



GUIDANCE DOCUMENT FORCED/COMPULSORY LABOR

COPYRIGHT

Copyright © 2024, Foundation FSSC

All rights reserved. No part of this publication may be reproduced and/or published in any form by means of printed matters, photocopy, microfilm, recording, or any other method or technology without written approval by the Foundation FSSC.

Foundation FSSC
The Netherlands
Website: www.fssc.com

TRANSLATIONS

Please be aware that in the case of translations of the FSSC 24000 Scheme or Guidance documents, the English version is the official and binding version.

DISCLAIMER

The information in these guidance documents is intended to assist with the interpretation, implementation, and auditing of the requirements contained in the PAS 24000. While this information addresses and is consistent with these requirements, it is not intended to add to, subtract from, or in any way modify them.

The requirements in the PAS 24000 need to be viewed from a systems perspective and should not be considered in isolation, i.e., there can be an interrelationship between the requirements in one clause with the requirements in other clauses.

FORCED / COMPULSORY LABOR GUIDANCE ON FUNDAMENTAL APPROACH AND INTERPRETATION

CONTENTS

- 1. INTRODUCTION 3
- 2. DEFINITION 3
- 3. RELATED CLAUSES IN THE SCHEME 4
 - PAS 24000: 4.2 Understanding the needs and expectations of interested parties 4
 - PAS 24000: 5.1 Leadership and Commitment 5
 - PAS 24000: 5.4 Consultation and participation of workers 5
 - PAS 24000: A.2 Forced labour 5
- 4. RECOGNIZING FORCED LABOUR 6
- 5. GUIDANCE FOR ORGANIZATIONS 8
- 6. AUDITING TECHNIQUES 9
- 7. REMEDIATION 10
- 8. BIBLIOGRAPHY 11

1. INTRODUCTION

This Guidance Document is intended to outline a general approach and process specifically related to determining and dealing with forced labor.

One of the ILO's key principles is the elimination of all forms of forced or compulsory labor. It is recognized in the ILO Declaration on Fundamental Principles and Rights at Work as one of five fundamental principles. Observance of labor rights is a key principle within the Social Management Principles of an organization. This includes the risk of potential forced or compulsory labor that may occur within the entire organizational structure in which operational activities are carried out, including its associated suppliers or contractors.

2. DEFINITION

"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."

— ILO Forced Labour Convention, 1930 (No. 29)

This definition consists of three elements:

- (1) **Work or service** refers to all types of work occurring in any activity, industry, or sector, including in the informal economy.
- (2) **Menace of any penalty** refers to a wide range of penalties used to compel someone to work.
- (3) **Voluntarily:** The terms "offered voluntarily" refer to the free and informed consent of a worker to take a job and his or her freedom to leave at any time, with reasonable notice or without facing negative consequences. An example would be where an employer or recruiter makes false promises so that a worker takes a job/position he/ she would not otherwise have accepted.

— The Forced Labour Protocol (Article 1(3))

The ILO's Special Action Programme to Combat Forced Labour has developed a set of indicators to assist all stakeholders in identifying situations and individuals who may be subjected to forced labour. The presence of a single indicator in a given situation may, in certain instances, indicate the existence of forced labour. Collectively, the set of eleven indicators encompasses the major elements that may be present in a forced labour situation, thereby providing a framework for evaluating whether an individual worker is a victim of forced labour. ⁽¹⁾

1. Abuse of vulnerability**2. Deception****3. Restriction of movement****4. Isolation****5. Physical and sexual violence****6. Intimidation and threats****7. Retention of identity documents****8. Withholding of wages****9. Debt bondage****10. Abusive working and living conditions****11. Excessive overtime**

3. RELATED CLAUSES IN THE SCHEME

PAS 24000: 4.2 UNDERSTANDING THE NEEDS AND EXPECTATIONS OF INTERESTED PARTIES

The organization shall determine the following:

- b) the relevant needs and expectations (i.e. requirements) of workers and other interested parties;
- c) which of these needs and expectations are, or could become, legal requirements and other requirements; and
- d) which of these needs and expectations, besides the (legal) requirements identified in c), will be addressed through the SMS.

PAS 24000: 5.1 LEADERSHIP AND COMMITMENT

Top management shall demonstrate leadership and commitment with respect to the SMS by:

- a) taking responsibility for the effectiveness of the SMS;
- d) ensuring focus on social performance throughout the organization;
- f) communicating the importance of effective social performance management and of conforming to the SMS requirements;
- g) ensuring that the SMS achieves its intended results;
- i) ensuring and promoting continual improvement;
- m) ensuring that applicable statutory and regulatory requirements are determined, understood and consistently met.

