

### **Division 3**

#### **Civil proceedings**

#### **Section 11**

##### **Special capacity to sue**

(1) Any person claiming to have been violated in a legal position pursuant to section 2 (1) that is of paramount importance may authorise a domestic trade union or non-governmental organisation to bring proceedings to enforce his or her rights in its own capacity.

(2) A trade union or non-governmental organisation may be only authorised under paragraph (1) if it maintains a permanent presence of its own and, in accordance with its statutes, is not engaged commercially and not only temporarily in the realisation of human rights or corresponding rights in the national law of a state.

### **Division 4**

#### **Monitoring and enforcement by the authorities**

#### **Subdivision 1**

##### **Report audit**

#### **Section 12**

##### **Submission of the report**

(1) The report pursuant to section 10 (2) sentence 1 must be submitted in German and electronically via an electronic/digital access provided by the competent authority.

(2) The report must be submitted no later than four months after the end of the financial year to which it relates.

#### **Section 13**

##### **Report audit by the authorities; authorisation to issue statutory instruments**

(1) The competent authority checks whether

1. the report pursuant to section 10 (2) sentence 1 has been provided and
2. the requirements according to section 10 (2) and (3) have been complied with.

(2) If the requirements according to section 10 (2) and (3) have not been met, the competent authority may demand that the enterprise rectify the report within a reasonable period of time.

(3) The Federal Ministry of Labour and Social Affairs is authorised to regulate the following procedures in more detail by statutory instrument in agreement with the Federal Ministry for Economic Affairs and Energy without the consent of the Bundesrat:

1. the procedure for submitting the report pursuant to section 12, and
2. the procedure for report audits by the authorities in accordance with paragraphs (1) and (2).

## **Subdivision 2**

### **Risk-based control**

#### **Section 14**

##### **Action taken by the authorities; authorisation to issue statutory instruments**

(1) The competent authority will take action:

1. ex officio, in the proper exercise of its discretion,
  - a) to monitor compliance with the obligations under sections 3 to 10 (1) with regard to possible human rights and environment-related risks as well as violations of a human rights-related or environment-related obligation and
  - b) to detect, end and prevent violations of obligations under letter a;
2. upon request, if the person making the request makes a substantiated claim
  - a) that he or she has been violated in his or her protected legal position as a result of the non-fulfilment of an obligation contained in sections 3 to 9 or
  - b) that a violation referred to in letter a is imminent.

(2) The Federal Ministry of Labour and Social Affairs is authorised to regulate in more detail the procedure for risk-based control pursuant to paragraph (1) and sections 15 to 17 by statutory instrument in agreement with the Federal Ministry for Economic Affairs and Energy without the consent of the Bundesrat.

#### **Section 15**

##### **Orders and measures**

The competent authority makes the appropriate and necessary orders and takes the appropriate and necessary measures to detect, end and prevent violations of the obligations under sections 3 to 10 (1). It may in particular

1. summon people,
2. order the enterprise to submit, within three months of the notification of the order, a corrective action plan, including clear timelines for its implementation and

3. require the enterprise to take specific action to fulfil its obligations.

## **Section 16**

### **Access rights**

Insofar as this is necessary for the performance of the duties pursuant to section 14, the competent authority and its representatives are authorised

1. to enter and inspect the enterprise's premises, offices and commercial buildings during normal business or operating hours and
2. to inspect and examine, within normal business or operating hours, the enterprise's business documents and records from which it is possible to deduce whether the due diligence obligations under sections 3 to 10 (1) have been complied with.

## **Section 17**

### **Obligation to provide information and surrender documents**

(1) Enterprises and persons summoned pursuant to section 15 sentence 2 no. 1 are obliged to provide the competent authority, upon request, with the information and to surrender the documents required by the authority to carry out the duties assigned to it by this Act or on the basis of this Act. The obligation also extends to information on affiliated enterprises (section 15 of the Stock Corporation Act), direct and indirect suppliers and the surrender of documents of these enterprises insofar as the enterprise or person obliged to provide information or surrender documents has the information at its disposal or is in a position to obtain the requested information due to existing contractual relationships.

