

About CNV Internationaal

CNV Internationaal is the international solidarity organisation of the National Federation of Christian Trade Unions (CNV) in the Netherlands. Its primary mission is to promote 100% Fair Work globally, focusing on improving labour rights and working conditions in production countries, particularly in Africa, Asia, and Latin America.

We work with local trade unions, training them to become stronger negotiating partners and fostering social dialogue to protect workers. We focus on specific supply chains often prone to forced labour, including agriculture (palm oil, sugar, cashew), mining, and textiles.

One key tool developed is the Fair Work Monitor, a digital survey tool developed to gather data directly from workers in supply chains, which collects data giving indications of forced labour.

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

The Competent authorities (European Commission and national competent authorities) should adopt an approach to evidence allowing for enforcement actions in the context of the Regulation. This includes an evidentiary threshold consistent with the administrative nature of the Regulation, including the inherent opacity of forced labour. The evidentiary regime needs to be open, non-restrictive, non-prescriptive and flexible in order to substantiate the components of forced labour, namely, involuntariness and coercion.

Both the ILO indicators and "*Hard to See, Harder to Count*" framework represent the most common indications of forced labour, and can help to find and structure evidence, but they should not limit other arguments demonstrating involuntariness and coercion.

Given that involuntariness and coercion can have a subjective dimension, it is important to attribute the necessary independent probative value to primary evidence coming from workers such as worker testimony (written and oral), trade union surveys on working conditions, interviews with people who have witnessed specific elements (e.g. limitations on the victims' freedom of movement, document seizure or retentions) and other interviews conducted in safe settings and witness reports.

Additional objective evidence can be correspondence between employers and workers over visa promises, general evidence that shows a worker's vulnerability (e.g. if a country's immigration laws tie a worker's work permit to a specific employer), correspondence or contracts that show the employer promised a different job or salary, evidence that the workers are locked in dormitories during non-work hours, evidence that the workers live on the premises and the entry/exit is controlled by guards, financial records, salary and payroll records, pay stubs, credits/debits into the workers' bank accounts,

bank records showing payments and deductions from worker accounts, records of funds transfers to family in country of origin, medical records, police reports, photographs (i.e. of injuries, dormitories), contracts, emails, texts, correspondence, inspectors reports, CCTV footage, time clock entries, labels, medical records, psychological examinations and so on.

Thirdly, corroborating evidence needs to be taken into account, such as the Forced Labour Risk Database, ILO reports, Academic research, NGO reports, Media investigation, the [ITUC trade union rights index](#) and the [Fair Work Monitor](#). These can corroborate the worker statements and other evidence submitted.

Given the gendered nature of forced labour, a gender lens should be applied, especially in relation to Sexual and Gender Based Violence, sexual harassment, threats of sexual abuse, or quid-pro-quo arrangements as means of coercion. Also, intersectionalities need to be considered, such as migrant status, ethnic, religious minority affiliation, undocumented workers, LGBTQ+ workers, or conflict-affected areas. On corroborating evidence, data should, as far as possible, be gender disaggregated.

Finally, there is the non-cooperation clause in article 20 which describes that in response to a request for information, an economic operator or a public authority, has failed or refused to respond without a valid justification; or failed to provide accurate or complete information with the objective of blocking the investigation; or provided misleading information; or otherwise impeded the investigation, including when a risk of forced labour imposed by state authorities is identified during the preliminary phase of the investigation or during the investigation, it empowers competent authorities to take decisions upon the basis of any "other facts available". This would need to have two consequences, namely that adverse interference can be drawn on the matters covered by the information request, and secondly, that it triggers the lowering of the standard of proof required to make relevant findings, namely when those other facts alone would fall short of reaching the evidentiary threshold.

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

The documentation requested must be proportionate but meaningful, as it must still allow authorities to assess whether there is a "substantiated concern." To this end, EOs can be able to be requested:

- Results from monitoring and evaluation of human rights due diligence;
- Evidence of worker representation, social dialogue and freedom of association in the value chain, including the removal of barriers to freedom of association. Any meaningful actions taken and monitoring of freedom of association. Trade unions and democratic workers committees can provide meaningful information on indications of forced labour at work.