PAS 24000: 5.4 CONSULTATION AND PARTICIPATION OF WORKERS

The organization shall establish, implement, and maintain a process(es) for consultation and participation of workers and workers' representatives (where they exist) at all applicable levels and functions in the development, planning, implementation, performance evaluation, and actions for improvement of the SMS. The organization shall:

- d) emphasize the *consultation* of non-managerial workers on the following:
 - 1) determining the needs and expectations of interested parties (see 4.2);
- 4) determining how to fulfill legal requirements and other requirements (see 6.1.2);
- 7) determining what needs to be monitored, measured, and evaluated (see 9.1);
- 9) ensuring continual improvement (see 10.1); and
- e) emphasize the *participation* of non-managerial workers in the following:
 - 2) assessing risks and opportunities (see 6.1.1);
 - 3) determining actions to reduce social risks (see 6.1.2);

PAS 24000: A.2 FORCED LABOUR

The SMS shall ensure that the requirements in Table A.2 are satisfied.

1	The organization does not engage in, support or tolerate employment by force or compulsion. All workers (including prisoners) enter into employment voluntarily and may terminate with reasonable notice.
2	The organization does not force any person to work under the menace of any penalty or sanction.
3	No personal documents or any other valuable possessions, such as work permits or travel documents, are withheld from workers, nor are workers required to lodge them with the employer and/or recruiter
4	No fees or related costs are charged (directly or indirectly, in whole or in part) to applicants and workers for services directly related to recruitment or work that can lead to situations of forced or compulsory labour.
5	No monetary deposits, financial or collateral guarantees or personal possessions are demanded as a condition of employment.

6	Workers are not held in debt bondage or forced to work for an employer or any other entity to pay off debt.
7	If advances and loans are available to workers, a written policy about the terms and conditions is in place that is communicated to workers in an understandable manner. These terms (and related interest rates) are not used to bind workers to employment.
8	If a secure storage option for personal documents and valuable possessions is provided: a) it is the choice of the workers to utilize the storage; b) records of storage are maintained, and c) workers have free access to their possessions.
9	When employment agencies or contractors are used, these agencies are required to: a) comply with applicable national legal requirements; b) be licensed or certified by the competent national authority, if applicable; c) comply with the requirements of Table A.2 on forced labour and recruitment fees; and d) not engage in fraudulent or corrupt recruiting practices.
10	The organization does not restrict workers' freedom of movement. The organization does not require workers to remain at the workplace at the conclusion of their working hours or confine them in any worker accommodation.
11	If cases of forced or compulsory labour are found, the organization implements effective remediation, such as compensation for personal and material damages. The remediation actions taken are verified and recorded, the remediation plan is documented, and actions are put in place to avoid recurrence.

4. RECOGNIZING FORCED LABOUR

Slavery was previously used as a term but is nowadays replaced by forced or compulsory labor. According to the report and analysis of the **Global Estimates of Modern Slavery (2023)** from Walk Free, the International Labour Organization, and the International Organization for Migration, it is estimated that more than 50 million people were faced with situations of forced labor or modern slavery.⁽²⁾

Forced labor can occur anywhere in the world and in any part of a supply chain, making it a critical issue for companies looking to manage risk, safeguard their business, and protect workers. The following is not a recapitulation but rather a reference to some of the different components of forced labor or to aspects that can make it recognizable.

1. Following the requirements of PAS 24000, an organization is expected to provide a robust **risk assessment inventory**.

This applies in all respects to specific risks that are inherently associated with it. Factors and circumstances that may lead to potential forced labor should be considered. Country-specific factors, as well as its rural population, can be taken into account when preparing a risk analysis, including sensitive areas and vulnerable groups such as migrants, gender, caste-like layers, religious denomination, contractual status of labor relations, etc.

2. **Debt bondage:** Any form of debt bondage is prohibited. Organizations that demand payment from workers in any way that leads to an employment relationship are strictly prohibited. Workers may be coerced into taking a job against their will or they may have paid excessive recruitment fees and fallen into a debt that they can only repay by staying with the employer (a situation known as debt bondage). In addition, the organizations shall exercise due diligence to ensure that in the event of the use of temporary work or contractually regulated agreements with labor agencies, the safety and freedom of movement of the hired workers are ensured. In the case of abusive practices such as forced overtime or the payment of deposits for employment, particular attention should be paid to employment provided through employment agencies, labor providers, or intermediaries, which could also be located in the workers' country of origin.
3. **Freedom of movement:** Every organization must ensure that workers can move freely inside and outside the perimeters and operating areas. This includes that no movement restrictions apply to workers within and outside of the contractually agreed working hours. Where dormitories are provided and available to workers, they shall always be open and freely accessible and be adequately equipped with safety devices to ensure a private and safe environment.

