
Supply Chain Law

Significant milestone for human rights or just a drop in the bucket?



Holistic ethical action is called

For many years, business leaders in Germany have looked for their ethical obligations only in their own backyards. However, violations and injustice occur along the entire supply chain. Various imported goods such as fruits, coffee, clothing and many more travel through different continents before reaching their ultimate destination. This leads to a lack of awareness on the part of those responsible locally. Based on these circumstances the German government has now decided to secure a more sustainable future with the supply chain law. The law, which seeks to improve working conditions and environmental protection, is about to come into force gradually. The draft has been introduced on March 3,

2021.¹ In 2023, the law will come into force effecting companies with a workforce of more than 3,000 employees. As of 2024, the law will be tightened further and will then apply to companies with more than 1,000 employees.²

Duties of the legislation

Through the supply chain law companies are required to examine their compliance by implementing an appropriate risk management concept. This includes risk analysis and corresponding measures to eliminate all kind of risks. The focus lies strongly on human rights and environmental hazards. Compliance with due diligence requirements has to be monitored by appointing a responsible person. This person is also to be inspected by the management additionally, which

leads to a double control. A similar additional safeguard has to be provided by the establishment of a complaint's procedure. Those affected or aware of a violation should be able to report it there. Finally, an annual report will be submitted to the responsible authorities.³

The entry into force of the supply chain law is now the subject of controversial debate, but why?

Decent work conditions for everyone

Everyone is currently talking about sustainable corporate cultures, sustainable management and general social values. These topics are increasingly coming to the fore. However, only 18 % of the companies are currently meeting the requirements for a voluntary commitment.⁴ Shouldn't human rights and environmental standards therefore be guaranteed for all? The aim of the supply chain law's entry into force is to change abuses such as forced labor and child labor towards significant human rights standards.⁵ However, criticism of the upcoming law is increasingly being voiced in public.

Is the criticism justified or exaggerated?

The feasibility of the law is questioned due to the disregard abroad. Is it realistic to change the value chain of several hundred affected suppliers and the corresponding standards of the countries at all? International supply chains are more complex, hence it is harder to ensure complete monitoring. Therefore, civil liability causes companies a stomachache, as it is difficult to assess the extent to which the suppliers' duty of care has been observed.⁶ Undesirable side effects, such as global companies no longer

wanting to operate in countries with weak governance structures cannot be excluded. The termination of the agreements and the relocation from developing and emerging markets such as Asia would mean the loss of many jobs and on top make it more difficult for Germany to access modern technologies from the leading innovation market.⁷ As a major developing country, China was able to compensate the shortages as a reliable trading partner, even during the serious Corona pandemic.⁸

In addition to the occurring negative effects, the biggest criticism is that obligations are limited only to the direct suppliers and contractual partners and not to the desired entire supply chain.⁹

EU-Parliament adds up one more

Even before the German legislation comes into force, there are talks about a unified europewide supply chain law. This transnational resolution shall surpass the German copy significantly. In comparison to the German resolution, the legislation shall apply to the entire supply chain. In addition, the legislation is expected to apply throughout Europe to companies with 250 or more employees.¹⁰ In some countries similar legislation has already been introduced at national level. In France, the "loi de vigilance" and in United Kingdom, the "Modern Slavery Act" have been introduced. These laws already oblige unwilling companies to meet their obligations with a legal framework.¹¹

Severe penalties for non-compliance

Failure to comply with the obligations imposed by the supply chain law can result in substantial fines. The penalties can be up to 8 million euros or up to 2

% of the annual turnover. However, the percentage penalty can only be applied to a company with an annual turnover of more than 400 million euros. Depending on the severity of the violation and a certain minimum amount, it can even lead to exclusion from the award of public contracts for up to three years. The penalties are imposed by the competent authorities.¹²

Support of the population

In a survey conducted in 2020, the opinion of Germans was clearly positive on several issues regarding potential changes in law.



Source: Own illustration based on Initiative Lieferkettengesetz (2020).

Not only do 91 % think that politicians should ensure clear regulations for dealing with human rights abroad, but 75 % are clearly in favor of the supply chain law. The 83 % of the general public also called for environmental aspects to be included in the legislation and a full 76 % think that those affected by a human rights violation should receive compensation. All in all, the opinion of the German population was clear. They want more justice with the supply chain law!¹³

However, many companies do not change anything voluntarily. The effort involved and the potential costs are too large. Isn't it therefore better to make a difference with this law, even if it is less effective than expected? It is certainly better to take small steps toward justice than none at all.

~ 962 words

We hereby allow Carola Schulz to publish this article on her HHN webpage.

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