



**NORTH KOREAN
FORCED LABOUR
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Legal action against Dutch firms for allegedly profiting from forced labour of North Koreans in Polish shipyard dismissed.

On 15 of April 2024, the Hague Court of Appeal decided that two Dutch companies are not to be prosecuted for profiting from human trafficking, money laundering or fencing. The Court dismissed the complaint and found that there is not enough evidence to establish a direct link between those offences and the accused companies.

This is a huge disappointment for **La Strada International**, who filed the appeal with support of **Prakken d'Oliveira**, and the **Global Legal Action Network (GLAN)** on 16 December 2022, to challenge the Dutch Public Prosecutor's rejection to investigate and prosecute the Dutch shipping companies for profiting from North Korean forced labour at their supplier's shipyard in Poland.

While the Court of Appeal summoned the companies to appear before the court on 20 of March for further investigation, they ruled unfortunately that there are not enough grounds to establish a link between the alleged offences and the accused companies. Furthermore, the Court of Appeal held that the long timespan since the facts were committed, the location of the alleged facts and the current place of residence of the victims leads to the conclusion that no successful prosecution against the accused companies is to be expected. Therefore, the Court of Appeal dismissed the complaint.

The complaint was based on research findings of the research report **People for Profit: North-Korean forced labour on a global scale** by Leiden Asia Centre and a **documentary** by Why Slavery. This report brought to light the inhumane working conditions of North Korean workers in Polish shipyards, who were exploited, while building ships for Dutch buyers.

In the criminal complaint we argued that the Dutch firms knew or reasonably could have known about the inhumane, slavery-like conditions that North Korean workers were subjected to, but still went ahead with ordering ships to be built there. Workers sent to these compounds claimed to have endured years of slave-like conditions, including working between 10 and 13 hours each day or more; pay confiscated and sent to the North Korean regime, and

dangerous working conditions. This case highlights significant gaps in labour protections within the EU and the lack of remedies available to affected workers. The Dutch companies supervised and were involved in the entire shipbuilding process: from the first drawings to the turnkey of the last screw. About 80 North Koreans worked at the Polish shipyard in question, where 90% of the constructed ships were destined for the Dutch market. Deliberately taking advantage of the exploitation of another is criminalised in the Netherlands. Dutch criminal law also prohibits the acquiring of goods which are produced by crime. This amounts to money laundering.

A year earlier, in December 2021, after a preliminary investigation, the Dutch Public Prosecutor acknowledged the systematic exploitation of North Korean workers in Poland by companies supplying to the Dutch shipbuilding industry, linking the companies directly to the DPRK labour, and concluded that “all elements of the description of the crime of human trafficking [were] met”. However, the prosecution office was reluctant to start a prosecution saying that it could not be established that the Dutch companies had actually profited from the cheap and forced labour.

New EU legislation & regulation

Coincidentally, this disappointing judgement came around the same time, when the EU Parliament acknowledged that more is to be done to hold companies liable for severe forms of labour exploitation. On 23 April, the EU Parliament adopted not only the recast of the EU anti-trafficking Directive¹ - which foresees the strengthening of mandatory sanctions for legal persons liable for misconduct - but also a Forced Labour Ban², a new regulation enabling the EU to prohibit the sale, import, and export of goods made using forced labour. Moreover on 24 of April a new Directive on Corporate Sustainability Due Diligence³ was adopted. The aim of this Directive is to foster sustainable and responsible corporate behaviour and to anchor human rights and environmental considerations in companies’ operations and corporate governance. The new rules will ensure that businesses should address adverse impacts of their actions, including severe labour exploitation in their value chains inside and outside Europe.

New Dutch legislation

In the Netherlands a new anti-trafficking draft law⁴ is recently proposed, which takes an important step in making serious labour abuses that affect vulnerable groups in the labour market more punishable, such as substantial underpayment, unsafe working conditions, or poor housing. For this purpose, a new crime is included in the law, namely ‘serious prejudice’. This ensures that perpetrators are punishable if they abuse people in a vulnerable position in the workplace. In addition to abuse, there must be gross disadvantages such as substantial underpayment, violation of working hours and times, poor housing, or restrictions on freedom such as confiscation of a passport. With this bill, these distressing abuses can be tackled more easily through criminal law. The bill also expands the possibilities to tackle those who benefit financially from human trafficking. Also a **new Dutch due diligence law** is still to be discussed before the Dutch Parliament.

In line with all this new legislation, we had hoped for another outcome.

¹ <https://www.europarl.europa.eu/news/en/press-room/20240419IPR20580/trafficking-in-human-beings-meps-adopt-more-extensive-law-to-protect-victims>

² <https://www.europarl.europa.eu/news/en/press-room/20240419IPR20551/products-made-with-forced-labour-to-be-banned-from-eu-single-market#:~:text=Parliament%20has%20given%20its%20final,%2C%20supply%20chains%2C%20and%20manufacturers.>

³ <https://www.europarl.europa.eu/news/en/press-room/20240419IPR20585/due-diligence-meps-adopt-rules-for-firms-on-human-rights-and-environment>

⁴ <https://www.rijksoverheid.nl/actueel/nieuws/2024/04/19/wetsvoorstel-betere-bescherming-tegen-mensenhandel-naar-de-tweede-kamer>

Quotes:

Suzanne Hoff, International Coordinator at La Strada International, says:

“This dismissal shows again that it is currently impossible to hold legal firms accountable for severe forms of labour exploitation, including human trafficking, also due to deliberately complex supply chain structures and reorganisations, to avoid responsibility. If we are serious about tackling human trafficking in Europe, we should address the systemic labour exploitation practices and apply labour rights to all workers, without discrimination, and irrespective of their migration and residence status and request companies to remedy harm done”.

Barbara van Straaten, Lawyer at Prakken d’Oliveira, says:

“Unfortunately the Court of Appeal did not provide further guidance on the legal argumentation provided in the complaint: i.e. whether knowingly using goods produced with forced labour can amount to money laundering or profiting from human trafficking. The fact that the case was dismissed because the specific role of each company (and its subsidiaries) has not become sufficiently clear does, in our view, raise the bar for potential plaintiffs who want to bring similar cases to an unrealistic level. By doing so, a large burden of proof is placed on potential plaintiffs to undertake investigative actions that are normally carried out by law enforcement authorities. Furthermore, this outcome shows that the current legislation does not provide adequate protection to victims of these types of crimes. It remains to be seen whether the new legislation will adequately address this”.

Imke van Gardingen, Researcher, says:

“North Korean workers manufacturing ships for Dutch companies in the EU is the ultimate example of how companies profit from forced labour. The prosecution office established that forced labour was involved. Moreover, the buyer companies visited the yard, giving instructions. It shouldn’t come as a surprise that the forced and cheap labour comes with financial profits for the buyer companies”.

Remco Breuker, Professor of Korean Studies, specialised in North Korean overseas labour, says:

“The exploitation of North Korean labourers in the EU has not only severely breached their human rights, it has also helped the North Korean state produce the missiles now used by Russia in Ukraine. Responsible entrepreneurship should stay away from this kind of construction that damages both individuals and societies in the name of profit.”

Media contacts:

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