



European Union Takes Another Step Towards Banning Forced Labor: 6 Compliance Tips for Employers

Insights

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The European Council recently approved a regulation that will ban products in the European Union that were made using forced labor. The new regulation covers products made with forced labor across the globe that are placed into or exported from the EU market. The regulation is still working its way through the approval process, but employers should be aware of the main requirements and be prepared for the implications. Here's what you need to know – plus six compliance steps to consider taking before the rule ultimately takes effect.

The Forced Labor Regulation

The Council's prohibition will broadly apply when forced labor is used at any stage, including the production, manufacture, harvest, or extraction of the product. Notably, the regulation applies to products made in the European Union and in other countries, and there is no limit on the type of product, sector, or origin. However, you should note that the regulation will not require the withdrawal of products that have already reached end users in the European Union market.

EU authorities, such as the European Commission or a Member State, will be responsible for initiating investigations to determine whether a product was made with forced labor. If the authority establishes that forced labor was used, it will issue a decision determining prohibitions on placing, making available, or exporting the product. The authority will also determine whether to require the company to withdraw, donate, recycle, destruct, render inoperable, or dispose of the product. This decision will apply in all Member States.

In addition, the European Commission will create a database of forced labor products and high-risk areas to help authorities assess possible violations. Member States are encouraged to share information with each other and with the European Commission if they suspect a violation is happening in the EU or in another country.

Risks of Non-Compliance

Member States will consider the following factors when determining the penalties for non-compliance:

- Gravity and duration of the violation;

- Prior violations by the same company;
- Degree of cooperation with the authorities; and
- Other mitigating or aggravating factors, such as financial benefits and gains or losses avoided.

Additionally, if authorities determine that a product was made using forced labor, the applicable company will be prohibited from selling or marketing the product, which will likely result in financial losses. Businesses should also be aware of possible reputational damages if the decision becomes public.

What's Next?

The Forced Labor Regulation is currently awaiting signature by the President of the European Parliament and the President of the European Council. Once these signatures are obtained and the regulation enters into force, it will become effective within three years.

What Should You Do?

Ahead of the ultimate effective date, U.S. companies with EU operations should take a close look at their supply chain, ensuring that their workforces are properly paid and managed in compliance with local laws. To stay compliant, you should consider taking these six steps:

- 1. Take a look at your policies and practices** and update your compensation practices and work conditions as necessary in light of local laws and requirements.
- 2. Track and review existing workforce agreements** to ensure transparency with all third-party vendors.
- 3. Ask third-party vendors to provide documentation** on all workers involved in your supply chain, demonstrating that these workers are properly registered and paid, and that the provision of services complies with local laws and requirements.
- 4. Investigate and seek clarification** if information provided by a third-party vendor is unclear, missing, or incomplete.
- 5. Terminate agreements** with third-party vendors that refuse to provide information or are in breach of local laws and requirements.
- 6. Reach out to our International Practice Group** to help your business navigate these changes.

Conclusion

We will continue to monitor developments related to employment law changes in the European Union, and specifically, the enactment and application of this new Forced Labor Regulation. Make

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