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The European Union's Legal Framework on the Prevention of Child Labour in Global Supply Chains: Lessons for Vietnam

Abstract

Over the past years, the European Union (EU) has been the first to come up with a strong legal framework to eliminate child labour within global supply chains. Through tools like the Directive on Corporate Sustainability Due Diligence (CSDDD), the EU is bringing businesses to report, avert and address the negative human rights effects through child labour among transnational corporations in their operations. This research examines the normativity and institutional underpinnings of an EU regulatory strategy on the prevention of child labour in international trade, in terms of its legal enforceability, engagement of stakeholders, and access to remedy. It also discusses the applicability and flexibility of these tools to the situation in Vietnam, a nation that is becoming more integrated into global supply chains and more internationalized due to trade agreements like the EU-Vietnam Free Trade Agreement (EVFTA) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). The study uses a comparative legal approach, which shows that both normative synergies and regulatory gaps can be established between EU legal norms and national legislation on labour in Vietnam. The results indicate, that although the legal system in Vietnam has adopted some of the international labour norms, there are some major issues, especially on the aspects of the legal definition, enforcement ability, corporate responsibility, and supply chain transparency. The paper has concluded that the EU experience has lessons to be learnt by Vietnam, on how to strengthen its child labour governance. These involve institutionalisation of the mandatory human rights due diligence, improving the labour inspection regime, and revising the law to suit international and bilateral obligations. This research paper is a part of a wider research on the issue of responsible global trade and legal reform based on human rights in the emerging economies.

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1 | Introduction

The protection of human rights in global supply chains is a critical issue, and millions of workers, including children, are subjected to poor working conditions, under-subsistence wages, abuse, exploitation, and occupational health risks.^[1] This fact highlights the need to enhance the legal systems aimed at helping in punishing the problem of child labour. It is in this context that the EU has shown a trailblazer as it has passed major legal tools which include the CSDDD and the FLR. These tools institutionalize the transition process of a mechanism of promoting voluntary compliance to the backing of binding due diligence responsibilities on companies, to eliminate child labour. Such change in legislation policy of EU has direct legal impact on partner countries, especially in the case of the implementation of EVFTA to Vietnam. The present paper is hence aimed at the systematic and analytical development of the legal mechanisms established in the EU, and comparing it with the legal framework in Vietnam, to make appropriate policy suggestions that would guarantee compliance and sustainable integration.

2 | Theoretical Framework

2.1. The Concept of Child Labour and International Standards

To date, the term “child labour” continues to be understood differently among countries. This stems from variations in national circumstances, making it difficult to establish a single universally accepted definition. The most widely accepted explanation is that provided by the International

¹ European Center for Constitutional and Human Rights, *Exploitation & Global Supply Chains*. <https://www.ecchr.eu/en/cluster/exploitation-global-supply-chains/>. [accessed: 1.7.2025].

Labour Organization (ILO), which is frequently cited in research. According to the ILO, child labour refers to work that deprives children and adolescents of their childhood, potential, and dignity, and that is harmful to their physical and mental development. Specifically, it includes work that^[2]: (i) is dangerous and harmful to the child's physical, mental, or moral well-being; (ii) interferes with schooling; (iii) deprives the child of the opportunity to attend school; (iv) forces the child to drop out prematurely; and (v) compels the child to attempt to combine school with long and heavy work.

At present, the prevention and elimination of child labour are guaranteed through core ILO Conventions, particularly Convention No. 138 on Minimum Age (1973) and Convention No. 182 on the Worst Forms of Child Labour (1999). The United Nations also emphasizes the right to protection from economic exploitation under Article 32 of the 1989 Convention on the Rights of the Child (CRC), which has been ratified by nearly all countries, including Vietnam. Accordingly, under the international legal principle of *pacta sunt servanda*, both Vietnam and the EU are legally obliged to eliminate child labour through effective domestication and enforcement of these standards.

2.2. Human Rights and Children's Rights Theory

This theory is a theoretical basis for approaches of law on child labour. According to the Office of the United Nations High Commissioner for Human Rights, human rights are universal legal provisions that guard individuals and groups against human rights-related actions or lack thereof, which interfere with their human dignity, rights, and freedoms.^[3] According to this perspective, child labour may be considered as a severe infringement of the fundamental rights of children who are especially the right to education, holistic development, and the right not to be exploited.^[4] These

² International Labour Organization, *What is Child Labour*. <https://www.ilo.org/topics/child-labour/what-child-labour>, [accessed: 1.7.2025].

³ Office of the High Commissioner for Human Rights, *Frequently Asked Questions on a Human Rights-based Approach to Development Cooperation* (New York-Geneva: United Nations, 2026), 1.

⁴ Michael Freeman, "Children's Rights as Human Rights: Reading the UNCRC," [in:] *The Palgrave Handbook of Childhood Studies*, ed. J. Qvortrup, W.A. Corsaro, M.S. Honig (London: Palgrave Macmillan, 2009): 377-393.

rights were established on the basis of the UN Convention on the Rights of the Child and ILO Conventions No. 138 and No. 182. This theoretical basis is reflected in the EU legal framework, which gives the rights of children prominence in the Charter of Fundamental Rights of the European Union (2000), especially Article 24^[5] and Article 32^[6] which guarantees the rights of children and bans child labour.