(2) The information to be provided and documents to be surrendered pursuant to paragraph (1) include in particular

1. information and evidence to determine whether an enterprise falls within the scope of this Act,
2. information and evidence on the fulfilment of the obligations according to sections 3 to 10 (1) and
3. the names of the persons responsible for monitoring the enterprise's internal processes for fulfilling the obligations under sections 3 to 10 (1).

(3) Any person obliged to provide information in accordance with paragraph (1) may refuse to provide information in response to questions if the response would expose them or one of the relatives referred to in section 52 (1) of the Code of Criminal Procedure (Strafprozessordnung) to the risk of criminal prosecution or proceedings under the Regulatory Offences Act (Gesetz über Ordnungswidrigkeiten). The person obliged to provide information is to be informed of their right to refuse to provide information. Other statutory rights to refuse to provide information or to give evidence as well as statutory duties of confidentiality remain unaffected.

## **Section 18**

### **Obligation to tolerate and cooperate**

The enterprises must tolerate the measures of the competent authority and its representatives and support them in the implementation of the measures. Sentence 1 also applies to the enterprise owners and their representatives, and in the case of legal persons, to the persons appointed to represent them by law or under the legal person's statutes.

### **Subdivision 3**

#### **Competent authority, handouts, accountability report**

## **Section 19**

### **Competent authority**

(1) The Federal Office for Economic Affairs and Export Control is responsible for the official monitoring and enforcement under this Division. The Federal Ministry for Economic Affairs and Energy is responsible for the legal and technical supervision of the Federal Office for Economic Affairs and Export Control with regard to the tasks under this Act. The Federal Ministry for Economic Affairs and Energy exercises the legal and technical supervision in agreement with the Federal Ministry of Labour and Social Affairs.

(2) The competent authority takes a risk-based approach in the performance of its tasks.

## **Section 20**

### **Handouts**

The competent authority publishes cross-sectoral or sector-specific information, assistance and recommendations on compliance with this Act in consultation with the authorities concerned. The information, assistance or recommendations require the approval of the Federal Foreign Office prior to publication insofar as foreign policy concerns are affected.

## **Section 21**

### **Accountability report**

(1) The competent authority pursuant to section 19 (1) sentence 1 reports once a year on its monitoring and enforcement activities pursuant to Division 4 carried out in the previous calendar year. The respective report is to be prepared for the first time for the year 2022 and is to be published on the website of the competent authority.

(2) The reports is to refer to and explain any violations identified and remedial measures ordered as well as contain an evaluation of the submitted enterprise reports according to section 12, without naming the respective enterprises concerned.

## **Division 5**

### **Public procurement**

#### **Section 22**

#### **Exclusion from the award of public contracts**

(1) Enterprises that have been fined in accordance with section 24 (2) for a violation under section 24 (1) that has been established by final and binding decision shall, as a rule, be excluded from participation in a procedure for the award of a supply, works or service contract by the contracting authorities referred to in sections 99 and 100 of the Act against Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen) until they have proved that they have cleared themselves in accordance with section 125 of the Act against Restraints of Competition. The exclusion pursuant to sentence 1 may only take place within an appropriate period of up to three years.

(2) An exclusion according to paragraph (1) requires a violation that has been established by final and binding decision carrying a fine of at least one hundred and seventy-five thousand euros. Notwithstanding sentence 1

1. in the cases of section 24 (2) sentence 2 in conjunction with section 24 (2) sentence 1 no. 2, a violation that has been established by final and binding decision carrying a fine of at least 1 million five hundred thousand euros,
2. in the cases of section 24 (2) sentence 2 in conjunction with section 24 (2) sentence 1 no. 1, a violation that has been established by final and binding decision carrying a fine of at least two million euros and
3. in the cases of section 24 (3), a violation that has been established by final and binding decision carrying a fine of at least 0.35 per cent of the average annual turnover is required.

(3) The applicant is to be heard before the decision on exclusion is taken.

## **Division 6**

### **Financial penalty and administrative fine**

#### **Section 23**

##### **Financial penalty**

Notwithstanding section 11 (3) of the Administrative Enforcement Act (Verwaltungsvollstreckungsgesetz), the amount of the financial penalty in administrative enforcement proceedings by the competent authority under section 19 (1) sentence 1 is up to 50,000 euros.

