



Compliance with the German Supply Chain Due Diligence Act

Issues related to "Environmental, Social and Corporate Governance" ("ESG") continue to drive regulatory developments concerning supply chain compliance. The regulatory landscape is changing rapidly moving from a "soft law" to a "hard law" environment.

Germany is at the forefront setting high ESG compliance standards. Effective 1 January 2023, companies with a certain size must comply with comprehensive due diligence requirements in order to prevent, minimize, or end certain human rights and environmental risks or violations.

Non-compliance with these due diligence obligations under the German Supply Chain Due Diligence Act ("SCDDA") bears risks of severe fines of up to 2 percent of the worldwide annual turnover, reputational damage and claims for damages.

The proposed EU Directive on Corporate Sustainability Due Diligence ("CSDDD") will further increase supply chain due diligence requirements in the near future.

Key compliance requirements

Scope of application – effective 1 January 2023

- Applies to companies with
 - central administration, principal place of business, administrative headquarters, statutory seat or branch office in Germany (local nexus)
 - ≥ 3,000 employees in Germany (1 January 2024: ≥ 1,000) (including temporary workers and employees allocated abroad / attribution within affiliated companies)

Risk management and risk analysis

- Human rights and environmental risk analysis: own business area and direct suppliers (+ ad-hoc risk analysis on indirect suppliers in specific situations)
- Risk weighting and prioritization
- Appointment of a human rights officer and definition of responsibilities
- Regular update and monitoring

Human rights strategy

- Policy statement
- Description of risk management
- Expectations vis-à-vis employees and suppliers



Preventive measures

- Implementation of human rights strategy in business processes
- Implementation of appropriate procurement strategies and purchasing practices
- Development and implementation of trainings
- Monitoring:
 - Own business area: risk-based control measures
 - Direct suppliers: contractual assurances and control mechanisms as well as risk-based use



Remedial actions

- Own business area: violation must be terminated
- Direct suppliers: termination or plan to terminate/minimise the violation
- Termination of business relationship as ultima ratio



Grievance mechanism

- Adequate and barrier-free possibility for everyone to report violations
- Determination and publication of rules of procedure
- Protection of confidentiality and against adverse consequences



Indirect suppliers

- Reduced diligence obligations, but ad-hoc risk analysis required in specific situations
- Remedial actions in case of substantiated knowledge of violation



Documentation / Reporting

- Continuous and complete documentation
- Storage obligation at least 7 years
- Annual reports (submission/publication)

Key to implementation – ESG Compliance

- Adapt internal risk and compliance management
- Take organizational measures and adapt purchasing processes
- Allocate responsibilities clearly
- Implement reporting and escalation obligations
- Continuously raise awareness through communication and training
- Ensure proper handling of identified risks
- Respond appropriately and without undue delay to (potential) violations
- Collect, analyse and document information, identified risks and actions taken carefully

How we can help

We are advising our global clients on the implementation of and compliance with the German SCCDA, the draft EU CSDDD as well as the quickly evolving ESG regulation landscape.

- Conduct gap analyses to assess the current status of compliance and provide practical recommendations to meet the new standards
- Design and update required supply chain risk management systems
- Develop and implement industry-specific compliance policy statements, policies and processes
- Plan and conduct risk analyses into your supply chain and advise on preventive measures and remedial actions
- Plan and conduct compliance audits into your supply chain

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