2.3. Supply Chain Responsibility Theory

With the scenario of globalization and intense international economic integration, production, distribution, and consumption activities cease to take place in one national territory and, instead, the activities are distributed among two or more countries. This reality has given rise to global supply chains, in which each participating country becomes a crucial link. Therefore, responsibility cannot be limited to where human rights violations occur, but must extend to all actors in the supply chain. The UN Guiding Principles on Business and Human Rights (UNGPs) require businesses to respect human rights by seeking to prevent or mitigate adverse human rights impacts directly linked to their operations, products, or services, through business relationships, even if they did not contribute to those impacts.

The “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework” clarifies that a company’s business relationships include partnerships, entities within the value chain, and any state or non-state entities directly linked to its business operations, products, or services.^[7] These provisions form the

⁵ Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.

⁶ The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations. Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education.

⁷ United Nations – Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations „Protect,*

foundation for the EU's Corporate Sustainability Due Diligence Directive (CSDDD), which obliges companies to conduct human rights risk assessments – covering child labour – throughout their supply chains, regardless of territorial boundaries.^[8] Failure to comply may result in civil or criminal liability depending on the degree of violation.

2.4. Transnational Legal Theory

The issues of law in a highly globalized environment are not national based, but usually transnational. The international issues that currently confront the world, i.e. trade, human rights, environment protection, etc., demand cooperation between nations and regions and development of transnational legal frameworks. Philip Jessup first presented this theory in *Transnational Law*^[9] where he came up with the concept of transnational law as a type of law that governs the behavior of not only the states but also individuals and legal entities across borders as well as the subfields of both the public and the private international law. Elaborating on this, Gunther Teubner came up with the concept of a global law without a state, where legal norms can be generated and function through self-organizing networks in finance, commerce, and transnational businesses.^[10]

This theory was later formalized by peer Zumbansen^[11] in the theory of transnational legal pluralism, that analyzes the interplay of national regulations, international law, and non-state regulations in governing international behaviour. According to Cutler,^[12] the authority of multinational companies and privately established institutions could generate substantive norms of law to regulate market behavior and supply chains. In this regard, law is not limited to the territorial border, but is a distributed

Respect and Remedy” Framework (New York-Geneva: United Nations, 2011).

⁸ European Commission, Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 COM/2022/71 final (Brussels, February 23, 2022).

⁹ Philip Caryl Jessup, *Transnational Law* (New Haven: Yale University Press, 1956).

¹⁰ Gunther Teubner, “Global Bukowina: Legal Pluralism in the World Society,” [in:] *Global Law Without a State*, ed. Gunther Teubner (Aldershot: Dartmouth): 3-28.

¹¹ Peer Zumbansen, “Transnational Legal Pluralism” *Transnational Legal Theory*, No. 2 (2010): 141-189.

¹² Claire A. Cutler, *Private Power and Global Authority: Transnational Merchant Law in the Global Political Economy* (Cambridge: Cambridge University Press, 2003).

and movable legal ecosystem. The theory is utilized in the examination of EU legal mechanisms to eliminate child labour in the global supply chains. The EU has also developed transnational legal tools that have formed an ecosystem of laws that bind non-EU businesses, which operate within the EU market, rather than just having recourse to the national law.

3 | Research Methodology

This study is a comparative and evaluative legal analysis, in exploring the EU and Vietnamese legal provisions regarding the prevention and eradication of child labour. The author chose relevant laws, such as the EU legal instruments, international treaties, and the Vietnamese domestic laws that are pertinent in eradicating child labour in a three step process. To begin with, the paper examines the EU laws that deal with the prevention of child labour, such as: Corporate Sustainability Due Diligence Directive (CSDDD), the Forced Labour Regulation (FLR), and Trade and Sustainable Development (TSD) chapters to the chosen EU Free Trade Agreements (FTAs). Second, the research looks at the Vietnamese legal framework of prevention of child labour. Third, this paper employs comparative legal analysis, through which the study is able to determine the similarities and differences between the Vietnamese legal system and that of the EU legal framework on child labour. The results are the foundation of the proposals to reform the laws to enhance the fight by Vietnam to eradicate child labour successfully.

4 | The European Union's Legal Framework for the Prevention and Abolition of Child Labour in Supply Chains

4.1. Regulation on Corporate Sustainability Due Diligence

European Parliament and Council Directive (EU) 2024/1760 of 13 June 2024 on Corporate Sustainability Due Diligence is an important pillar in the EU approach to oblige large corporations to detect, avoid, and manage the risks to human rights and the environment in their entire supply chains. It is important to note that, although this Directive is applied inside the EU, it has an influence on the companies operating in third countries, which have great operations or receive great revenues on the territory of the EU market.