#### **Section 24**

##### **Provisions on administrative fines**

- (1) A person has committed a regulatory offence when he or she, intentionally or by negligence,
1. contrary to section 4 (3) sentence 1, fails to ensure that a determination referred to therein has been made,
  2. contrary to section 5 (1) sentence 1 or section 9 (3) no. 1, does not carry out a risk analysis, does not carry it out correctly, completely or in time,
  3. contrary to section 6 (1), does not take a preventive measure or does not take it in time,
  4. contrary to section 6 (5) sentence 1, section 7 (4) sentence 1 or section 8 (5) sentence 1, does not carry out a review or does not carry it out in time,
  5. contrary to section 6 (5) sentence 3, section 7 (4) sentence 3 or section 8 (5) sentence 2, fails to update a measure or fails to update it in time,
  6. contrary to section 7 (1) sentence 1, fails to take remedial action or fails to take such action in time,
  7. contrary to
    - a) section 7 (2) sentence 1 or
    - b) section 9 (3) no. 3fails to draw up a concept or draw it up in time, or fails to implement it or implement it in time,
  8. contrary to section 8 (1) sentence 1, also in conjunction with section 9 (1), fails to ensure that a complaints procedure is in place,
  9. contrary to section 10 (1) sentence 2, fails to keep documentation or does not keep it for at least seven years,
  10. contrary to section 10 (2) sentence 1, fails to prepare a report correctly,
  11. contrary to section 10 (2) sentence 1, fails to make a report referred to therein publicly available or fails to do so in time,

12. contrary to section 12, does not submit a report or does not submit it in time or

13. fails to comply with an enforceable order pursuant to section 13 (2) or section 15 sentence 2 no. 2.

(2) The regulatory offence may be punished

1. in the cases referred to in paragraph (1)

a) nos. 3, 7 letter b and no. 8

b) nos. 6 and 7 letter a

with a fine of up to eight hundred thousand euros,

2. in the cases of paragraph (1) nos. 1, 2, 4, 5 and 13, with an administrative fine of up to five hundred thousand euros and

3. in the other cases referred to in paragraph (1), with an administrative fine of up to one hundred thousand euros.

In the cases of sentence 1 nos. 1 and 2, section 30 (2) sentence 3 of the Regulatory Offences Act applies.

(3) In the case of a legal person or association of persons with an average annual turnover of more than 400 million euros, a regulatory offence under paragraph (1) nos. 6 or 7 (a) may be punished with an administrative fine of up to 2 per cent of the average annual turnover in derogation from paragraph (2) sentence 2 in conjunction with sentence 1 no. 1 (b). The calculation of the average annual turnover of the legal person or association of persons is based on the worldwide turnover of all natural and legal persons as well as all associations of persons in the last three financial years preceding the decision by the authority insofar as these persons and associations of persons operate as an economic unit. The average annual turnover may be estimated.

(4) The basis for the assessment of the administrative fine for legal persons and associations of persons is the significance of the regulatory offence. The economic circumstances of the legal person or association of persons are to be taken into account in the assessment. In the assessment, the circumstances are to be weighed up insofar as they speak for and against the legal person or association of persons. The following is to be taken into consideration, among other things:

1. the charge against the perpetrator of the regulatory offence,

2. the motives and objectives of the perpetrator of the regulatory offence,

3. significance, extent and duration of the regulatory offence,

4. the type of execution of the regulatory offence, in particular the number of perpetrators and their position in the legal person or association of persons,

5. the effects of the regulatory offence,

6. previous regulatory offences for which the legal person or association of persons is responsible pursuant to section 30 of the Regulatory Offences Act, also in conjunction with section 130 of the Regulatory Offences Act, as well as precautions taken before the regulatory offence to prevent and detect regulatory offences,

7. the efforts taken by the legal person or association of persons to detect the offence and to repair the damage, as well as precautions taken after the regulatory offence to prevent and detect regulatory offences,

8. the consequences of the regulatory offence suffered by the legal person or association of persons.

(5) The administrative authority within the meaning of section 36 (1) no. 1 of the Regulatory Offences Act is the Federal Office for Economic Affairs and Export Control. Section 19 (1) sentences 2 and 3 apply to the legal and technical supervision of the Federal Office.



