

# Info-brief: EUTR enforcement in Belgium

The EU Timber Regulation (EUTR) is implemented in each Member State via national legislation and enforced by national authorities. This means that differences exist in penalty regimes and enforcement practices. It also means that the opportunities for EU (and non-EU) civil society to support enforcement differ. Here we provide key information on the Belgian implementing legislation for the EUTR, as well as top-line information on the enforcement approach in Belgium as of July 2017. This document is designed as a first point of reference – not a comprehensive source of information. It will be updated as new information becomes available.

## Implementation status

- Adoption of a penalty regime through an amendment to the *La loi du 21 décembre 1998 relative aux normes de produits*, which entered into force on 27 June, 2014.
- The Federal Public Service for Public Health, Food Chain Safety and Environment, DG Environment, has been designated as the Competent Authority (CA).

## Resources

- In 2016 (except between September and November when the position was vacant), one staff member at the CA worked 50% of their time on the EUTR (policy and enforcement issues). However, the Minister of the Environment received a provisional agreement for three new full-time posts in 2017.
- Annual financial resources for EUTR implementation and enforcement are approx. € 20,000.
- The CA's inspection department is responsible for over 30 different product areas, only one of which is timber.

## Penalty regime

- Criminal sanctions may apply to 1) operators placing illegal timber on the market or failing to exercise or maintain a due diligence system, or 2) traders violating the traceability obligation. Sanctions can include detention (from three days to three years of imprisonment) and/or fines ranging from € 960 to € 24,000,000. Additional sanctions may include a temporary prohibition to engage in a specific professional activity in case of a repeat offence.
- Possibility of cumulative condemnation of individuals and companies.
- Alternatively, if no criminal action is taken within a three month period, the CA may impose administrative sanctions (including fines between € 480 and € 1,200,000 and seizure of timber).

## Checks by the Competent Authority

- From March 2013, when the EUTR entered into force, until mid-July 2017, the Belgian Competent Authority carried out 26 checks on operators. In 2013, one check was carried out, six in 2014, ten in 2015, seven in 2016 and two from January to mid July 2017. The CA has issued warning letters to operators on the basis of the two last checks.

## Substantiated concerns (SCs)

- No prescribed format for SCs.

- Internal procedures exist to assess and respond to evidence provided by third parties, but the CA has no legal obligation to respond or to take a formal decision. Accordingly, it is difficult to challenge inaction or a decision of the CA before an administrative court. Instead, a third party may file an access to CA's documents request. The CA is obliged to respond within a legally determined timeframe (in general, 30 days).

### Possibilities to challenge operators in legal proceedings

- NGOs may 1) contact the CA, and if no action is taken 2) file a criminal complaint directly with the investigative judge or the public prosecutor and act as a civil party in the criminal procedure. An NGO must demonstrate sufficient legal interest, which will be achieved if it is a legal person whose statutes provide for the promotion of environmental protection. Evidence should demonstrate how and by whom, the law is breached (NGO report based on reliable and concrete information could be sufficient).
- Restrictions exist for NGOs to institute civil cases.

### Other key elements

- Knowingly possessing or using goods with an illegal character (laundering) can be penalized by imprisonment for up to five years and/or fined up to € 6,000,000. A criminal court may also order the confiscation of the merchandise or a sum of money proportionate to the culprit's participation in the infraction.

### Key implementation/enforcement strengths

- On paper, appropriate overall implementation and potential for high financial penalties.
- The CA cooperates with customs authorities.

### Key implementation/enforcement weaknesses

- Low human resources in the CA and low number of checks undertaken to date.
- Difficult for an NGO to pursue SCs if the CA does not follow up.

### Resource information

#### Law:

- [Loi modifiant la loi du 21 décembre 1998 relative aux normes de produits ayant pour but la promotion de modes de production et de consommation durables et la protection de l'environnement, de la santé et des travailleurs \[...\]](#)

#### Subsidiary regulations:

- [Royal Decree of 6 December 2012 laying down specific rules concerning administrative fines](#)
- [Royal Decree of 2 July 2014 providing for rules on controls of the application of the 1998 Law](#)

#### Competent Authority contact information:

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