties for non-compliance

Pursuant to the Forced Labour Regulation, if a competent authority finds that the forced labour prohibition has been violated, it will adopt a decision:

- prohibiting the placing or making the relevant products available on the EU market and their export from the EU;
- ordering the company concerned to withdraw the products from the EU market where they have already been placed or made available in the EU; and
- ordering the company to destroy, render inoperable or otherwise dispose of the relevant products.

Companies will be granted **at least 30 days** to comply with the competent authority's decision. When setting the time limit, a competent authority shall take into account the size and economic resources of the company.

If a company fails to comply, the competent authority will::

- Prohibit the company from placing or making available said products;
- Require the company to withdraw said product from the EU market;
- Require the company to dispose of the remaining inventory of said product, at the company's expense.

If the company concerned can provide evidence showing it has complied with the decision and eliminated forced labour from its operations or supply chain for the relevant product, the competent authority is required to withdraw its decision.

Non-compliance with a decision by a competent authority may result in penalties under rules established by the relevant EU country under national law. Penalties shall be effective, proportionate, and dissuasive. There is no standard penalty amount and as such the form and amount of penalty will depend on the relevant EU country's rules.

9. Form of enforcement

Each EU country shall designate competent authorities which will be responsible for implementing and enforcing the Forced Labour Regulation. Competent authorities are required to follow a risk-based approach, focusing their efforts where they are most likely to be effective, in particular on the companies involved in the steps of the value chain as close as possible to where the risk of forced labour is likely to occur. They will also need to consider the size and economic resources of companies, the quantity of products concerned and the scale of suspected forced labour.

Investigations by competent authorities will be carried out in two phases: **(i) a preliminary phase and (ii) an investigative phase**. Competent authorities will bear the burden of establishing that forced labour has been used at any stage of production, manufacture, harvest, or extraction of a product.

The preliminary phase involves a risk-based approach to determine the likelihood that the company concerned violated the prohibition of forced labour. Competent authorities will examine all information available to them, including:

- Submissions by natural or legal persons or associations or any association not having legal personality.
- Risk indicators and other information pursuant to guidelines to be issued by the European Commission.
- A public database to be commissioned by the European Commission.
- Information and decisions, including any past cases of compliance or non-compliance of the company, recorded in the information and communication system to be established for use by the European Commission, the EU countries competent authorities and customs authorities in connection with the Regulation.
- Information requested by competent authorities from other relevant authorities, where necessary, on whether the companies under assessment are subject to and carry out due diligence in relation to forced labour in accordance with applicable EU or Member State legislation setting out due diligence and transparency requirements with respect to forced labour.



Before initiating an investigation, the competent authorities shall request from the concerned company, information on actions they have taken to identify, prevent, mitigate, or end risks of forced labour in their operations and value chains with respect to the products under assessment. The company shall respond to requests from competent authorities within 15 business days from the day such requests are received. Competent authorities will then have 30 business days after receipt of information from the company to conclude the preliminary stage of their investigation.

Competent authorities shall take into account where the company demonstrates that they perform due diligence based on identified forced labour impact in their supply chain, adopt and carry out measures suitable and effective to bringing to an end forced labour in a short period of time.

If competent authorities determine there is a substantiated concern of forced labour, an investigation will proceed to the next phase. If that occurs, notice shall be provided to the company concerned.

Customs authorities will enforce the Forced Labour Regulation in cooperation with the competent authorities by denying entry into or exit from the EU of products made with forced labour. The Forced Labour Regulation will also empower the European Commission to adopt delegated acts¹⁴ supplementing the Forced Labour Regulation that identify products or product groups for which information will be required to be provided to customs authorities in decisions.

10. Reporting/disclosure requirements for companies in-scope

Not Applicable.

11. Access to remedy mechanisms and litigation risk

Competent authorities shall give the concerned companies a reasonable time of at least 30 days to comply with their decision. If the concerned company can provide evidence showing it has complied with the decision and eliminated forced labour from its operations or supply chain for the relevant product, the competent authority must withdraw its decision.

12. Opportunity to participate and engage in legislative developments (if any)

Public consultation for the Forced Labour Regulation has closed.

13. Useful resources to support compliance

European Commission, [Proposal for a Regulation on prohibiting products made with forced labour on the Union market](#)

European Commission, [Questions and Answers: Prohibition of products made by forced labour in the Union Market](#)

European Commission, [Factsheet Forced Labour Ban](#)

References

- 1 For the purposes of this document, “Global North” encompasses the European Union, United Kingdom, and the United States.
- 2 European Commission, [A European Green Deal](#)
- 3 See for example the summaries of EU legislation on environment and climate change.
- 4 European Union, Types of legislation
- 5 European Union, Types of legislation
- 6 European Union, Types of legislation
- 7 UNGPs Principle 25 and commentary
- 8 A regulation is a binding legislative act. It must be applied in its entirety across the EU.
- 9 European Commission, [New EU guidance helps companies to combat forced labour in supply chains](#). Note that the link to download the guidance is currently broken on the date of access (March 29, 2023).
- 10 Article 2, Forced Labour Regulation
- 11 Ibid
- 12 Article 4(6), Regulation
- 13 For example, the [YESS Standards for Spinning & Fabric](#).
- 14 A delegated act is an EU legislative mechanism to ensure that EU laws that are passed can be implemented properly or reflect developments in a particular sector.

Discover Other Factsheets from An Apparel Supplier's Guide

1

**EU Corporate
Sustainability
Reporting
Directive**

2

**EU Corporate
Sustainability
Due Diligence
Directive**

3

**New York
Fashion Act**

4

**EU Forced Labour
Regulation
and Guide**

5

**US Uyghur
Forced Labor
Prevention Act**

6

**EU Ecodesign for
Sustainable
Products
Regulation**

7

**EU Packaging
and Packaging
Waste Directive
and Proposal**

8

**EU Microplastics
Regulation**

9

**UK Plastic
Packaging Tax**

10

**EU Product
Environment
Footprint Guide**

11

**EU Textile
Regulation**

12

EU Taxonomy