Finnwatch ry submission
to the European Commission
5.3.2026

Subject: Call for evidence – Guidelines on the implementation of the EU rules on forced labour

Finnwatch welcomes this opportunity to provide feedback for the consultation on guidelines on the implementation of the EU rules on forced labour. Finnwatch is an independent watchdog organisation focussed on business and human rights, climate change, and taxation. We are based in Helsinki, Finland.

Finnwatch's responses to the consultation questions draws from our past work on forced labour in global supply chains (mainly in South East Asia but also e.g. in the context of state imposed forced labour in the Xinjiang Uyghur Autonomous Region in China), on exploitation of migrant labour in the construction sector and forest berry sector in Finland, and on implementation of the international business and human rights standards.

• What are the main types of evidence that should be considered by the Commission and competent authorities during the investigative process?

The evidence that is considered in the process should mainly focus on documentation and other types of evidence that is relevant in order to establish the presence of any of the recently updated ILO indicators of forced labour (https://www.ilo.org/publications/ilo-indicators-forced-labour-1) and other relevant factors included the ILO handbook Hard to see, harder to count (https://www.ilo.org/publications/hard-see-harder-count-handbook-forced-labour-surveys).

As noted in the ILO indicators, they encompass the most common indicators observed in forced labour cases. However, the set of indicators is not exhaustive and may need to be tailored e.g. to specific sectors. It is also important to interpret the indicators from the victim's perspective. Although a broad range of evidence should be considered, rights-holders / victims' testimonies should be treated as one type of primary evidence.

In developing the guidelines, the Commission should pay particular attention to what kind of evidence is necessary for cases of state imposed forced labour. As noted in the ILO indicators, in such circumstances deception, retention of documents, or threats by employers or recruiters, may not apply in the same way. Instead, compulsion is embedded in official rules or orders that individuals have no real ability to refuse, making it harder to distinguish.

As such, in the cases of state imposed forced labour, the evidence should be mainly concerned with supply chain information. For all imports from areas and, where applicable, sector, where state imposed forced labour is present, the threshold for substantiated concern should be considered to be automatically met. This is because individual company's human rights due diligence processes are usually inefficient for adequately addressing state imposed forced labour.

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In addition to types of evidence, the guidelines should also address the question of standard of evidence. The investigations under the forced labour regulation are not criminal procedures and accordingly, the standard of evidence should be lower than in criminal cases (i.e. not “beyond reasonable doubt”).

• What are the main types of documentation that economic operators could provide in the preliminary phase of the investigation?

Documentation requested from the economic operators should focus on their human rights due diligence - documentation on the mapping of their supply chains (including full supplier lists to the level of primary production) and the related human rights impact assessments including measures implemented to address forced labour risks (if identified and also covering possible previous cases of (alleged) forced labour). The information on the implemented measures should be specific to what the company itself has done (including e.g. any changes to internal processes such as purchasing practices), and cover possible remedial measures. However, having merely set up processes (such as complaints mechanisms) or having in place a code of conduct or a modern slavery statement, or similar action, should not be considered sufficient on their own if the company cannot demonstrate tangible outcomes of its actions taken and how they have improved the circumstances of the affected stakeholders. Naturally, the information should also be specific to the product in question.

The documentation should also cover information on possible third party certifications/audits, their criteria related to forced labour (including definition of forced labour) and methodology for assessing possibility of forced labour during audits. These should be compared against the ILO definition and the ILO set of indicators. Our experience shows that many of the certification/auditing schemes do not, for example, cover the recruitment stage although debt incurred during recruitment is often common and may constitute an indicator of forced labour. The documentation should also include other information on the certification scheme’s assessment methodology, such as whether it includes worker interviews and whether the interviews are conducted in a way that enables the workers to speak free from fear of retaliation. Any audit findings related to forced labour should also be disclosed as well as, where relevant, any related corrective action plans and their implementation.

Importantly, the competent authorities should always seek to confirm any information provided by companies independently from the affected stakeholders or their legitimate representatives.

As mentioned above, in cases of state imposed forced labour, establishing substantiated concern should be based on supply chain information. Human rights due diligence exercised with a view to managing the risk is therefore not relevant for establishing substantiated concern in such situations.

• What types of documentation and evidence should stakeholders provide when submitting information on alleged cases of forced labour?

