

LABOUR AND SOCIAL JUSTICE

# THE SUPPLY CHAIN DUE DILIGENCE ACT

Germany sets new standards  
to protect human rights

**Robert Grabosch**  
December 2021



The act represents an important and ambitious contribution by Germany to further human rights and environmental protection towards reaching sustainable development goals.



Large companies are subject to due diligence duties in their global supply chains to avoid violations of human rights and environmental violations.



Considerable governmental competencies support the effective implementation of the act. BAFA audits company reports, investigates violations and is authorized to impose administrative fines which include exclusion from public procurement.

## THE SUPPLY CHAIN DUE DILIGENCE ACT

### Germany sets new standards to protect human rights



The act (in German: »Lieferkettensorgfaltspflichtengesetz«, hereafter abbreviated as LkSG) represents Germany's important contribution to protect human rights and the environment in order to reach sustainable development goals.

This legislative accomplishment may be seen as especially ambitious when compared to other international CSR provisions. Germany is one of three countries, besides France and Norway, which imposes due diligence duties on companies to protect all human rights in their international supply chains. The Act will serve as important impulse for debates regarding due diligence regulations on a European and United Nations level.



Large companies have to apply due diligence efforts in their global value chains to prevent human rights and environmental violations. Legal requirements are based on civil and social UN conventions and ILO-Core Labour Standards. They are substantiated in twelve human rights risks and three environmental risks. These risks have to be avoided through company due diligence, regularly in their own business area and for their direct suppliers, and upon actual indications of violations for the remainder of the supply chain.



Considerable governmental competencies support the effective implementation of the LkSG. BAFA audits company reports, investigates and monitors violations against due diligence duties on a risk-basis and is obligated to take action upon application by individuals whose human rights were violated. BAFA has comprehensive authority and will issue administrative fines of up to 8 million Euros or 2 % of the yearly company revenue. Companies upon whom high fines have been imposed may be excluded from public procurement.

Additional information about this subject is available at:  
<https://www.fes.de/themenportal-die-welt-gerecht-gestalten/weltwirtschaft-und-unternehmensverantwortung>

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## Preface

Until the very last moment it was not clear whether the Supply Chain Due Diligence Act (*in German: »Lieferkettensorgfaltspflichtengesetz«, hereafter abbreviated as LkSG*) would be enacted in the current legislative period. In the end, the negotiating partners from the CDU/CSU and SPD reached an impressive compromise.

On June 11, 2021 German Parliament adopted the LkSG with a broad majority of votes, including votes from the opposition parties. Whether the Act with its cumbersome name – *Lieferkettensorgfaltspflichtengesetz* – will fulfill its intended purposes remains to be seen. One fact, however, is undisputed: Germany accomplished a paradigm shift, replacing voluntary compliance with mandatory compliance.

The law requires that German companies take responsibility for their supply chains and to motivate their contract partners abroad to protect internationally recognized human rights and environmental standards. Companies' due diligence duties extend through the total supply chain, from raw materials to end-product. The intention is to strengthen the rights of persons affected and to provide legal certainty for companies. Thus, this law represents an important step towards a fairer globalization. It is a contribution towards reaching sustainable development goals which have been adopted by Germany.

The path to legal framework for sustainable supply chains was long and hard. In 2015 the Friedrich-Ebert-Stiftung published a study with the title »Human rights due diligence of companies – political and legal concepts« as their first study about this subject matter. The authors Robert Grabosch and Dr. Christian Scheper were tasked to explore what human rights due diligence could look like and where it should be anchored in German law.

It was a joint effort by many other partners, including labor unions and NGOs, to form an alliance in order to introduce the theme »economy and human rights« to the public, to repel attacks and dirty campaigns by business and employer associations and to support political actors in the installation of the legal framework. What this new framework looks like is explained and illustrated by attorney Robert Grabosch, LL.M.

More work needs to be done to enforce human rights and labor rights in global supply chains. For now we are getting ready for a European supply chain law. This endeavor needs strong support from unions and civil society.

We are committed to further the subject and will continue to work for a just and sustainable world economy.

*Frederike Boll-von Galen*

Image 1:

**Supply Chain Due Diligence Act (LkSG)**

<b>Article 1: Law concerning company due diligence duties to avoid human rights violations in supply chains (official government translation)</b>	
<b>1</b> General Provisions	§ 1: To whom and when will the law apply § 2: Definitions of risks to be avoided, the business area, the supply chain and direct and indirect suppliers
<b>2</b> Due diligence duties:	§ 3: Goal, appropriateness, civil liability § 4: Risk management § 5: Risk analysis § 6: Preventive measures § 7: Remedial action § 8: Complaints procedure § 9: Indirect suppliers § 10: Documentation and reporting obligation
<b>3</b> Civil proceedings	§ 11: Special capacity to sue
<b>4</b> Monitoring and enforcement by the authorities	§ 12: Submission of the report § 13: Report audit § 14: Action taken by authorities § 15: Orders and measures § 16: Access rights § 17: Obligation to provide information and surrender documents § 18: Obligation to tolerate and cooperate § 19: Competent authority § 20: Handouts § 21: Accountability report
<b>5</b> Public procurement	§ 22: Exclusion from the award of public contracts
<b>6</b> Financial penalty and administrative fine	§ 23: Financial penalty § 24: Provisions on administrative fines.
Annex	List of 14 Conventions
<b>Amendment of Act against Restraints of Competition and Competition Register Act (concerns the exclusion from public procurement)</b>	
<b>Article 4: Amendment of Works Constitution Act (concerns reporting to the finance committee)</b>	
<b>Article 5: Effective date</b>	