**Annex****(to section 2 (1), section 7 (3) sentence 2)****Conventions**

1. Convention No. 29 of the International Labour Organization of 28 June 1930 concerning Forced or Compulsory Labour (Federal Law Gazette 1956 II pp. 640, 641) (ILO Convention No. 29)
2. Protocol of 11 June 2014 to Convention No. 29 of the International Labour Organization of 28 June 1930 concerning Forced or Compulsory Labour (Federal Law Gazette 2019 II pp. 437, 438)
3. Convention No. 87 of the International Labour Organization of 9 July 1948 concerning Freedom of Association and Protection of the Right to Organise (Federal Law Gazette 1956 II pp. 2072, 2071), as amended by the Convention of 26 June 1961 (Federal Law Gazette 1963 II pp. 1135, 1136) (ILO Convention No. 87)
4. Convention No. 98 of the International Labour Organization of 1 July 1949 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (Federal Law Gazette 1955 II pp. 1122, 1123), as amended by the Convention of 26 June 1961 (Federal Law Gazette 1963 II pp. 1135, 1136) (ILO Convention No. 98)
5. Convention No. 100 of the International Labour Organization of 29 June 1951 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (Federal Law Gazette 1956 II pp. 23, 24) (ILO Convention No. 100)
6. Convention No. 105 of the International Labour Organization of 25 June 1957 concerning the Abolition of Forced Labour (Federal Law Gazette 1959 II pp. 441, 442) (ILO Convention No. 105)
7. Convention No. 111 of the International Labour Organization of 25 June 1958 concerning Discrimination in Respect of Employment and Occupation (Federal Law Gazette 1961 II pp. 97, 98) (ILO Convention No. 111)
8. Convention No. 138 of the International Labour Organization of 26 June 1973 concerning the Minimum Age for Admission to Employment (Federal Law Gazette 1976 II pp. 201, 202) (ILO Convention No. 138)
9. Convention No. 182 of the International Labour Organization of 17 June 1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Federal Law Gazette 2001 II pp. 1290, 1291) (ILO Convention No. 182)
10. International Covenant of 19 December 1966 on Civil and Political Rights, (Federal Law Gazette 1973 II pp. 1533, 1534)
11. International Covenant of 19 December 1966 on Economic, Social and Cultural Rights (Federal Law Gazette 1973 II pp. 1569, 1570)
12. Minamata Convention on Mercury of 10 October 2013 (Federal Law Gazette 2017 II p. 610, 611) (Minamata Convention)

13. Stockholm Convention of 23 May 2001 on Persistent Organic Pollutants (Federal Law Gazette 2002 II pp. 803, 804) (POPs Convention), last amended by the decision of 6 May 2005 (Federal Law Gazette 2009 II pp. 1060, 1061)

14. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989 (Federal Law Gazette 1994 II pp. 2703, 2704) (Basel Convention), as last amended by the Third Ordinance amending Annexes to the Basel Convention of 22 March 1989 of 6 May 2014 (Federal Law Gazette II pp. 306/307).

## Article 2

### Amendment of the Act against Restraints of Competition

In section 124 (2) of the Act against Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen) in the version promulgated on 26 June 2013 (Federal Law Gazette I pp. 1750, 3245), as last amended by Article 1 of the Act of 9 March 2021 (Federal Law Gazette I p. 327), after the words “section 19 of the Minimum Wage Act (Mindestlohngesetz)” the word “and” is replaced by a comma and the words “and section 22 of the Act on Corporate Due Diligence Obligations in Supply Chains of ... [insert: date of execution and citation in the Federal Law Gazette]” are inserted after the words “section 21 of the Act to Combat Undeclared Work and Illegal Work (Schwarzarbeitsbekämpfungsgesetz)”.

## Article 3

### Amendment of the Competition Register Act (Wettbewerbsregistergesetz)

The Competition Register Act (Wettbewerbsregistergesetz) of 18 July 2017 (Federal Law Gazette I p. 2739), as last amended by Article 10 of the Act of 18 January 2021 (Federal Law Gazette I p. 2), is amended as follows:

1. Section 2 (1) is amended as follows:

a) In number 2 letter e, after the words “has been”, the comma and the word “or” are replaced by a semicolon.

b) In number 3, the full stop at the end is replaced by a semicolon and the word “or”.

c) The following number 4 is added:

“4. final and binding decisions imposing administrative fines for regulatory offences pursuant to section 24(1) of the Act on Corporate Due Diligence Obligations in Supply Chains of ... [insert: date of execution and citation in the Federal Law Gazette] if an administrative fine of at least one hundred and seventy-five thousand euros has been imposed.”.