The Directive applies to companies established under the laws of a Member State and meeting one of the following criteria: (i) The company has, on average, more than 1,000 employees and a worldwide net turnover of more than EUR 450 million in the last financial year for which annual financial statements have been or should have been prepared; (ii) The company does not meet the above thresholds, but is the ultimate parent company of a group that meets them, based on consolidated annual financial statements for the most recent financial year; (iii) The company has entered into or is the ultimate parent company of a group that has entered into franchising or licensing agreements within the Union in exchange for royalties with independent third-party companies, where such agreements ensure a common identity, business concept, and uniform business methods, and where the royalties amount to over EUR 22.5 million in the most recent financial year, and provided that the company or group has worldwide net turnover exceeding EUR 80 million in that same year.^[13] Importantly, the Directive also applies to companies established under the laws of third countries, provided they meet certain thresholds.^[14]

The CSDDD explicitly requires companies to identify, address, and remedy all adverse impacts that their operations or value chains may have on human rights in general, and children's rights in particular. The Annex to the Directive lists the key human rights and fundamental freedoms instruments forming the legal basis for due diligence obligations, including the UN Convention on the Rights of the Child, ILO Convention No. 138

¹³ Article 2 (1).

¹⁴ Article 2 (2).

on Minimum Age (1973), and ILO Convention No. 182 on the Worst Forms of Child Labour (1999). It emphasizes that children must be explicitly recognized as stakeholders and rights-holders, requiring companies to give special attention to the adverse impacts on individuals and groups at heightened risk.

The due diligence process outlined in the CSDDD aligns with the six steps identified in the OECD Due Diligence Guidance for Responsible Business Conduct.^[15] Based on this, Article 5(1) of the Directive requires companies to undertake risk-based human rights and environmental due diligence by performing the following actions:

Table 1: Risk-Based Human Rights and Environmental Due Diligence Activities^[16]

Required Action	Legal Basis
Integrate due diligence into policies and risk management systems	Article 7
Identify and assess actual or potential adverse impacts	Article 8
Prioritize adverse impacts where necessary	Article 9
Prevent and mitigate potential adverse impacts; cease actual adverse impacts and mitigate their extent	Articles 10–11
Provide remedy for actual adverse impacts	Article 12
Engage meaningfully with stakeholders	Article 13
Establish and maintain notification and complaints mechanisms	Article 14
Monitor the effectiveness of due diligence policies and measures	Article 15
Publicly communicate on due diligence	Article 16

In practice, companies must take appropriate measures to identify and assess actual and potential adverse impacts arising from their own operations, subsidiaries, or sometimes those of their business partners. They must then implement adequate measures to prevent, mitigate, and remedy such impacts in accordance with the Directive. This involves the respect of basic labour rights including the express outlawing of child labour and forced labour through the ILO core labour standards. These requirements are spanning the entire value chain, which would include suppliers of raw

¹⁵ Organisation for Economic Co-operation and Development, *OECD Due Diligence Guidance for Responsible Business Conduct* (Paris: OECD Publishing, 2018).

¹⁶ Source: Compiled by the author.

materials,^[17] partners involved in the distribution business, and the logistics providers delivering end products to customers.^[18]

To maintain the CSDDD, every EU Member State must provide one or more supervisory authorities to monitor the compliance with the requirements established under national legislation adopted under Articles 7 to 16 and under Article 22 of the Directive. Member States should also ensure the independence of such authorities as well as assure that their powers are exercised without favor, in a transparent and respectful manner of professional secrecy. In addition, the other innovative feature of the CSDDD is that companies which do not comply with their due diligence duties may be liable, civilly, where the breach or omission leads or contributes to damage. In case a company does not conduct adequate due diligence and this results in injury in its supply chain due to the violation of human rights (like child labour use) the victims can enjoy the damages by suing the companies in the national courts of the EU Member States. Although this also has some limitations, such as companies are not registered to be guilty when the breach was completely caused by a rogue supplier, this is a big legal step forward,^[19] as the companies may now be responsible of committing an infringement in third world countries.

4.2. Regulation on Prohibiting Products Made with Forced Labour

In addition to preventive instruments such as the CSDDD, the EU has actively implemented a direct enforcement and deterrent tool at its borders: Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 concerning the prohibition of products made with forced

¹⁷ Article 3 (1) (g) of the CSDDD explains: (i) activities of a company's upstream business partners related to the production of goods or the provision of services by that company, including the design, extraction, sourcing, manufacture, transport, storage and supply of raw materials, products or parts of products and the development of the product or the service.

¹⁸ Article 3 (1) (g) of the CSDDD explains: (ii) activities of a company's downstream business partners related to the distribution, transport and storage of a product of that company, where the business partners carry out those activities for the company or on behalf of the company, and excluding the distribution, transport and storage of a product that is subject to export controls under Regulation (EU) 2021/821 or to the export controls relating to weapons, munitions or war materials, once the export of the product is authorised.

¹⁹ Article 29(1).

labour on the Union market (FLR). The core and most essential task of this regulation is to prohibit the placing on the market and the export from the EU of any products made with forced labour. This prohibition is broad based and covers all industries and all the levels of the supply chain.^[20]

The FLR provides a definition of forced labour based on Article 2 of ILO Convention No. 29 (1930). As per this, forced or compulsory labour refers to all the work or service that is obtained by means of a threat of punishment and which the person in question has not presented himself or his own will. The forced child labour is also included in this definition, including the cases when children are forced to labour, which may be through being trafficked, being enslaved, or forcibly recruited to work in factories, workshops, or on farms. In such a way, the FLR indirectly shields children against the worst forms of child labour, as any product that is associated with exploitative or coercive utilization of children is not permitted to the EU market.