- Workforce parameters such as recruitment documentation (including fee structures, agency contracts, housing arrangements), manning agency licensing (where applicable), workforce or crew lists, employment contracts and translations, payroll and payment proof, including any deductions.
- Grievance procedures and evidence of worker access
- Evidence of corrective action and remediation measures taken
- Supply chain mapping, at least up to relevant risk tiers

As specific groups have higher risks of being victims of forced labour, the documentation should take specific note of groups such as women, migrants, children, specific ethnic groups or religious groups, for example, through the use of disaggregated data.

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

The evidentiary threshold in submission must take into consideration the barriers to providing evidence experienced by victims of forced labour, who may not have access to all relevant documentation that may be required during proceedings. Stakeholders (workers, trade unions, NGOs, civil society organisations) should therefore be able to submit both partial and anonymous submissions, as well as be able to request other measures necessary to avoid retaliation.

On the link with the European Market, stakeholders should be invited to submit why they believe there is a link (e.g. company documents, labels, product characteristics, vessel movement data and customs records). However, it may not always be feasible to do so, and the absence hereof should not disqualify the submission.

4/ 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?

The OECD Guidelines on Multinational Enterprises on Responsible Business Conduct are the basis for effective due diligence. Stakeholder engagement, especially with workers throughout the supply chain, is a crucial part of ensuring the quality of the due diligence process. Freedom of Association, trade union recognition, protection against retaliation and worker participation in monitoring processes are therefore key.

Companies should invest in the formalisation of work through social dialogue, as the lack of contracts and formalised work more generally is a risk of forced labour. Therefore, decent contracts negotiated through social dialogue and recruitment safeguards (direct payment of wages, independent grievance mechanisms, zero recruitment fees) should be part of the due diligence process.

Forced Labour risks deeper in the supply chains are easily missed. That is why a full mapping and disclosure of supply chains, in line with the OECD Guidelines, is crucial.

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

Remediation must be worker-centred, namely that both the parameters of remediation as well as the process are co-developed, delivered and monitored with workers and their representatives. They need to be tailored to the specific situation and need to both bring the workers to a situation as if the forced labour has not occurred, as well as being forward-looking (preventing similar impacts from happening). They can include, depending on the situation:

- full back payment of wages (including interests), and future payment of a living wage,
- repayment of recruitment fees and a future approach to preventing the payment of recruitment fees
- Giving back identity documents and ensuring documents are no longer retained, covering repatriation costs
- Access to alternative decent employment
- Compensation proportional to harm, including psycho-social counselling or therapy.
- Access to justice for victims and the prevention of secondary victimisation through the remediation process.

Economic Operators should prevent recurrence, for example, through rectifying recruitment and employment practices. Instead of just terminating business relationships, companies should seek to improve the situation. Long-term monitoring should be in place to prevent forced labour from recurring. In cases of state-imposed forced labour (SIFL), disengagement may be the only viable solution.

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

- The ILO Declaration on Fundamental Principles and Rights at Work
- The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct
- Resources for knowledge sharing on forced labour in production countries, assisting stakeholders in understanding and complying with the Regulation. This can be done through supporting trade unions in their work on capacity building on the Regulation.
- Resources to help trade unions with gathering data on the working conditions. Trade unions are a reliable source of information and an access point for victims of forced labour.

7/ What kind of training or capacity-building support would be most useful for economic operators to help them comply with the Regulation?

Capacity building must extend beyond Economic Operators to include workers, trade unions and labour rights organisations. It should also focus on how these work together, for example, on social dialogue.

Sectoral or multistakeholder cooperation, such as currently facilitated by the Social Economic Council (SER) in the Netherlands, provide a platform to foster peer-to-peer exchange, company learning and social dialogue. These platforms provide knowledge tools, but also facilitate impact projects where companies work together with trade unions and civil society and companies in production countries. These initiatives can also facilitate connections to organisations with specific expertise. Therefore, supporting multistakeholder structures will be useful for economic operators to comply with the Regulation, but more importantly, through working with trade unions and civil society, these platforms can help prevent and remediate forced labour.