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P9_TA(2020)0037

Child labour in mines in Madagascar

European Parliament resolution of 13 February 2020 on child labour in mines in Madagascar (2020/2552(RSP))

(2021/C 294/08)

The European Parliament,

— having regard to its previous resolutions on Madagascar, in particular those of 9 June 2011 ([1]) and 16 November 2017 ([2]),

— having regard to the United Nations Convention on the Rights of the Child,

— having regard to the Universal Declaration of Human Rights of 1948,

— having regard to the Geneva Declaration on the Rights of the Child of 1924, and to its adoption by the UN General Assembly in 1959,

— having regard to the EU Guidelines on the Rights of the Child,

— having regard to Article 3 of the Treaty on European Union, which explicitly recognises the promotion of children's rights in internal and external affairs as an objective of the EU,

— having regard to International Labour Organisation (ILO) Convention No 138 concerning the minimum age for admission to employment of 6 June 1973, and ILO Convention No 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour of 1 June 1999,

— having regard to its position adopted at first reading of 16 March 2017 on the proposal for a regulation of the European Parliament and of the Council setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk areas ([3]) (the Conflict Minerals Regulation),

— having regard to the Charter of Fundamental Rights of the European Union (the Charter),

— having regard to the Committee on the Rights of the Child,

— having regard to the Council conclusions of 20 June 2016 on child labour,

— having regard to the United Nations 2030 Agenda for Sustainable Development and to the Sustainable Development Goals (SDGs),

— having regard to the United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework of 2011,

— having regard to its resolution of 26 November 2019 on children's rights on the occasion of the 30th anniversary of the UN Convention on the Rights of the Child ([4]),

— having regard to the UNGA resolution of 25 July 2019 declaring 2021 the International Year for the Elimination of Child Labour,

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([1]) OJ C 380 E, 11.12.2012, p. 129.
([2]) OJ C 356, 4.10.2018, p. 58.
([3]) OJ C 263, 25.7.2018, p. 371.
([4]) Texts adopted, P9_TA(2019)0066.

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— having regard to the Council conclusions of 10 December 2019 on building a sustainable Europe by 2030 ([5]),

— having regard to OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas, including all its annexes and supplements,

— having regard to its resolution of 5 July 2016 on implementation of the 2010 recommendations of Parliament on social and environmental standards, human rights and corporate responsibility ([6]),

— having regard to its resolution of 12 September 2017 on the impact of international trade and the EU's trade policies on global value chains ([7]),

— having regard to the UN Guiding Principles on Business and Human Rights (UNGPs, 2011),

— having regard to General comment No 24 (2017) of the UN Committee on Economic, Social and Cultural Rights (CESCR) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities (E/C.12/GC/24),

— having regard to the Children's Rights and Business Principles developed by UNICEF,

— having regard to the Council conclusions of 12 May 2016 on the EU and responsible global value chains,

— having regard to its resolution of 25 October 2016 on corporate liability for serious human rights abuses in third countries ([8]),

— having regard to the Terre des Hommes International Federation report entitled 'Child Labour in Madagascar's Mica Sector from November 2019' ([9]),

— having regard to Article 26 of the Cotonou Agreement,

— having regard to Rules 144(5) and 132(4) of its Rules of Procedure,

A. whereas Article 32 of the United Nations Convention on the Rights of the Child provides that 'States Parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development';

B. whereas the United Nations Convention on the Rights of the Child is the most widely ratified international human rights treaty, ratified by all European Union Member States, and establishes clear legal obligations on states to promote, protect and uphold the rights of every child in their jurisdiction;

C. whereas the European Union has undertaken to promote and protect the rights of the child in its internal and external actions, and to act in line with international law, including the provisions of the United Nations Convention on the Rights of the Child and its Optional Protocols ([10]);

D. whereas the Charter requires that the best interests of the child be a primary consideration in all EU action and prohibits child labour by setting the minimum age of admission to employment, which may not be lower than the minimum school-leaving age, and states that 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 interfere with their education;

([5]) https://www.consilium.europa.eu/media/41693/se-st14835-en19.pdf
([6]) OJ C 101, 16.3.2018, p. 19.
([7]) OJ C 337, 20.9.2018, p. 33.
([8]) OJ C 215, 19.6.2018, p. 125.
([9]) https://www.terredeshommes.nl/sites/tdh/files/ visual_select_file/tdh_mica_madagascar_rapport.pdf
([10]) Article 3 of the Treaty on the European Union.