FLR creates a strong enforcement tool, since it provides a direct ban on the market, and thus restricts access to the market directly. Its scope of application is wide and encompasses all fields and all companies, irrespective of size, revenue and location, that has got involved in the production towards the EU market. This will certainly have wide reaching implications for world supply chains. In addition, the added forceful child labour in the ILO-conformist definition gives holistic protection and sense of purpose in the regulation.

FLR has a strict enforcement mechanism that is coordinated at the EU level. The Member States should designate effective authorities that will enforce the Regulation. These authorities, together with the European Commission, are responsible for ensuring the effective and uniform implementation of the FLR across the Union.^[21] Where suspected forced labour occurs outside the EU, the European Commission shall serve as the lead competent authority. Where suspected forced labour occurs within a Member State, the competent national authority will take the lead.^[22]

²⁰ In the FLR, “supply chain” means the system of activities, processes and actors involved at all stages upstream of a product being made available on the market, namely the extraction, harvesting, production and manufacturing of a product in whole or in part, including in the working or processing related to the product at any of those stages.

²¹ Article 5(1).

²² Article 15.

4.3. Trade and Sustainable Development Provisions

The EU's trade policy has transcended its traditional role as a purely economic instrument to become a vital means of realizing and disseminating the Union's core values, including human rights and environmental protection. The integration of dedicated Trade and Sustainable Development (TSD) chapters into new-generation Free Trade Agreements (FTAs) – a practice beginning with the 2009 EU-Korea FTA^[23] – is the clearest manifestation of this policy direction. The TSD chapters of new-generation FTAs are not only aimed at maintaining social and environmental goals in the trade practices, but also it is used as a catalyst to implement sustainable development globally. Mainstreaming the provision of sustainability is entrenched in the legal texts that form the Trade policy of the EU. In particular, Article 3(5) of the consolidated version of the Treaty on European Union (TEU) and the treaty on the functioning of the European Union (TFEU) confirms that the Union will play its role in the peace, security, sustainable development of the earth, free and fair trade, eradication of poverty and protection of human rights, especially to the children. This is not a mere political statement, but it is a legal duty, which becomes the foundation of the addition of the chapters on TSD by the European Commission as a part of modern FTAs.

The TSD clauses of the new-generation FTAs have a clause that fosters sustainable social values especially labour commitments. Among them, the successful eradication of child labour is one of the fundamental components. The labour-related provisions do not establish new labour standards for the signatory countries, but, on the contrary, the EU FTAs compel the parties to the agreement to renew their adherence to the successful implementation of the core ILO Conventions, especially the 1998 ILO Declaration on Fundamental Principles and Rights at Work. The strategy not only consolidates the current governing structure in the world, but also increases the enforceability of such pledges. As an example, Article 13.4 of the EU-Vietnam Free Trade Agreement (EVFTA) stipulates that the parties shall respect, protect, and effectively enforce the main principles in relation to labour, and one of them is the effective abolition of child labour. The phrase “respect, promote, and effectively implement” signifies an obligation of conduct rather than an obligation of result – meaning that

²³ Eline Blot, Antoine Oger, James Harrison, *Enhancing Sustainability in EU Free Trade Agreements: The Case for a Holistic Approach* (Brussels: Institute for European Environmental Policy, 2022).

parties must demonstrate active efforts to realize these principles rather than being held in violation solely due to the continued existence of the problem. Furthermore, “effectively” implies that a country must have in place a functional legal, policy, and enforcement framework to address the issue, without implying that child labour must be entirely eradicated the moment the agreement enters into force. Similarly, the EU–Japan Economic Partnership Agreement (EPA) also lists the elimination of child labour as one of the fundamental labour rights that both parties pledge to uphold.

In parallel with the obligation to respect and implement international standards under the commitment, signatory parties must also observe the non-regression principle. This implies that both parties commit not to undermine or disparage its own domestic labour laws in such a way that will be appealing to trade or to invest. As an example, legalizing the practice of child labour or relaxing the application of the labour laws in the name of competitive advantage. This principle is used to avoid a race to the bottom in labour standards – something that has remained of concern even in the face of globalization.^[24]

The operationalization of labour undertakings regarding labour obligations, in particular the obligation towards the effective abolition of child labour, under the TSD chapters in EU FTAs, is defined by two different models:

This model is applicable to FTAs of the EU, which were signed before 2022. It aims at encouraging collaboration towards enhancing labour standards as opposed to the use of immediate punitive actions. The enforcement mechanism under Chapter 13 of the EVFTA is a typical example, as outlined in Articles 13.16 and 13.17. This mechanism is entirely separate from the general dispute settlement system in Chapter 15. The traditional EU TSD mechanism does not include trade sanctions (such as suspension of preferences or imposition of tariffs) in the event of non-compliance. Instead, compliance pressure stems from political commitments and reputational concerns. The first formal invocation of the expert panel mechanism by the EU occurred in the EU–Korea FTA dispute.^[25]

²⁴ Nita Rudra, *Globalization and the Race to the Bottom in Developing Countries: Who Really Gets Hurt?* (Cambridge: Cambridge University Press, 2008); Ozay Mehmet, “Race to the Bottom: The Impact of Globalization on Labor Markets – A Review of Empirical and Theoretical Evidence,” [in:] *Globalization and the Third World*, ed. Baidyanath N. Ghosh, Halil M. Güven (London: Palgrave Macmillan, 2006), 147–64.