Particular attention should be paid in the case of remote or hard-to-access locations and facilities. Assuming that the workers do not have their own means of transport, the organization should provide the workers with regulated ways of transport so that the nearest community can be reached by the workers without restrictions.

Workers may not be threatened or subjected to **harassment, physical coercion, psychological violence, and sexual harassment** to keep the person (or even family members) in forced labor.

4. **Contractual agreements:** A contractually regulated employment relationship must be documented and verifiable in accordance with and meeting the applicable legal requirements. Both parties must have agreed to a free and non-coercive labor contract. Contractual elements are in place that grant the worker a regular income, working hours, and freedom of movement, amongst others. Furthermore, it is important that contracts must be written in a language that is understood by workers (see PAS 24000:2022, Table A.8, 1. – “Workers are informed about their employment terms and conditions in writing and in an understandable manner before they enter into employment.”

Care must be taken in the case of using **prison or penal labour**. It is worth noting that under the ratifications of CO29 declared and agreed by the individual states, forced labor is universally condemned, but single countries have not ratified this convention. ⁽³⁾

Prison or penal labour performed by non-convicted individuals carried out in involuntariness is considered forced labour. In most of the cases identified, this can be attributed to forced labour that is imposed by governmental authorities or military institutions. Similarly, the performance of involuntary work by a prisoner hired or placed at the disposal of a private undertaking is also deemed to be forced labor.

In most cases, fundamental human rights, in particular the freedom of assembly and movement, the right to a regular income, and the exercise of religious, spiritual or cultural practices, are rigorously restricted or abolished in most cases.

5. **Human trafficking**, in most cases, can create a close link to debt bondage, as the individual mortgages their services to the organization to repay the loan or advance to the criminal organization. In quite a few cases, victims can be forced to accept unsafe or dubious employment offers, often borrowing additional money in advance from their traffickers and making it even more difficult for them to find a way out. ⁽⁴⁾ In addition to the other indicators described, human trafficking is one of the most severe forms of forced labor and is, therefore, strictly prohibited.

The freedom to **leave your workplace and to resign**. It is strictly prohibited for organizations to enter into contractual agreements with the employee that entail any disadvantage for the employee. This also means that notice periods must comply with minimum labor law and regulatory requirements and must be documented and understood by both parties. The worker has the freedom to leave and quit his/her workplace should they wish to at any time, with reasonable notice and without facing negative consequences.

Storage and retention of personal belongings and documents by the organization.

It is not allowed for the organization to retain travel documents, ID cards, or any other form of original personal identification materials against the will or consent of the worker. It is only permitted to make copies of personal identity documents or passports.

5. GUIDANCE FOR ORGANIZATIONS

Organizations should exercise due diligence on human and social rights when identifying, preventing, and ultimately addressing forced labour, and it is imperative that a process-driven sequence of steps is followed. Successful implementation of the identified measures and the rejection of forced labour within the organizational structure and associated supply chains is an important business issue that also brings economic and social benefits.

(1) The development and **implementation of transparent policies and procedures** which clearly and unambiguously describe the principle that prohibits forced labour, is crucial. Relevant information must be cascaded within the entire organizational structure, including the related supply chain or linked business partners.

(2) Organizations that combat forced labor demonstrate their **commitment to social sustainability**. This not only demonstrates a clear commitment to meeting global Corporate Social Responsibility expectations, in addition the ILO Convention, the OECD ⁽⁵⁾ and UN Global Compact principles ⁽⁶⁾, and that the SDGs 5.2 and 8.7 are being met, but also promotes positive relationships with communities and stakeholders.

(3) The abolition and rejection of forced labor results in the fair and humane treatment of workers, which also **promotes the morale of the workers**, which can ultimately ensure increased productivity, overall efficiency, and product quality.

(4) **Market access**: access to any market may be restricted for organizations associated with forced labour. The elimination of forced labour practices opens up opportunities for global expansion and collaboration with companies that adhere to ethical or social standards.

(5) **Regulatory compliance:** It is known that in most countries of the world, there is a uniform legal stance prohibiting the principles of forced labour. By eliminating forced or compulsory labor, organizations ensure that they comply with local and international labor laws and avoid legal consequences, penalties, and reputational damage.