E. whereas Article 12 of the United Nations Convention on the Rights of the Child and Article 24 of the Charter respect the right of the child to be heard and to have their views on matters which concern them taken into consideration according to their age and maturity;

F. whereas the EU has undertaken to implement the United Nations 2030 Agenda for Sustainable Development and meet its goals and targets, including SDG 8.7 to 'take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms' ([11]);

G. whereas approximately 152 million girls and boys aged 5 to 17 worldwide are involved in child labour ([12]), with the highest proportion of working children living in the least developed countries; whereas Africa, with 72,1 million victims of child labour, and Asia and the Pacific, with 62,1 million, are the world regions with the highest number of victims of child labour; whereas agriculture, services and industry, including mining, are the three main sectors with a child labour presence; whereas although some progress has been made in reducing child labour, the ILO estimates that the pace of decline would still leave 121 million boys and girls in child labour by 2025;

H. whereas Article 3(d) of International Labour Organisation Convention No 182 of 1999 concerning the prohibition and immediate action for the elimination of the worst forms of child labour defines hazardous child labour as 'work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children'; whereas Madagascar has ratified all key international treaties on child labour, including the Convention on the Rights of the Child (and its two Optional Protocols), ILO Convention No 138 on minimum age, and ILO Convention No 182 on the worst forms of child labour; whereas the government has drawn up a national action plan to combat child labour in Madagascar, in collaboration with, inter alia, international employers' and workers' organisations; whereas these commitments and measures fail to deliver effective results on the ground;

I. whereas the International Labour Organisation in its child labour definition states that 'not all work done by children should be classified as child labour that is to be targeted for elimination; whereas children's or adolescents' participation in work that does not affect their health and personal development or interfere with their schooling, is generally regarded as being something positive; whereas through the African Union Agenda 2063, and the recently signed Ten-Year Action Plan on the Eradication of Child Labour, Forced Labour, Human Trafficking and Modern Slavery in Africa (2020-2030), African countries are committed to eliminating all forms of child labour on the continent in accordance with SDG 8.7 of the United Nations 2030 Agenda SDGs;

J. whereas the largest category of the worst forms of child labour is hazardous child labour with approximately 73 million children, aged 5 to 17, working in dangerous conditions in a wide range of sectors, including mining ([13]); whereas in 2018, 47 % of all Malagasy children aged 5 to 17 were engaged in child labour, including an estimated 86 000 child labourers in the mining sector ([14]); whereas mining is the sector with the highest fatality rates for children, with the average of 32 deaths per 100 000 children between the ages of 5 and 17;

K. whereas Madagascar has the world's fifth-highest number of out-of-school children ([15]); whereas half of all children in Madagascar under the age of five suffer from stunting, and, only 13 % have access to electricity ([16]); whereas, of the total population, 74 % are living below the national poverty line and 80 % live in rural areas ([17]); whereas three quarters of the population live on less than USD 1,90 a day; whereas according to UNICEF only 30 % of Malagasy children have access to primary school; whereas education is key in the prevention of child labour and in keeping children off the streets, where they become vulnerable to trafficking and exploitation;

([11]) United Nations. 2015. Transforming our world: the 2030 Agenda for Sustainable Development, UN Doc. A/RES/70/1. Available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

([12]) ILO. 2017. Global Estimates of Child Labour: Results and trends, 2012-2016. https://www.ilo.org/global/publications/books/WCMS_575499/lang–en/index.htm

([13]) https://www.ilo.org/ipec/facts/WorstFormsofChildLabour/Hazardouschildlabour/lang–en/index.htm

([14]) INSTAT/UNICEF, Madagascar 2018, Travail des enfants, Multiple Indicator Cluster Surveys (MICS), PowerPoint presentation.