²⁵ European Commission, Directorate-General for Trade, “EU steps up engagement with Republic of Korea over labour commitments under trade agreement”,

Second, the “hard” model. The most significant innovation in this model is the proposal to apply the general dispute settlement mechanism of the FTA to disputes arising under the TSD chapter. In other words, violations of TSD commitments are to be treated with the same procedural rigour as tariff or technical barrier disputes, with legally binding rulings issued by adjudicative panels. Consequently, trade sanctions may be applied if the losing party fails to comply with the ruling within a reasonable time frame. Under the SSDS mechanism, the winning party may suspend trade concessions, such as preferential tariffs, against the non-compliant party.^[26]

Table 2: Comparison of Enforcement and Dispute Settlement Mechanisms in Selected EU FTAs (2019–present)^[27]

FTA	Key Provisions	Dispute Resolution Procedure	Legal Effect / Sanctions
EU–Korea	Art. 13.14: Consultations Art. 13.15: Expert Panel	1. Request for consultations 2. If unresolved after 90 days, establishment of Expert Panel 3. Non-binding report with recommendations	No binding effect; no sanctions. Used as basis for dialogue.
EU–Canada (CETA)	Art. 23.9: Gov’t Consultations Art. 23.10: Expert Panel	Same procedure as Korea FTA	No binding effect; no suspension of obligations. Based on Commission monitoring and dialogue.

Press release, 17 December 2018; European Union, “Republic of Korea – Compliance with Obligations under Chapter 13 of the EU–Korea Free Trade Agreement: Request for Consultations by the European Union”, 17 December 2018.

²⁶ Eline Blot, *Reflections on the New Approach to the TSD Chapters for Greener Trade* (Brussels: Institute for European Environmental Policy, 2023).

²⁷ Compiled by the author from the following agreements: Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part. 2016. Signed 30 October. Official Journal of the EU L 11 (14 January 2017); Economic Partnership Agreement between the European Union and Japan. 2018. Signed 17 July. Official Journal of the EU L 330 (27 December 2018); Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part. 2010. Signed 6 October. Official Journal of the EU L 127 (14 May 2011); Free Trade Agreement between the European Union and New Zealand. 2024. Signed 22 March. Official Journal of the EU L 2024/866; Free Trade Agreement between the European Union and the Republic of Singapore. 2018. Signed 19 October. Official Journal of the EU L 294 (14 November 2019); Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam (EVFTA). 2019. Signed 30 June. Official Journal of the EU L 186 (12 June 2020).

FTA	Key Provisions	Dispute Resolution Procedure	Legal Effect / Sanctions
EU-Singapore	Art. 12.16: Gov't Consultations Art. 12.17: Expert Panel	90-day consultation deadline; panel formed thereafter	Non-binding recommendations; no sanctions.
EU-Japan (EPA)	Art. 16.17: Consultations Art. 16.18: Expert Panel	3-month consultation period; panel report with recommendations	Non-binding; compliance depends on state action plan.
EU-Vietnam (EVFTA)	Art. 13.15: Consultations Art. 13.16: Expert Panel	90-day consultation; panel report with recommendations	Non-binding; no trade sanctions.
EU-New Zealand	Chapter 26: Common Dispute Settlement	1. Compulsory consultations 2. If unresolved, adjudicative panel ruling	Binding ruling; non-compliance may trigger trade retaliation.

It should be mentioned that the new hard model does not mean the complete abandonment of dialogue and cooperation as those are still the basic tools. Instead, the EU has added its own weapon, in the form of hard power sanctions. This addition is aimed at maintaining positive interactions, but also with a credible enforcement in cases where core commitments are flouted by partner countries, especially in matters of principle like child labour. Even the fact that sanctions even though they are hardly used and only used as a final resort, adds weight and seriousness to consultations and dialogue at the early stages, which generate greater incentives to resolve through cooperation.

5 | Vietnam's Legal Framework on the Prevention and Elimination of Child Labour

In spite of positive socio-economic development and attempts to advance the legal system, child labour remains an ongoing concern in Vietnam throughout the decades. As of 2023, the General Statistics Office and the ILO reported 269,604 children aged 5-17 in child labour in Vietnam or 36.9% of the total number of children in child labour (Wikileaks, 2023). Out of them 76.4 percent were rural and 23.6 percent were urban. According to age, the majority (65.6) were 1517, and the rest (28.7) were 1214 and 511 respectively. Child labour is distributed amongst the four industry sectors as follows.

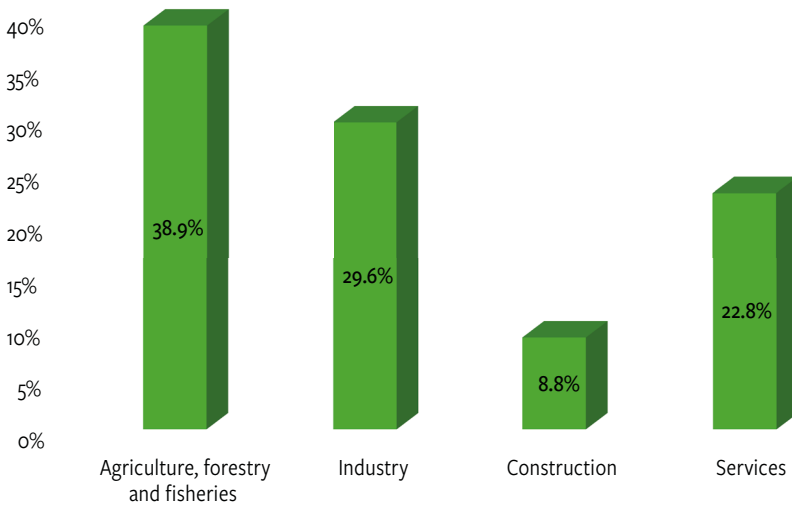


Figure 1: Sectoral Distribution of Child Labour^[28]

