

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.

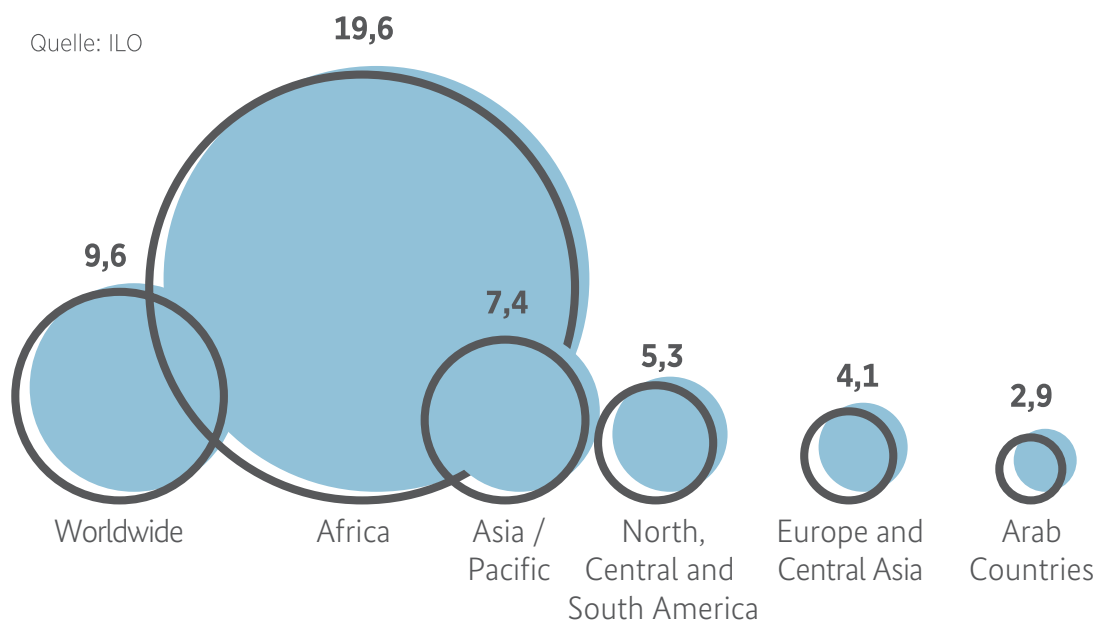
3. More rights for injured parties

- › 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)

Quelle: ILO



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**.