



QUICK GUIDE

## Germany's New Supply Chain Law: What You Need to Know

Germany's Supply Chain Due Diligence Act was adopted in June 2021. This Quick Guide provides an overview of the legislation (as of July 2021) and practical suggestions on preparing your supply chain for the upcoming changes.

**Q I M A**

YOUR EYES IN THE SUPPLY CHAIN



## What is the purpose of Germany's Supply Chain Due Diligence Act?

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A new addition to the ever-increasing body of legislation to protect human rights in supply chains, Germany's new Supply Chain Due Diligence Law creates **a binding obligation for businesses to establish, implement, and update due diligence procedures related to human rights and environmental protection in their supply chains.** It also introduces mandatory reporting on the compliance with the due diligence obligations, and penalties for non-compliance.

The Supply Chain Due Diligence Act (Federal Act on Entrepreneurial Due Diligence Obligations in Supply Chains ["Lieferkettensorgfaltspflichtengesetz" or "LkSG"]) was adopted in June 2021, and **takes effect on January 1, 2023.**

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The law aims to hold companies responsible for ensuring **adherence to social and environmental standards in their global supply chains.**

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## What businesses will be affected?

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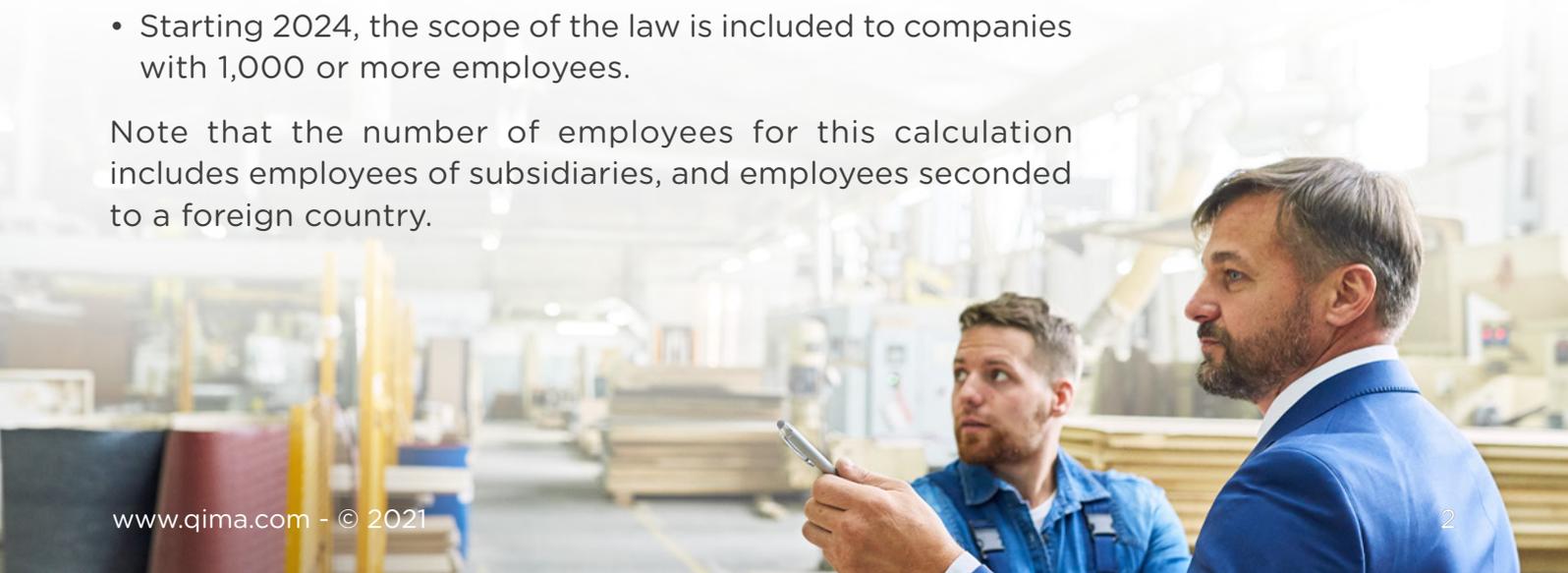
The supply chain law applies to companies that operate in Germany, including:

- Companies headquartered in Germany
- German subsidiaries of multinational companies
- Multinational companies with offices in Germany
- German companies that serve as a German "hub" or holding company for the German or European activities of a foreign parent company

There is no minimal threshold on annual revenue or balance sheet total, and **the main inclusion criteria is the number of employees:**

- Starting 2023, companies employing 3,000 or more people are affected;
- Starting 2024, the scope of the law is included to companies with 1,000 or more employees.