The statistics show that child labour is not distributed, but rather concentrated in rural locations and mostly in agriculture, forestry, and fisheries; activities where state surveillance and protection systems are not well established. Understanding the gravity of this concern, Vietnam has been found to be politically committed and actively in tandem with the international standards. The adoption of two of the main ILO Conventions, namely Convention No. 138 on Minimum Age and Convention No. 182 on the Worst Forms of Child Labour, is a significant legal step. Meanwhile, in the last ten years, Vietnam has come to an estimated relatively comprehensive, cross-sectoral national legal framework to internalize international obligations, using principal tools such as the Constitution, the Labour Code, and the Law on Children, the Penal Code, and a plethora of implementing decrees and circulars. Key aspects include:

First, clauses on fundamental definitions. The 2019 Labour Code is silent on the use of child labour, but it implies the use of minor workers (*lao dong chua thanh nien*). Article 143(1) refers to minor workers as those that are below 18 years of age. In the meantime, the 2016 Law on Children provides the definition of children as people less than 16 (Article 1). This difference between the definition of a child (under 16) and the definition of a minor worker (under 18) could pose a legal gap to protect the workers between 16 and less than 18. Moreover, the Law on Children also offers a definite

²⁸ Source: General Statistics Office & ILO (2025).

definition of the concept of child exploitation. Article 4(7) defines it as acts of compelling children to work contrary to labour laws; engaging them in pornography or exploitative tourism; or involving them in prostitution and other profit-driven purposes. Accordingly, any violation of legal provisions on the employment of minors under the Labour Code can be considered a form of child exploitation, and thus prohibited by law. Meanwhile, there is no unified definition of “child labour” at the EU level; EU documents cite international standards (UN Convention on the Rights of the Child, ILO 138, 182) as the basis for their definition. In general, child labour is understood as work that deprives children of their childhood, harms their development, and should be eliminated. The EU considers children as a special group that needs to be protected in the supply chain.

Second, provisions on the minimum working age. Vietnamese labour law currently adopts a tiered age structure to balance child protection with socio-economic realities. Article 143 of the 2019 Labour Code sets the minimum working age at 15, aligning with Article 2 of ILO Convention No. 138. Acknowledging that children may engage in some forms of economic activity suitable to their age and development, the law allows for exceptions under strict conditions. Likewise, EU countries adhere to ILO Convention 138: the minimum working age is usually 15 (it can be lower for light work or apprenticeships; the worst jobs under 18 are strictly prohibited). At the same time, the CSDDD requires businesses to respect the minimum age according to international standards. Some EU countries allow children to participate in cultural and artistic activities under conditions, similar to international practice.

Third, provisions on the employment of minor workers. In addition to age and job-type restrictions, Vietnamese labour law sets strict principles and conditions on employing minors to protect their development and prevent child labour. Generally,^[29] minors under 18 may only be assigned tasks appropriate to their health and developmental needs to ensure their comprehensive growth. Employers must take care of their labour, health, and education, providing opportunities for minors to attend school, receive vocational training, and develop professional skills. Additionally, the hiring of minors requires consent from their parents or legal guardians, and employers must maintain a separate register with full information on each minor employee (name, age, job, periodic health check results), which must be presented upon request by competent authorities.

²⁹ Article 144 of the 2019 Labour Code.

Fourth, provisions on prohibited jobs and workplaces. To protect minor workers' health, safety, and morality, Article 147 of the 2019 Labour Code prohibits minors aged 15-18 from engaging in certain jobs and working in certain environments. These prohibitions are detailed in Annex III (harmful jobs) and Annex IV (hazardous workplaces) of Circular No. 09/2020/TT-BLĐTBXH. Overall, these lists are relatively comprehensive and address multiple physical and safety risks for child workers. The EU prohibits the worst forms of child labour under ILO Convention 182, including hazardous work. EU member states have their own lists of prohibitions on the employment of persons under 18 years of age in arduous or hazardous work, but there is no common list for the EU. The CSDDD requires businesses to assess the risks of child labour in their supply chains, paying particular attention to hazardous work, in order to prevent it in time.