2. In section 3 the following paragraph (4) is added:

“(4) For the purpose of checking and completing the data referred to in paragraph (1) number 4, the registry authority may request that the Federal Central Tax Office transmit the valid VAT identification number of an enterprise that has been entered or is to be entered in the competition register. In the request, the registry authority must state the name or enterprise name as well as the legal form and address of the enterprise concerned. Section 27a (2) sentence 2 of the Value Added Tax Act (Umsatzsteuergesetz) remains unaffected.”.

## **Article 4**

### **Amendment of the Works Constitution Act (Betriebsverfassungsgesetz)**

In section 106 (3) of the Works Constitution Act in the version promulgated on 25 September 2001 (Federal Law Gazette I p. 2518), as last amended by Article 6 of the Act of 20 May 2020 (Federal Law Gazette I p. 1044), the following number 5b is inserted after number 5a:

“5b Issues of corporate due diligence in supply chains pursuant to the Act on Corporate Due Diligence Obligations in Supply Chains;”.

## **Article 5**

### **Entry into force**

(1) Subject to paragraph (2), this Act enters into force on 1 January 2023.

(2) Section 13 (3), section 14 (2) and sections 19 to 21 of the Act on Corporate Due Diligence Obligations in Supply Chains enter into force on the day after promulgation.

The constitutional rights of the Bundesrat have been observed.

The above Act is hereby executed. It is to be promulgated in the Federal Law Gazette.

Berlin, 16 July 2021

The Federal President

Steinmeier

The Federal Chancellor

Dr. Angela Merkel

The Federal Minister  
of Labour and Social Affairs  
Hubertus Heil

The Federal Minister  
for Economic Cooperation and Development  
Gerd Müller

The Federal Minister  
for Economic Affairs and Energy  
Peter Altmaier

# Supply chain law FAQs



Federal Ministry  
for Economic Cooperation  
and Development

As at: 9 June 2021

## 1. What is the aim of the law?

- The act is intended to improve the **protection of basic human rights** and, in particular, enforce the ban on forced labour.
- **Environmental concerns are also relevant** if – because of them – human rights are being violated (e.g. in the case of polluted water) or if it is a matter of human health.

## 2. Which companies come under the law?

- From 2023 onwards: companies with more than **3,000 employees (900 companies)**.
- From 2024 onwards: Companies with more than **1,000 employees (4,800 companies)**.
- After that, the area of application will be evaluated.

## 3. What are the most important rules and regulations?

### 1. Responsibility for the entire supply chain; tiered requirements for companies:

The requirements that companies must meet are tiered, based on the different stages within the supply chain:

1. the company's own business operations,
2. direct suppliers,
3. indirect suppliers.

#### and based on:

- › the kind and extent of the business activity,
- › the degree of influence the company has on the one committing the violation,
- › the typically expected severity of the violation,
- › the way in which the company has contributed to the violation.