6. AUDITING TECHNIQUES

Forced labor can take different forms that may not always be immediately apparent due to many factors and circumstances. Hence, identifying forced labor or modern slavery can be challenging for auditors. In that regard, the appropriate use of selective and specific audit techniques or methods is required; considering geographical, cultural, political, and industry-specific elements, the auditor should perform due diligence where appropriate and conduct investigative research on the organization's profile and its potential risk areas before the audit. Therefore, a triangulation of different sources and consideration of multiple perspectives is necessary to draw objective conclusions, taking into consideration the outcome of the site tour, management and worker interviews, record reviews, amongst others.

- (1) **Site tour:** When inspecting the premises, it is important to be alert to any indications of isolated and cordoned-off areas where people may be present or accommodated. It is, therefore, paramount to perform an independent and unrestricted inspection of all premises, perimeters, and dormitories (if applicable).

Where dormitories are provided to workers by the organization, these must be equipped with adequate safety provisions that meet at least the minimum legal requirements as well as the FSSC 24000 Scheme requirements. Windows and escape routes shall not be blocked, and doors or entrances shall always be freely and unrestrictedly accessible to all workers.

- (2) **Worker interviews:** Conducting worker interviews in accordance with the Scheme requirements must serve as an essential basis in this case in order to identify potential forced labor. In the systematic selection of individuals and groups, attention should be paid to the composition of the workforce and vulnerable groups. During the interviews, particular attention should be paid to aspects such as working hours (including potential overtime), contractual arrangements with the organization, remuneration, and, if applicable, accommodation and provisions. To help consolidate any potential suspicions, local or neighboring residents, NGOs, or other institutions may also be called in for advice or questioning. Interviews with relevant functions such as managers, supervisors, and/or security guards/personnel: Questions focused on organization practices should be used to identify any potential indications of forced labor as such situations may not be obvious during the site tour, recorded and/or workers may feel threatened to reveal such aspects. Where a significant part of the workforce is provided through labor providers, interviews with the representatives of such providers should be considered. In any case, relevant records related to the employment conditions, timesheets, and pay shall be made available by the audited organization."

Since in some countries or cultural environments it is not common or even denied to have contact with people of the opposite sex or there may be language barriers, certification bodies should consider the social, religious, and cultural aspects when planning audits and interviews and compose the audit team in such a manner that gender diversity of the audit team can be ensured or the optional use of local interview specialists can be considered.

- (3) **Worker records:** The review of workers' records is conducted in accordance with the Scheme requirements, and the contractual agreement between the worker and the organization should be followed by minimum legal and standard requirements. The worker should not be contractually disadvantaged in any aspect. An additional verification of the time sheets should also assist in determining whether the worker can leave the workplace after the agreed working hours.

7. REMEDIATION

Organizations must have a transparent and accessible grievance mechanism for all workers. This is a universal process that allows any worker to report any labor-related grievance against them and claim their legal rights in an orderly manner without fear of retaliation. It is the sole responsibility of the Certificated Organizations to ensure that an effective grievance mechanism is implemented. This should also be accessible to stakeholders associated with the organization at all levels.

In conclusion, the following practices should be considered:

- (1) Analyze the significance and impact of business partners that could lead to or indicate aspects of forced labor.
- (2) Based on the outcome of the risk assessment, meet legal requirements, strengthen strategic alliances and seek advocacy, and provide access to internal processes.
- (3) Communication and reporting on the organization's Social policy, including the social objectives and a commitment to the elimination of forced labor, with the possibility that all communication channels are freely accessible internally and externally.

In this context, it should be ensured that in the event of forced labor:

- (a) A robust and demonstrably consistent risk assessment is in place by the organization.
- (b) This includes an adequate mitigation and prevention plan based on the identified risks.
- (c) Finally, affected individuals or groups are compensated accordingly (in any form). Continuous improvement and actioning the root cause analysis and remediation processes should take place at all levels within the supply chain.

These processes must be provided to all workers in a comprehensible manner and made available in an unrestricted and documented form. Training measures on the rights of a worker and the right to freedom of movement shall be made available to all workers. Ideally, a remediation plan should be based on a sound analysis of the identified situation, conducted in consultation with stakeholders, victims, and other affected groups, as well as governmental and non-governmental actors, as appropriate.

8. BIBLIOGRAPHY

- (1) ILO Indicators Of Forced Labour;
- (2) ILO Labour Standards - Ratifications of C029 - Forced Labour Convention, 1930 (No. 29);
- (3) Walk Free - The Global Slavery Index 2023;
- (4) Anti-Slavery International, Anti-Trafficking Monitoring Group;
- (5) OECD - Guidelines for multinational enterprises - Ending child labour, forced labour and human trafficking in global supply chains;
- (6) United Nations Global Compact - Principle Four: Labour;