



# ESG and Sustainability in Practice – Due Diligence in Supply Chains

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Act on Corporate Due Diligence in Supply Chains (Lieferkettensorgfaltspflichtengesetz – LkSG) – Our Advice for You

## Our expertise in the supply chain

GÖRG is one of the top independent commercial law firms in Germany. With 350 lawyers and tax advisors at our five offices in Berlin, Frankfurt am Main, Hamburg, Cologne and Munich, we provide one-stop advice in all core areas of commercial law. As a full-service law firm, experts in our wide range of advisory services have many years of experience providing compliance and ESG advice.

Particularly in connection with the Supply Chain Due Diligence Act (*Lieferkettensorgfaltspflichtengesetz – LkSG*) and compliance with the legal requirements that are already in force or will soon be, we advise both private companies and public clients on the implementation of the necessary measures to comply with the relevant due diligence obligations. Special meticulousness is required here, as otherwise official measures or even significant fines may be imposed.

## Our contribution

The *LkSG* has been in force since 1 January 2023 and applies to companies with at least 3,000 employees in Germany. From 1 January 2024, companies with at least 1,000 employees in Germany must now also implement the legal requirements of the *LkSG*. As a pioneer in Europe, Germany has thus set the goal of a transparent supply chain through legal requirements for the first time. In practice, implementation in individual companies is complex and requires a lead-time and human resources, ideally equipped with the appropriate expertise. The implementation of the due diligence obligations affects all areas of the company and ranges from the (initial) definition of responsibilities and specialized contact persons to the (annual) reporting obligation.

In addition, further (stricter) requirements are now on the horizon: at the European level, the Council and the European Parliament have already reached a provisional agreement on the EU Commission's "Supply Chain Directive". It is already becoming apparent that the target group of affected companies will be expanded and the due diligence obligations extended to the entire value chain. The introduction of extended (civil) liability is also being discussed in connection with the proposed legislation.

Furthermore, the topic of the supply chain is closely linked to the reporting obligations for companies. European and national regulations are increasingly requiring companies to report ESG-relevant indicators on an annual basis. With the entry into force of the Corporate Sustainability Reporting Directive (CSRD) and its forthcoming transposition into German law, companies will be subject to extended reporting obligations on sustainability information from as early as 2024.

## Our range of services

The *LkSG* is a further impetus for a more systematic examination of risks and thus ultimately of the corporate strategy and its impact on the company's own results and the corporate environment.

Legal expertise is required for a holistic approach within the company. Through company-specific risk management support, efficiencies can be achieved which can be used to comply with the growing regulatory requirements of the supply chain, including individual sustainability reporting obligations.

We provide legal and conceptual support in connection with the *LkSG*.

Our range of services includes the following tasks and activities, among others:

- ✓ Examination / determination of the status quo in the company - to what extent are measures already in place and are there therefore links to the *LkSG*?
- ✓ Examination / determination of the scope of application of the *LkSG* for the specific company or group of companies - to what extent is it opened and will it be opened?
- ✓ Preparation and implementation of due diligence obligations, in particular
  - Structuring of the process,
  - Schedule,
  - Action plan,
  - Development of company-specific risk categorization.
- ✓ Support (in preparation) for the implementation of due diligence obligations, in particular
  - Establishment of a risk management system,
  - Defining of internal responsibilities,
  - Carrying out continuous risk analyses,
  - Establishment of a complaints system,
  - Appointment of a human rights officer,
  - Taking remedial measures.
- ✓ Reviewing the effectiveness of risk analysis, prevention measures and complaints procedures (e.g. in the event of restructuring within the company/group)
- ✓ Support in the preparation of reports and documentation in compliance with due diligence obligations
- ✓ Monitoring the guidelines and handouts published by the Federal Office for Economic Affairs and Export Control (*Bundesamt für Wirtschaft und Ausfuhrkontrolle, BAFA*)
- ✓ Consideration of *LkSG* measures in procurement procedures

- ✓ Support with self-cleaning measures following violations of the *LkSG*
- ✓ Support with legal changes at European level (Corporate Sustainability Due Diligence Directive (CSDDD), so-called European Supply Chain Directive)

In the event of official or court proceedings in connection with the obligations arising from the *LkSG*, action against entries in the competition register or even defense against fines imposed by the BAFA, we will represent you in all instances.

### Our offer for you

Our experts are available to structure your internal company measures. Whether it is the process of identifying and implementing the measures in an overall package or selective support for individual measures, we are available to assist.

We also support public clients in implementing *LkSG* requirements in procurement procedures. When providing advice, we always take into account the changes at European level (EU Supply Chain Directive).

## Key contacts



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