## 2. External monitoring by a government authority

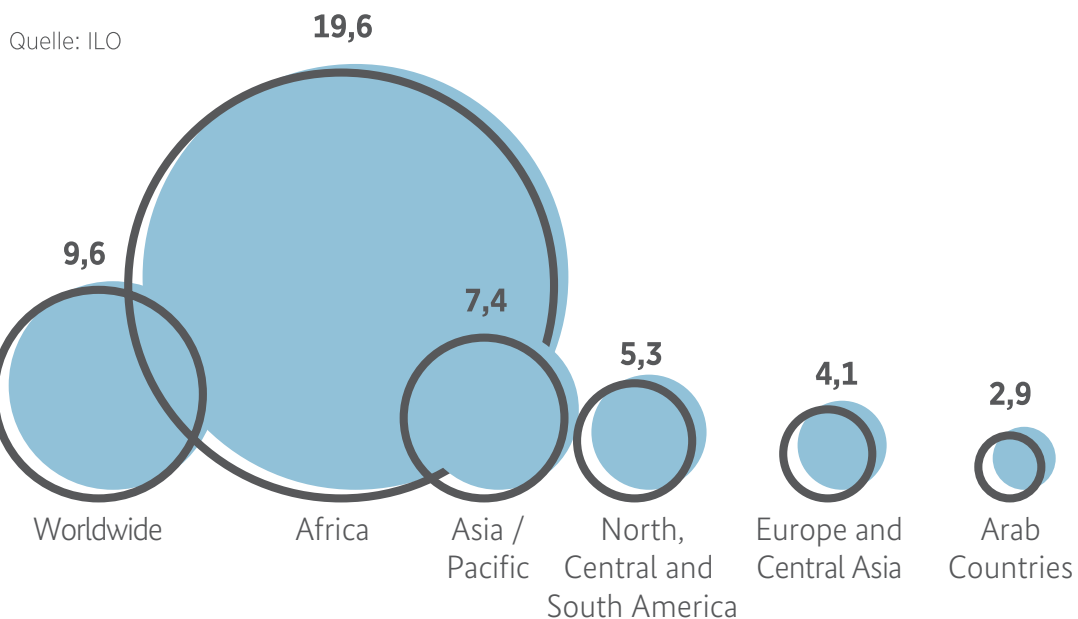
- › An established government authority, the **Federal Office for Economics and Export Control**, is tasked with monitoring compliance with the law.
- › It checks **company reports**, investigates any **grievances** made and imposes **sanctions**, if needed.

## 3. More rights for injured parties

- › Not only can people whose human rights have been violated use the German courts to get their rights upheld, they can now also report their grievances to the **Federal Office for Economics and Export Control**.
- › German trade unions and non-governmental organisations may also support injured parties from other countries by defending their rights **before a German court** (representative action).

### 1 in 10 children are forced to work.

Child labourers under the statutory minimum age, in % (2016)



## 4. What must a company do in the context of its own business operations and in the context of a direct supplier's business operations?

- **Companies have to put the following measures in place both in their own and in their direct suppliers' business operations:**
  - › Draft and adopt a **policy statement** on respecting human rights.
  - › **Risk analysis:** Implement procedures for identifying negative impacts on human rights.
  - › Engage in **risk management (incl. prevention and remedial measures)** to avoid potential negative impacts on human rights.

- › Establish a **grievance mechanism**.
- › Implement transparent public **reporting**.
- In the event of a violation of rights, the company must, in its own **area of business**, take steps **immediately** that will necessarily cause the violation to cease.
- In the case of **direct suppliers**, the company must draft a **concrete plan** for minimising and preventing violations when it is unable to end the violation **in the foreseeable future**.

## 5. What must a company do in the case of an indirect supplier?

- Here, the due diligence obligations apply only as warranted by the circumstances and as soon as the company learns about potential violations.
- In this case, the company has to act immediately and:
  - › conduct a **risk analysis**,
  - › implement a **strategy to minimise and avoid** the problem,
  - › firmly establish **appropriate prevention measures** vis-à-vis the one committing the violation. The implementation of **industry-wide initiatives** is a good option in this context.

## 6. Are companies liable for human rights violations in their supply chains?

- The law does **not create any new civil liability regulations**. Liability under civil law according to German and foreign laws continues to apply.

## 7. Must business relations be terminated?

- That is **not the aim** of the law. Instead the law is intended to sustainably establish improved protection of human rights in suppliers' operations, within the scope of what is feasible in these companies.
- **No company** will be expected to change the **legal and political conditions in the partner country**.
- The only time that **business relations need to be terminated** is when a serious violation of human rights has been found and the measures taken so far under the company's strategy have failed to succeed within a given period of time.
- At the same time, there will be substantial government **support programmes** for companies.

## 8. How will the law be implemented?

- The **Federal Office for Economics and Export Control** will ensure the effective implementation of the law. It will set up a lean reporting procedure that will provide the basis for the monitoring of companies.
- Infringements of the law may result in **fin**es.
- Companies found to have committed serious infringements may be **excluded** from **public procurement procedures** for up to three years.