([15]) World Bank website, School Enrolment Primary, https://data.worldbank.org/indicator/SE.PRM.ENRR?locations=MG

([16]) World Bank website, Where We Work, Madagascar, 'Overview', https://www.worldbank.org/en/country/madagascar/overview

([17]) Ministère de l'Economie et du Plan, Rapport National sur le Développement Humain, RNDH n°6, 2018, https://bit.ly/2IWdx8o

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L. whereas Madagascar is the third-biggest exporter of mica worldwide, accounting for USD 6,5 million in 2017, and one of the countries with the greatest risk of violation of children's rights in mica mining, alongside India, China, Sri Lanka, Pakistan and Brazil;

M. whereas mica refers to a group of different minerals used in electronic and automotive industries and found in a wide range of products from paints to soil conditioners and from make-up to smart phones;

N. whereas an estimated 11 000 children are involved in the mica sector in Madagascar; whereas the majority of this child labour is concentrated in the three southern provinces of Anosy, Androy and Ihorombe, where children underperform in terms of health, nutrition and educational development;

O. whereas the children involved in the mica sector in Madagascar are exposed to harsh and unsafe working conditions, causing them back pain, headaches due to the heat and lack of water or oxygen in the mines, muscle pain due to the repetitive and hard work of carrying heavy loads, and frequent coughs and respiratory problems due to the very fine mica dust particles in and around the mines and processing centres, as well as risking death due to imploding mines or landslides; whereas the Madagascar authorities are not able to provide adequate access to healthcare, education, or clean drinking water facilities to many of the mining communities;

P. whereas the root causes of child labour include poverty, migration, war or environmental degradation and climate change, lack of access to quality education, lack of decent jobs for parents, lack of social protection and social norms; whereas tackling child labour therefore requires a multi-dimensional approach and an analysis of patterns of child labour in a specific context;

Q. whereas Madagascar is at the bottom of the United Nations Human Development Index, ranking 161st out of 189 countries (2017), with 57 % of Madagascar's population suffering severe multidimensional poverty, based on the Multidimensional Poverty Index (MPI), and with 1,3 million people in Madagascar severely affected by food insecurity in March 2019 ([18]); whereas child labour is a symptom of mutually reinforcing root causes — including poverty, inequity and lack of access to basic social services; whereas, as such, child labour cannot be looked at in isolation;

R. whereas the mica sector in Madagascar is taxed by means of a series of complex arrangements, with tax levels on exports being relatively low and not always providing direct benefit to mining communities; whereas approximately only 40 export permits have been issued, thereby suggesting that the vast majority of mica mining is carried out illegally and in unregulated, precarious artisanal sites; whereas the rise in exports combined with the significant decrease of the price per ton has aggravated the risk of labour exploitation;

S. whereas the European Union Action Plan for Democracy and Human Rights 2015-2019 aims at tackling child labour, including by supporting 'partner countries to promote, protect and fulfil children's rights with a focus on economic, social and cultural rights such as the right to education, health and nutrition, social protection and the fight against the worst forms of child labour, always guided by the best interests of the child.' ([19]);

T. whereas General Comment 16 of the Committee on the Rights of the Child 'recognises that duties and responsibilities to respect the rights of children extend in practice beyond the State and State-controlled services and institutions and apply to private actors and business enterprises' adding that 'all businesses must meet their responsibilities regarding children's rights and States must ensure they do so;

([18]) OCHA, Madagascar, Aperçu de la situation humanitaire, March-April 2019, https://tinyurl.com/y4z3zrbo

([19]) Council of the European Union. 2015. EU Action Plan for Democracy and Human Rights 2015-2019. Action 15.b https://eeas.europa.eu/sites/eeas/files/eu_action_plan_on_human_rights_and_democracy_en_2.pdf

U. whereas the President of the European Commission, Ursula von der Leyen, has committed to a zero-tolerance policy on child labour in EU trade agreements ([20]) and called on the Vice-President-designate for Democracy and Demography, Dubravka Šuica, to develop a comprehensive strategy on the rights of the child ([21]);

V. whereas in recent years the EU has started to adopt legislation to enhance corporate accountability and embed elements of Human Rights Due Diligence (HRDD) into legislation, including the Conflict Minerals Regulation and the EU Non-Financial Reporting Directive (NFR); whereas Member States have started to adopt national legislation with the same aim, such as the UK's Modern Slavery Act, the French law on the duty of care of multinational companies, the Dutch Child Labour Due Diligence Bill, or the German and Italian national action plans to implement the UNGPs; whereas the Commission announced its intention to explore ways of improving transparency throughout the supply chain, including aspects of mandatory due diligence;