Note that the number of employees for this calculation includes employees of subsidiaries, and employees seconded to a foreign country.





## What will Germany's new Supply Chain Due Diligence Act require of my business?

In line with the United Nations Guiding Principles on Business and Human Rights, the Supply Chain Due Diligence Act seeks to protect and strengthen human rights in global supply chains.

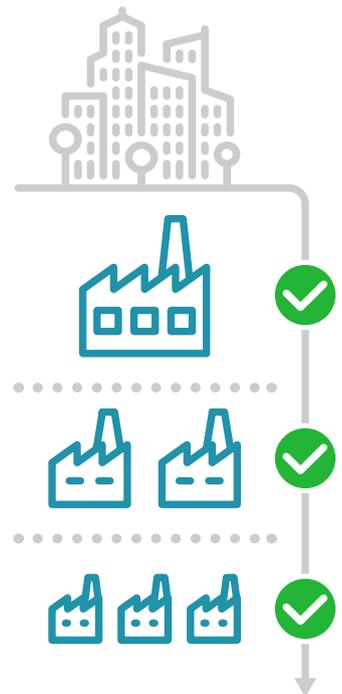
The law requires that businesses affected by it:

- 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** (including remedial measures) to prevent potential negative impacts on human rights
- Establish a **grievance mechanism**
- Implement transparent public **reporting**.

## Will the law extend to my suppliers in Germany or in other countries?

Yes. The term “supply chain” refers to all products and services of a company, including all manufacturing and service steps, both in Germany and abroad. Therefore, companies that fall within the scope of the law will have to ensure that social and environmental standards are observed **at all tiers of their value chain**.

It should be noted that the measures required of businesses would also be proportionate in terms of their business activity, risk profile, the relationship with their supplier, and the severity of violations and contribution level of a company to the violation: meaning that for suppliers where your business has a greater scope of influence (such as long-term business relations and key vendors), you would have proportionately greater responsibility to implement due diligence. Therefore, different due diligence processes may apply to your company's own business (which includes any controlled subsidiaries), your direct suppliers, and your indirect suppliers.





## What are the requirements on environmental due diligence under the Supply Chain Due Diligence Act?

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Unlike, for instance, the UK's Modern Slavery Act, which focuses primarily on human rights, Germany's new Supply Chain Due Diligence Act extends due diligence obligations to certain environmental risks required for the protection of human health. These include:

- prohibition of harmful impacts on the soil
- water pollution
- air pollution
- harmful noise emissions
- excessive water consumption

Additionally, it obligates companies to abide by certain key prohibitions stipulated by the Minamata Convention on Mercury, the Stockholm Convention on Persistent Organic Pollutants, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

## When does the new Supply Chain Due Diligence Act enter into force?

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The Supply Chain Due Diligence Act was adopted by the Bundestag (the German Parliament) on June 21, 2021, and takes effect on January 1, 2023 (applying to companies with 3,000 employees or more).

A year later, on January 1, 2024, the scope of the law will be extended to companies employing 1,000 people.

## How will the law be enforced, and what will be the sanctions for non-compliance?

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Compliance with the law will be monitored by the Federal Office for Economic Affairs and Export Control. Individuals affected by actual or potential human rights violations will be able to file complaints directly to this authority.

Failure to comply with due diligence obligations will be penalized with **fines of up to EUR 800,000**, or up to 2% of turnover (for companies with an average global turnover exceeding EUR 400 million). Furthermore, if a potential fine exceeds EUR 175,000, the offending company can be barred from winning public contracts in Germany for up to three years.



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## What can I do to prepare my supply chain for the new Supply Chain Due Diligence Act and minimize ethical and environmental risk?

