

Rödl & Partner

Comparison of key aspects between the German and the European Supply Chain Act, as of 23.2.2022

	European Supply Chain Act	German Supply Chain Act „Sorgfaltspflichtengesetz“
Scope	<p>EU companies: Group 1: all limited liability companies based in European Union of significant size and economic power (with at least 500 employees and net sales of at least EUR 150 million worldwide).</p> <p>Group 2: other limited liability companies operating in certain resource-intensive industries that do not meet both thresholds of Group 1 but have more than 250 employees and net sales of at least EUR 40 million worldwide. For these companies, the rules apply two years later than for Group 1.</p> <p>Third-country companies operating in the European Union that generate Group 1 and Group 2 sales within the EU.</p> <p>Small and medium-sized enterprises are not subject to the scope but can be affected in an indirect way.</p>	<p>Scope of application depends on the size of the company:</p> <p>Companies with head office, principal place of business or registered office in Germany and at least 3,000 (year 2023) or 1,000 employees (from 2024).</p>
Coverage in the supply chain	tracking of entire supply chain	indirect business partners in the supply chain, moreover risk-based approach: in case of indications of violations, due diligence obligations also cover indirect suppliers
Liability	finances and civil liability for breach of due diligence obligations.	finances for violation of due diligence obligations, no civil liability.
Duties of care	potential or actual adverse impacts on human rights	
	far-reaching due diligence obligations with regard to climate and environmental protection (reference to major environmental conventions)	environmental protection only indirectly, insofar as human rights are directly affected by environmental damage or international environmental agreements explicitly refer to environmental protection.

	European Supply Chain Act	German Supply Chain Act „Sorgfaltspflichtengesetz“
Implementation of due diligence obligations	<p style="text-align: center;">Risk analysis, prevention and mitigation measures</p> <p>Mandatory measures: Companies must:</p> <ul style="list-style-type: none"> – make due diligence an integral part of their corporate policy; – identify actual or potential negative impacts on human rights and the environment; – prevent or mitigate potential impacts; – eliminate or minimize actual impacts; – establish a complaints procedure; – monitor the effectiveness of its due diligence policies and measures; – inform about and evaluate their due diligence obligations. <p>payment of executive managers shall be linked to supply chain compliance</p>	<p>Risk analysis and successive and interrelated prevention and mitigation measures, namely:</p> <ul style="list-style-type: none"> – the establishment of a risk management system (§ 4 para. 1 Supply Chain Act); – the establishment of an in-house responsible body for human rights protection (§ 4 para. 3 Supply Chain Act); – the establishment of regular risk analyses (§ 5 Supply Chain Act); – the setup of policies (§ 6 para. 2 Supply Chain Act); – the establishment of preventive measures within the company's own business area (§ 6 para.1,3 Supply Chain Act) and vis-à-vis direct suppliers (§ 6 para. 4 Supply Chain Act); – remedial action in the event of violation of a protected legal position (§ 7 para. 1-3 Supply Chain Act); – the establishment of a complaints procedure (§ 8 Supply Chain Act) for the notification of violations of human rights; – the implementation of due diligence measures with regard to indirect suppliers (§ 9 Supply Chain Act); – documentation (§ 10 para. 1 Supply Chain Act) and reporting measures (§ 10 para. 2 Supply Chain Act).
Control and enforcement	supervision by competent national authorities	