Fifth, liability and sanctions for violations. Decree No. 12/2022/ND-CP (dated 17 January 2022) is the principal legal document on administrative sanctions in the labour sector. Article 29 is dedicated to violations related to the employment of minor workers, with fines ranging from: (i) VND 1 million to VND 2 million; (ii) VND 20 million to VND 25 million; and (iii) VND 50 million to VND 75 million – depending on the severity of the violation. In cases where the conduct poses significant social danger, criminal liability applies. Article 296 of the 2015 Penal Code (amended 2017) criminalizes the use of persons under 16 in hazardous or toxic jobs. However, for criminal liability to arise, one of two conditions must be met: (i) the offender has been previously sanctioned or convicted for the same act and reoffends; or (ii) the act causes bodily harm of 31-60% to one person or the same cumulative level to multiple persons. The punishment can increase to 3-7 years, or even 5-12 years, of imprisonment under aggravating circumstances, such as repeat offenses or fatal consequences. Meanwhile, each EU country will designate an agency to monitor compliance with the CSDDD, with the right to inspect and require businesses to stop violations. Sanctions include administrative fines (the level of fines is determined by each country, and can be very severe) and civil liability – victims have the right to sue for compensation if businesses cause damage due to neglecting their due diligence obligations. FLR empowers EU customs to investigate and ban imports of goods if forced labor (including forced child labor) is detected. The EU enforcement mechanism, as well as public pressure, causes a two-fold pressure, that is, obliges to go through compliance procedures and charges violations.

6 | Comparative Assessment and Lessons for Vietnam

The analysis of the legal landscape on preventing and eradicating child labour in the EU and Vietnamese jurisdictions shows a certain number of areas of convergence as well as areas of divergence that provide valuable insights into reforming the policy in the Vietnamese jurisdiction. These results can be divided into the following major dimensions.

6.1. The Approach to Corporate Responsibility

The legal system of the EU has been transformed back from the voluntary promotion to compulsory legal requirements with a high preventive character. Specifically, the CSDDD is a clear indication of this strategy since it asks firms to take an active role in ensuring that they do due diligence to be able to spot, avert and control the risks of child labour in their entire supply chain. In comparison, the Vietnamese law has been predominantly reactive with its provisions quite indicative of a compliance-after-violation model. The Law on Enterprises and other legislation regulating the matters demand that businesses adhere to the ban on child labour usage and provide penalties, in case of violation. Nonetheless, the law is yet to create a liability on businesses to carry out comprehensive supply chain due diligence. With this regulatory gap, the recommended action to be taken by Vietnam is to study, develop and progressively introduce a due diligence mechanism akin to the CSDDD, particularly on big companies and those that are involved in export supply chains. By legalizing the duty of due diligence, the companies would not just get motivated to actively scrutinize and sanitise their supply chains, but it would also make the Vietnamese firms more competitive in the global market, especially in the EU.

6.2. Enforcement and Sanction Mechanisms

As demonstrated in the analysis, the EU law has developed a comparatively efficient, so-called dual-pressure mechanism, whereby the CSDDD holds the liabilities of procedural failures (poor due diligence, which can result in fines or civil proceedings), whereas the FLR holds the liabilities on the outcomes (products associated with forced labour, including child forced labour, must not enter the market). The power of the victims to

bring civil distress is a breakthrough in the enforcement mechanisms. Sanctions are mainly administrative or criminal in Vietnam and the state would enforce them after violations have been identified. This restricts the value of prevention. This means that Vietnam needs to think of enhancing its legal system on corporate civil liability. Mechanisms ought to be instigated to enable child labour victims or their representatives to prosecute lead companies in the supply chain for damages, in the occasion that it can be proved that a deficiency of supply chain oversight resulted in the infringement. Meanwhile, the Penal Code needs to be modified to deter and prevent more. This involves an extension of the age of protection under the hazardous child labour provisions to any age below 18 years old in compliance with ILO Convention No. 182 as well as criminal liability of purposeful use of child labour in the forbidden work notwithstanding the absence of harm evidence.

6.3. The Scope of Legal Application

As can be seen, EU laws have a distinctly transnational nature, and laws like the CSDDD and FLR have extra-territorial applicability to companies and operations which are not located within the EU and which also hold companies accountable to their entire global supply chains. Conversely, the law of the Vietnamese nowadays is mostly limited to domestic settings and the liability of corporations can be evaluated only in connection with the first-tier suppliers or direct operations. Even though Vietnam is not able to enact extraterritorial laws, it may still apply the principle of supply chain responsibility to the local legislation. This may include binding regulations, which hold large businesses to responsibility and accountability of sub-contractors, household manufacturers, and small-scale suppliers in their supply chains, where the threat of child labour is the greatest, particularly in the informal economy and agriculture.

6.4. Mainstreaming Labour Standards into Trade Policy

It can be analyzed that the EU employs trade as a variant of so-called soft power in order to spread the values of human rights. This policy can be best illustrated in the TSD chapter of FTAs like EVFTA. Most notably the EU is moving away from a more enforcement based on dialogue and moving

towards a more rigorous one, which could entail trade sanctions in case of non-compliance to TSD commitments. Vietnam is a direct participant in FTAs, including the EVFTA, which is directly influenced by the changing trend. Although Vietnam has tried to tame its labour commitments, good execution is still a major challenge. It is thus important to understand that the adherence to the labour provisions in FTAs goes beyond the international legal requirement to uphold and continue enjoying economic gains. This shift in the EU towards a hard enforcement policy is an alarming sign. Based on this, Vietnam should be more active and resolute towards the enforcement of labour laws, especially at the local level and in the major export industries, to prevent any future conflicts of trade.