## 9. What new provisions does the law include, as compared with the government's draft?

- The law will initially apply for **branches of foreign companies in Germany** if they have more than 3,000 employees (as of 2023) or 1,000 employees (as of 2024) in Germany.
- **The area of business of German companies will be expanded so that their international subsidiaries (if controlled by them)** are considered to be part of the companies' own area of business, not direct suppliers.
- A further **environmental convention**, the Basel Convention on waste exports, has been included in the law. This also serves to protect human health.
- For indirect suppliers, **industry-wide initiatives** are regarded as an **appropriate prevention measure**.
- **Works councils** have to be informed about the implementation of the law.
- Additional clarification: **A violation of the obligations arising from this law does not give rise to civil liability. Civil liability on grounds outside this law remains unaffected.**
- Clarification: If a country of production has not ratified international agreements, this is not a **reason *per se* to break off business relations with companies in that country.**
- A new title: **Act on Due Diligence in Supply Chains.**

## 10. Don't we need Europe-wide rules?

- The **goal** continues to be a **uniform European set of rules**. It will probably take several years until we have such a European set of rules.
- EU legislation should find a compromise between better protection of human rights, **feasibility for companies**, and **positive impact for the people concerned**.
- The German law should serve as a **blueprint for a European law**.



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## 1. What is the aim of the law?

- The aim of the law is to improve the **protection of human rights**.
- **Companies in Germany** also have a **responsibility to help protect human rights**. They must ensure that human rights are respected **in their supply chains**, which means **no child labour** or enforced labour.
- This is a question of respecting **basic human rights**. It is not about implementing German social standards everywhere in the world.
- **Environmental issues also play a part** if – because of them – human rights are violated (e.g. in the case of polluted water).
- The law **sets out clear and realisable requirements for corporate due diligence**, thus creating **legal certainty** for companies and affected persons.
- **In passing this law we are fulfilling a pledge made in the Coalition Agreement**.

## 2. Why do we need a due diligence law?

- For many years, the German government had relied on voluntary commitments in order to implement the UN Guiding Principles on Business and Human Rights in Germany, and had adopted a **National Action Plan for Business and Human Rights**.
- In order to check whether bigger companies were meeting their human rights due diligence obligations in their supply chains, a **monitoring** system was set up using independent service providers.
- The **compliance target of 50 per cent was clearly not being met** under this system:
  - In the first company survey (in 2019), about 400 of the roughly 3,000 companies invited to take part completed the questionnaire; about 20% of them were shown to be compliant.
  - For the second round (in 2020), the methodology was improved and about 450 (from a total of 2,250) companies responded; **17% were compliant**.
- The **Coalition Agreement** envisaged for this situation the enactment of national legislation by the German government.

## 3. What are the biggest human rights violations worldwide in connection with economic activities?

- There are **152 million child labourers**, half of whom are being exploited.
- **There are 25 million people working as forced labourers**.

## Supply chain law FAQs

### 4. Which human rights are covered by the due diligence obligations?

- Bodily integrity and health;
- Freedom from slavery and forced labour;
- Protection of children and freedom from child labour;
- Freedom of association and the right to collective bargaining;
- Protection against torture;
- Fair working conditions (safety at work, breaks);
- Environmentally related obligations to protect human health.

### 5. Which companies come under the law?

- From 2023 onwards: companies with more than **3,000 employees** (over 600 companies in Germany).
- From 2024 onwards: companies with more than **1,000 employees** (2,900 companies).
- After that, the area of application will be evaluated.

### 6. What are the most important rules and regulations?

#### 1. For the first time ever, clear requirements for corporate due diligence obligations

- This creates legal certainty for companies and affected persons.

#### 2. Responsibility for the entire supply chain

- Corporate due diligence obligations apply to the **entire supply chain** – from the raw materials to the completed sales product.
- The requirements that companies must meet are appropriate and **tiered**, for example based on the degree of influence the company has on those committing the violation and also based on the different stages within the supply chain.
- Many companies are already meeting these requirements, since they are already implementing, for example, the **EU Conflict Minerals Regulation** and/or the **EU CSR Directive**.

#### 3. External monitoring by a government authority

- The **Federal Office for Economic Affairs and Export Control**, which is tasked with monitoring compliance with the law, is an established government authority.
- It checks company reports and investigates any grievances.

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### 4. Better protection of human rights

- Not only can people whose human rights have been violated use the German courts to get their rights upheld, they can now also report their grievances to the **Federal Office for Economic Affairs and Export Control**.