Germany is the latest in the line of European states to introduce national legislation on human rights due diligence (with relevant laws already adopted in France, the Netherlands, Norway, and Switzerland). Furthermore, Germany's Presidency of the Council of the European Union in 2020 has accelerated the **push for stronger protection of human rights in supply chains at the EU level**. This process is already underway, with a draft directive of EU-wide legislation to this effect published in October 2020, which is expected to be adopted as proposal in autumn of this year.

With this increasing global trend towards human rights due diligence legislation, and ever-strengthening consumer sentiment to hold businesses accountable for their sourcing practices, businesses should **take proactive steps to investigate the state of human rights and environmental compliance at every tier of their supply chain**.

If you have an established supplier compliance program, this is a good time to revisit your due diligence processes and framework to **ensure that human rights and environmental compliance in your supply chain receive sufficient focus**. This is equally important for initial audits of new factories, and for follow-up audits of suppliers you are already sourcing from. Among recommended practices is a **risk-based approach**, with priority attention given to certain sourcing geographies with a poor track record for human rights and/or environmental violations, or dedicated focus on specific ethical risks in your supply chain (such as child labor, forced labor, human trafficking, etc.).



Businesses should take **proactive steps** to investigate the state of **human rights and environmental compliance** at every tier of their supply chain.



## How QIMA Can Help

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QIMA offers a range of solutions to support businesses in meeting the key requirements of the new law.



### RISK ASSESSMENT AND MANAGEMENT:

QIMA offers ethical and environmental audit programs that give you a full and accurate picture of your supplier's business.

- **QIMA ethical audits** can be conducted to all major internationally recognized standards, including SMETA, amfori BSCI, ICS, RJC, and Higg FSLM, as well as our best-in-class protocol or your in-house requirements.
- **QIMA environmental audits** assess factory compliance with local laws and regulations for environmental protection, as well as best practices based on the ISO 14000 family of standards.

Each audit report contains a set of corrective actions focused on short-term and long-term improvement.

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### GRIEVANCE MECHANISM:

Complement ethical audits with confidential channels for grievance reporting:

- **Worker voice survey:** Integrated into onsite assessments for an extra layer of reporting
  - **Worker hotline:** Workers can share complaints direct to the auditor
  - **Proactive callback service:** Uncover instances of post-audit factory retaliation
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### MONITORING AND REPORTING:

Manage audits online, view insights about suppliers and compliance, and extract data for reporting purposes using QIMA's customizable audit dashboard.

- Book and update audit services
- Access real-time reporting and download reports
- View supplier compliance by industry and location
- See audit trends and scores at a glance
- Track audit validity and corrective action plans

Protect your supply chain today by proactively identifying human rights and environmental risks in your sourcing ecosystem, and contact us at [info@qima.com](mailto:info@qima.com) to discuss an audit program that suits your needs.



## Appendix: Supply Chain Law FAQs

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Source: [German Federal Ministry for Economic Cooperation and Development](#)

### 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 labor or enforced labor.
- 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 realizable 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.

### 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.

### WHAT ARE THE BIGGEST HUMAN RIGHTS VIOLATIONS WORLDWIDE IN CONNECTION WITH ECONOMIC ACTIVITIES?

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

### WHICH HUMAN RIGHTS ARE COVERED BY THE DUE DILIGENCE OBLIGATIONS?

- Bodily integrity and health;
- Freedom from slavery and forced labor;
- Protection of children and freedom from child labor;
- 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.

### 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.

### 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.

### 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.

## **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.

## **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

## **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.
- 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 minimize and avoid the problem.

## **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 minimize and avoid the problem,
  - firmly establish appropriate prevention measures vis-à-vis the one committing the violation.

## **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.

## **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.



### 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.

### CAN NON-GOVERNMENTAL ORGANIZATIONS FILE LAW SUITS?

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

### 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.

### 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 programs for companies.

### 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.

### 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.
- 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.

### 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.

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## About QIMA

QIMA is a leading provider of supply chain compliance solutions, that partners with brands, retailers and importers to secure and improve the quality of their global supply network.

QIMA combines on-the-ground experts in 85 countries for quality inspections, supplier audits, certification and lab testing, with a digital platform that brings accuracy, visibility and intelligence for quality and compliance data.

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