The guidance should be mindful of the fact that it is the competent authorities' job to establish a substantiated concern that there has been a violation of the Art 3 of the Regulation. Although guidance on the types of documentation and evidence is welcome, such guidance cannot and should not constitute requirements.

In many cases, stakeholders' access to documentation and evidence is poor and their ability to collect and share documentation and evidence may also be very limited. Supply chains also often remain shrouded in secrecy and as such, stakeholders might not be able to provide evidence that certain products are available in the EU-market.

Therefore, the guidelines should focus on providing examples of what stakeholders are encouraged to provide if it is possible for them to do so. Such examples could include first hand testimony, pictures of working / living conditions, pictures of products inc. brand names, copies of payslips etc.

It should also be possible for stakeholders to make anonymous submissions and in any language. Audio submissions should be considered also to accommodate people who cannot write. Submissions from rights-holders / victims should not be made public, as publication of information may function as a barrier for making submissions in the first place.

Stakeholders who are not themselves affected stakeholders e.g. NGOs, journalists and researchers should also be encouraged to submit research reports and other publications relevant to the topic.

When assessing the evidence submitted by stakeholders, the competent authorities should be mindful of the many stakeholders' and especially the victims' vulnerable position and the power imbalance between them and the economic actors and authorities themselves.

• What are the best practices for conducting forced-labour-related due diligence (including identifying, assessing and preventing the risks of forced labour as well as bringing forced labour to an end) across product groups or economic sectors?

Good human rights due diligence is aligned with international standards on business and human rights, namely the UN Guiding Principles and the OECD guidelines.

Good practice examples that we have been involved in include lead companies (in these cases brands), engaging with at-risk workers directly or through their legitimate representatives and devising and implementing a responsible recruitment policy. Such a policy should incorporate the employer pays principle. These examples are, of course, not a complete list. They also include lead companies bearing responsibility for example for wages in their subcontracting chain, and regularly collecting data on working hours and wages paid from their subcontractors.

For more information, see e.g. Finnwatch: The long road to respecting labour rights, Chapter 3, https://finnwatch.org/images/pdf/TheLongRoadtoRespectingLabourRights.pdf and Cooperation between Finnwatch and Patagonia leads to improvements in workers' conditions in Thailand, https://www.finnwatch.org/en/news/cooperation-between-finnwatch-and-patagonia-leads-to-improvements-in-workers-conditions-in-thailand

Others have reported similar good experience, see e.g. Company-level stakeholder engagement: The case of the Dindigul Agreement in India in the ILO research brief Import bans to address forced labour, what works and why, https://www.ilo.org/sites/default/files/2026-02/Research%20Brief_The%20Potential%20of%20Import%20Bans%20to%20Address%20Forced%20Labour_Final.pdf

The guidance on best practices should be mindful that in the context of state imposed forced labour, human rights due diligence is not sufficient for addressing forced labour. Instead, it is necessary to disengage from such contexts.

• What best practices can be used for remediating forced labour and the harm caused by an economic operator?

Full compensation, including not only reimbursement of any recruitment fees and related costs but also compensation e.g. for suffering.

As above, engaging with at risk workers or their legitimate representatives and devising and implementing responsible recruitment policies.

These examples are not a complete list.

• In addition to the guidelines, what complementary resources (e.g. FAQs) would be helpful in understanding and complying with the Regulation?

The guidelines (or other accompanying materials) should include a meaningful elaboration, including examples where possible, of certain terms used in the regulation that are vague, such as "systemic and widespread forced labour practices", "independent and verifiable information", "reasonable indication" etc.

The guidelines, or other accompanying materials, should also include procedural and other guidance for the competent authorities on how to conduct investigations in a victim-centered manner and how to protect victims of possible forced labour throughout the process, and include real-life examples of forced labour.

Finally in closing, Finnwatch would like to raise again the issue of transparency of customs' data which has proven essential for the implementation of forced labour import bans in other jurisdictions such as the US. Unlike in the US, and numerous other countries, customs data in the EU is however, not available to the public. This hampers civil society actors' ability to trace supply chains, which in turn, is harmful to the effective implementation of the forced labour regulation. For more information, see e.g. the Finnwatch 2017 briefing Transparency Now: Legal briefing on the disclosure of EU customs data https://finnwatch.org/images/pdf/FW_Transparency_of_customs_data_legal_briefing.pdf.