### 7. What is a supply chain?

- For the purposes of this law, the supply chain covers all the inputs that the company uses in order to manufacture a product or provide a service, **from the acquisition of the raw materials to delivering it to the end customers**.

### 8. How are the requirements tiered within the supply chain?

- The **requirements that companies must meet are tiered based on the different stages within the supply chain**:
  - the company's own business operations,
  - direct suppliers,
  - indirect suppliers.

#### And based on:

- the kind and extent of the business activity,
- the degree of influence the company has on the one directly committing the violation,
- the typically expected severity of the violation.

### 9. What must a company do in the context of its own business operations and in the context of a direct supplier's business operations?

- **Companies must implement the following measures**:
  - Draft and adopt a **policy statement** on respecting human rights.
  - Carry out a **risk analysis**: by implementing procedures for identifying disadvantageous impacts on human rights.
  - Engage in **risk management (incl. remedial measures)** to prevent potential negative impacts on human rights.
  - Establish a **grievance mechanism**.
  - Implement transparent public **reporting**.

## Supply chain law FAQs

- In the event of a violation of rights, a company must immediately **take steps to remedy the situation in its own area of business**, steps that will necessarily cause the **violation to cease**. In addition to that, it must also introduce **further prevention measures**.
- If the company is not able to end the violation in the case of a **direct supplier** in the foreseeable future, then it must draw up a concrete **plan to minimise and avoid** the problem.

### 10. What must a company do in the case of an indirect supplier?

- In this case the due diligence obligations apply only as warranted by the circumstances.
- If the company learns about a **possible violation by an indirect supplier**, then it must immediately:
  - conduct a risk analysis,
  - implement a strategy to minimise and avoid the problem,
  - firmly establish appropriate prevention measures vis-à-vis the one committing the violation.

### 11. What must a company do when a grievance is reported?

- The company must examine whether rights have been violated in the context of its own business operations or in the context of a supplier's business operations.
- Depending on what stage of the supply chain is affected, the requirements set out above then apply.

### 12. Must business relations be terminated in certain circumstances?

- That is not the aim of the law. Instead the aim is to lastingly establish improved protection of human rights.
- The only time that **business relations need to be terminated** is when a serious violation of human rights has been found and the measures from the company's strategy that have been taken so far have failed to succeed within a set period of time.

### 13. Are companies liable for human rights violations in their supply chains?

- The law does **not create any new liability regulations under civil law**.
- Liability under civil law according to German and foreign laws continues to apply.

## Supply chain law FAQs

### 14. Can non-governmental organisations file law suits?

- Non-governmental organisations **do not themselves have any right of action.**
- However, affected persons who have had important rights violated can be supported by non-governmental organisations in filing a suit (so-called representative action).

### 15. Are there standards for minimum wages?

- The law does **not lay down any global minimum wages.**
- It does however make reference to the ILO conventions, which envisage decent wages.
- The desirable wage levels vary from country to country and are guided by the respective economic situation.

### 16. How is the law to be implemented?

- The **Federal Office for Economic Affairs and Export Control** will ensure the effective implementation of the law.
- Infringements of the law may result in **fines.**
- Companies found to have committed serious infringements may be **excluded from public procurement processes** for up to three years.
- At the same time, the German government will offer substantial **support programmes** for companies.

### 17. Is there an electronic reporting procedure?

- The authority responsible for monitoring compliance is working **with a fully electronic reporting format which is simple to use.** Existing reporting obligations (e.g. CSR reporting) will be integrated into this format so as to avoid creating parallel structures.
- Further simplifications for companies: The authority will set up a **“recognition mechanism” for existing certification systems.** This will give companies guidance as to where and when existing certificates can be used as proof of due diligence.

### 18. Don't we need Europe-wide rules?

- The **goal** continues to be a **uniform European set of rules.**
- It will probably take several years until we have a uniform European set of rules.

## Supply chain law FAQs

- With a national law, we will be able to influence EU legislation in the direction that we want. That is also in the interests of German businesses.

### 19. What is the time plan going forward?

- The intention is that the **Federal Cabinet** will decide on the draft law by **mid-March** at the latest.
- After that, it is intended that the law will be adopted by the **German Bundestag (Parliament) before the summer recess.**
- For companies with more than 3,000 employees, it will then come into force starting on 1 January 2023.