W. whereas Parliament urged the Commission to consider banning EU imports of products made with child labour in a 2010 resolution and repeated its demands in a 2016 resolution calling 'for a balanced and realistic proposal for legislation', including measures such as labelling child-labour-free products and prohibiting imports of goods made with child labour;

1. Strongly condemns the unacceptable use of child labour in all its forms;

2. Is deeply concerned at the large number of child workers in Malagasy mines and the violations of these children's rights; reminds the Malagasy authorities of their responsibility to uphold the rights of children and guarantee their safety and integrity;

3. Welcomes the fact that the eradication of child labour is one of the priorities of the new Commission and asks it to provide details on how it aims to tackle child labour through EU policy, legislation and funding, including new initiatives;

4. Welcomes the new Commission's commitment to present a new comprehensive strategy on child rights, and calls on the Commission to ensure that such a strategy will contribute to tackling the root causes of child labour and its worst forms; calls for the EU to ensure that respect for human rights, including the fight against child labour and exploitation, remains an essential element of its political dialogue with Madagascar;

5. Welcomes the fact that the Member States stressed the need to accelerate action both within and outside the European Union to fulfil the vision and goals of the United Nations 2030 Agenda ([22]); reaffirms the urgent need to effectively address human rights abuses by transnational corporations; therefore welcomes the ongoing negotiations on a binding UN treaty for transnational corporations and human rights; reiterates its calls on the Commission and the Member States to engage constructively in these negotiations and to play an active role and contribute to the development of concrete proposals, including access to remedies; calls on the Member States, therefore, to mandate the Commission to take an active part in the negotiations;

6. Welcomes the fact that the EU has taken some steps to develop binding regulations in the area of corporate due diligence in specific sectors where there is a high risk of human rights abuses, such as in the areas of timber and conflict minerals; notes that some Member States have also developed legislation, such as the French law on the duty of care of multinational companies and the Dutch Child Labour Due Diligence Bill; notes also that the EU has developed a number of initiatives to promote due diligence and that several European Parliament resolutions have called for the EU to further develop binding rules in this area;

([20]) *A Union that strives for more. My agenda for Europe* by candidate for President of the European Commission Ursula von der Leyen. Political Guidelines for the Next European Commission 2019-2024. Available at https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf

([21]) Ursula von der Leyen, President-elect of the European Commission. Mission Letter to Dubravka Šuica, Vice-President-designate for Democracy and Demography. 10 September 2019. Available at: https://ec.europa.eu/commission/sites/beta-political/files/mission-letter-dubravka-suica_en.pdf

([22]) https://www.consilium.europa.eu/media/41693/se-st14835-en19.pdf

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7. Calls on the Commission and the Member States to work closely with the different sectors to ensure efficient monitoring of the different supply chains in order to avoid child labour related products and services in EU markets; reiterates its call for the harmonisation and strengthening of import and supply chain controls, including through working towards binding due diligence and implementing OECD standards;

8. Recalls that mining is among the sectors with the highest risk of workers' rights abuse; takes note that the Conflict Minerals Regulation will come into effect in January 2021, with the Commission due to report on its implementation to Parliament by January 2023; believes that the review should take into account the impact of the regulation on the ground and assess the possibility of including minerals such as mica;

9. Urges the EU and its Member States to work with Madagascar to support the adoption and implementation of legislation, policies, budgets and action programmes that would contribute to the full realisation of all the rights of every child, including child labourers, as well as improving the working conditions of those involved in the mining sector; calls on the EU delegation to Madagascar to continue to monitor the situation of children's rights in the country closely;

10. Highlights that it is important that the 2021-2027 multiannual financial framework reflect the EU's commitment to poverty eradication and elimination of the worst forms of child labour and to eradicate child labour by 2025 as per the SDGs, including in Madagascar ([23]), within the timeframe of the United Nations 2030 Agenda ([24]); calls on the Government of Madagascar to fully implement its commitments under ILO Convention No 182 on the worst forms of child labour and No 138 on the minimum age for admission to employment, notably by enhancing its financial capacity to monitor and inspect the working and living conditions of mine workers, and more broadly, by providing adequate access to basic education, healthcare, sanitation and drinking water; calls on the Government of Madagascar to protect children's rights and promote the eradication of child labour;