6.5. The Role of Stakeholders and Transparency

The CSDDD lays particular importance on the involvement of the stakeholders, such as children and their organizations, whereby companies must engage in significant consultations and develop effective grievance mechanisms. There is also the requirement of transparency and publicity on due diligence activities. In Vietnam, social organizations and communities have little influence in ensuring that a corporation adheres to labour law. The process of corporate grievance is not a well-regulated process with strong legal mechanisms as in the case of the EU. So, Vietnam requires improving its legal system to improve the oversight of social institutions, trade unions and communities. The government should encourage – and eventually require – enterprises to establish transparent, accessible, and safe internal grievance mechanisms for workers and communities to report suspected child labour. Promoting a culture of transparency should include requiring large enterprises to disclose their policies and measures for preventing child labour in their annual or sustainability reports.

7 | Some Recommendations for Vietnam

Based on the EU's experience in preventing child labor that has been analyzed and compared with the practice in Vietnam in the past, the author proposes the following specific recommendations:

First, research to establish an inter-sectoral steering committee on preventing child labor. The Government should assign the Ministry of Home Affairs to preside over, and coordinate with, the Ministry of Industry and Trade, the Ministry of Agriculture and Environment, the Vietnam Chamber of Commerce and Industry (VCCI), and relevant agencies, to establish a steering committee to review legal gaps and develop a plan to implement a mechanism for assessing corporate responsibility for child labor. In addition, develop pilot guidelines on supply chain assessment, select a number of key export industries, such as textiles and seafood, to pilot the requirement for enterprises to conduct assessment of responsibility for child labor in the supply chain. VCCI and industry associations coordinate to develop a set of guidelines for businesses on the appraisal process (based on OECD guidelines and EU experience), including how to evaluate suppliers, set criteria for no child labor when signing contracts.

Second, implementing risk-based point inspections. The Ministry of Home Affairs directs labor inspectors to focus on areas and industries with high risks of child labor, such as agriculture in the Central Highlands provinces, aquaculture in the Mekong Delta. Piloting inspection methods based on risk analysis: using data from child labor surveys, education statistics, to prioritize inspections of establishments with signs of suspicion. Along with that, it is necessary to strengthen communication and training, organize communication campaigns to raise awareness for businesses and the community about child labor laws and new requirements from the EU market. At the same time, open short-term training courses for labor inspectors on skills to detect hidden child labor and methods to approach child labor, train businesses on building internal complaint mechanisms, and handling procedures when detecting child labor.

Third, continue to study and perfect the legal framework on enterprise responsibility assessment. On a pilot basis, the Ministry of Home Affairs will preside over drafting legal regulations, which can be in the form of a decree or added to the current Labor Code on human rights assessment obligations for businesses. In the short term, the regulations can be limited to a number of risky export industries (textiles, agriculture) and applied to businesses on a certain scale, then gradually expanded. Refer to the experience of CSDDD to clearly define the responsibilities of businesses in assessing and reporting child labor risks of suppliers. The new regulations need to clearly establish the joint responsibility of leading enterprises for child labor violations in subcontractors and households in their supply chains. At the same time, it is necessary to supplement regulations allowing

victims of child labor or their legal representatives to sue for compensation against enterprises if they can prove that the lack of control of the enterprise contributed to the damage.

Fourth, increase the maximum administrative fine for violations of child labor (higher than the current VND75 million) to increase deterrence. Study the expansion of the scope of Article 296 of the Penal Code to protect people under 18 years old (instead of under 16) from hazardous labor, in accordance with Convention 182. At the same time, improve the process of surprise inspections based on reports from people or organizations, maintain an effective hotline and information portal for reporting child labor, and connect directly with inspection agencies for timely inspection and handling.

Fifth, strengthen international cooperation and the role of businesses. The Ministry of Home Affairs continues to cooperate closely with the ILO and the EU in technical projects to improve the capacity to enforce child labor laws. Actively participate in the 8.7 Alliance on the Elimination of Child Labor to learn from international experience. VCCI and industry associations organize forums and conferences to share good practices among businesses on controlling child labor in the supply chain, creating a network of pioneering businesses. Internalization of international standards and good execution of appraisal mechanisms in the long run will enable Vietnam to satisfy the needs of the major trade partners, retain its good image, and competitive power in its increased involvement in the global supply chain.

8 | Conclusion

The new legal framework provided by the EU, including the Corporate Sustainability Due Diligence Directive (CSDDD), the Forced Labour Regulation (FLR) and the Trade and Sustainable Development (TSD) chapters, has created a transnational legal mechanism that is binding. The process is a transition of soft law to hard law and, in this case, a compulsory due diligence on businesses within the supply chains, with the aim of ending child labour, and forced labour and thus, recreating the global business standards. In the case of Vietnam, being an EU partner in the EVFTA, these regulations not only provide the country with a chance to improve

its reputation as a trading partner but also a challenge of opening its institutional, legal, and enforcement loopholes.

Based on the experience of the EU, the following key policy directions can be reproduced in Vietnam: (i) Mandatory human rights due diligence of the businesses; (ii) Increasing the capacity of the labour inspection and judicial mechanisms in the context of effective access of remedy; (iii) embedding the labour standards into the broader framework of sustainable development and corporate accountability; and (iv) using the EVFTA as an impetus to reform the legal frameworks. Thus, it is not only a compliance mandate, but also a strategic necessity to make the Vietnamese legal framework consistent with international standards in order to facilitate sustainable development and ensure the protection of human rights.

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