11. Urges the Commission to raise with Madagascar the issue of Malagasy mining companies using child labour so as to ascertain that no part of their production is directly or indirectly imported into the EU;

12. Calls for the Economic Partnership Agreement between the EU and Madagascar and other Eastern and Southern Africa partners to be reformed so as to include a robust chapter on 'Trade and Sustainable Development' enshrining respect for internationally agreed labour rights standards, including combating child labour;

13. Calls for all EU and international companies to observe the principles of fair trade and of ethically sourced goods and materials;

14. Recommends the future application of the Neighbourhood, Development and International Cooperation Instrument (NDICI) Regulation in the context of child labour eradication, including in the area of social inclusion and human development, which will ensure that the EU invests in education, health, nutrition, social protection, and the overall strengthening of child protection systems;

15. Urges the Commission and the EU delegations to ensure meaningful consultations with local and international civil society organisations to ensure that evidence from programmes and the experiences of working children will be taken into account by the NDICI programming process, including for the programming process that concerns Madagascar;

16. Recommends that the Commission continue to support the implementation of the UN Guiding Principles on Business and Human Rights, combat child labour and modern forms of forced labour, and protect human rights defenders through the NDICI thematic programme on Human Rights and Democracy;

([23]) https://www.un.org/development/desa/dpad/least-developed-country-category-madagascar.html

([24]) The New European Consensus on Development: 'Our World, Our Dignity, Our Future'. 2017. https://www.consilium.europa.eu/media/24011/european-consensus-for-development-st09459en17.pdf

17. Calls for the EU as main player for human rights in the world to take the lead in the eradication of child labour and in taking immediate and effective measures to end child labour by 2025 in all its forms;

18. Recommends that the European External Action Service (EEAS) prioritise the protection and promotion of children's rights and the eradication of child labour in the next EU Action Plan for Democracy and Human Rights;

19. Recommends that the EEAS develop the next EU Action Plan for Democracy and Human Rights with the meaningful and effective participation of civil society organisations, including child rights organisations, and children themselves;

20. Calls on the Commission to ensure that the upcoming EU Africa strategy is driven by the ambition to implement the SDGs and investment in a broad range of children's rights, while ensuring that the eradication of child labour is at the centre of this strategy; recommends that the Commision place children's rights at the centre of the Post-Cotonou Agreement;

21. Calls on the Commission to develop a comprehensive implementation strategy for the 2030 Agenda and to set as a core objective the eradication of child labour; underlines the need to fully implement the principle of Policy Coherence for Development, as enshrined in Article 208 of the TFEU, and to integrate a 'do no harm' approach to children's rights; stresses the importance, to this end, of including the fight against forced labour and child labour in all EU economic partnership agreements, through binding and enforceable sustainable development chapters, which must reflect the highest environmental and social standards, notably on child labour, in line with Commission President von der Leyen's commitment on a 'zero-tolerance' policy towards child labour;

22. Recalls that one of the main challenges for developing countries is to climb up the global value chain (GVC) through economic diversification, which necessitates fair and pro-development global trade rules; against this background, stresses that the EU should refrain from adopting a trade policy that prohibits developing countries from levying export taxes on raw materials as a general rule within the remit of the economic partnership agreements, insofar as this is WTO-compatible; calls on the Commission to actively work within the WTO to promote multilateral rules for the sustainable management of GVCs, including mandatory supply chain due diligence;

23. Calls on Madagascar to mainstream the inclusion of young people in their national development agendas, to adopt mechanisms for enhancing their representation at all levels of decision-making, and to provide specific and adequate budgetary allocations in programmes allowing all young people to benefit from primary, secondary and tertiary education;

24. Takes note of the current revision of the Malagasy mining code and calls on the government to prioritise compliance with its international commitments, including in terms of social and environmental standards, decent work and respect for human rights in general and children's rights, building on existing initiatives such as the Responsible Mica Initiative;

25. Instructs its President to forward this resolution to the Council, the Commission, the Member States, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the ACP-EU Council, the Secretary-General of the United Nations, the Southern African Development Community, the Commission of the African Union and the Government of Madagascar.