The German Parliament adopted the »Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violations in Supply Chains (Supply Chain Due Diligence Act), on June 11, 2021.<sup>1</sup> As of January 1, 2023 large companies with either their statutory seat, principal place of business or branch office in Germany have to apply human rights and environmental due diligence to avoid violations of human rights and environmental violations in their supply chains including suppliers abroad.

The LkSG implements the UN Guiding Principles on Business and Human Rights (UNGP) which were already unanimously adopted by the Human Rights Council of the UN in 2011.<sup>2</sup> These Principles recognize companies’ duties to respect human rights and a government duty to protect human rights: Companies are required to make an effort to avoid human rights risks which occur in their global supply chains and governments have to take action to set incentives to promote due diligence («smart mix»). The legislatures of several countries already complied and obliged companies to apply human rights due diligence or to file public reports that show how they deal with human rights risks.<sup>3</sup>

In 2016 Germany adopted the National Action Plan for Implementation of United Nations’ Guiding Principles on Business and Human Rights (NAP) expecting voluntary compliance. A representative survey conducted in 2020 revealed that only 13 to 17 % of large German companies fulfilled the UNGP requirements. This result prompted legislative action, instigated and joint developed by the Federal Ministry for Economic Cooperation and Development (CSU) and the Federal Ministry for Labor and Social Affairs (SPD).

## I. SCOPE OF APPLICATION

As of January 1, 2023 companies with 3,000 or more employees have to comply with the LkSG if they have their statutory seat, principal place of business or a branch office in Germany. The number of employees includes employees of foreign subsidiaries who are working in Germany. On January 1, 2024 the threshold for the number of employees is lowered to include companies with 1,000 or more employees, resulting in an estimated number of 2,900 German companies and 1,900 foreign companies with a branch office in Germany that will be subject to the Act. In 2024 the German government will review whether companies with less employees should be required to comply with the Act. The LkSG applies to companies in any industry regardless of their legal structure.

The application of the Act to foreign companies with a German branch office is meant to prevent these companies from relocating to a location abroad. They will not be able to move their seat and principal place of business abroad or be able to change their German location into a branch office, but will be required to completely leave Germany. A branch office is an independent unit, not just a representation, warehouse or sales outlet, in which essential company functions such as human resources, finance and book-keeping, purchasing and distribution are at least partially handled. A branch office could easily be converted into a subsidiary. Unless it is converted, it is not an independent legal structure, cannot enter into contracts with others and cannot be subject to legal requirements under the LkSG. Foreign companies do business in Germany through their branch

<sup>1</sup> Federal Law Gazette 2021, part I, p. 2959 et seq.

<sup>2</sup> UN General Assembly, 21.3.2011, A/HRC/17/31.

<sup>3</sup> Overview at Grabosch (2019), also available in English

office. They have to make their branch offices public and register with the German trade register. Foreign companies with German branch offices and German companies are subject to the LkSG in their total value chain, not just in Germany.

## II. HUMAN RIGHTS AND ENVIRONMENTAL RISKS

The LkSG requires companies to make an effort to avoid and minimize human rights and environmental risks in their supply chains and lists these various risks. This is different from the French due diligence law (Loi de Vigilance) which only addresses »human rights and environmental risks« in general, but does not name individual rights. The LkSG lists individual legal prohibitions which companies have to avoid. Image 2 shows a summary of these risks.

To clarify individual risk definitions in context, the LkSG refers to 14 international conventions which are attached in an Annex to the Act. Included are the two UN Human Rights Covenants and the eight ILO Core Labor Conventions. The text of the conventions and the decisions of convention committees provide the frame work for the application of the LkSG. The requirements of the LkSG and of the conventions are to be considered also in those countries who have not implemented these human rights and environmental treaties in national law or have not even ratified the treaties. Variations in application are possible, since the conventions allow member states for certain duties a so-called implementation latitude, requiring consideration for the respective national law. The LkSG refers to specific conventions in the section on prohibitions under § 2 (2) and (3). For example, § 2 (2) No. 1 references the ILO Minimum Age Convention and § 2 (3) No. 5 references the POPs Convention for the prohibition of handling, storage and disposal of persistent organic pollutants.

The legislature provided a risk definition for the human rights and environmental prohibitions listed in § 2 (2) and (3). A risk is »a condition in which on the basis of factual circumstances there is sufficient probability that a violation of one of the prohibitions is imminent« (§ 2 (2) S. 1). This transposing of legally protected human rights into the language of risk management serves to assist companies with the integration of supply chain due diligence into their risk management. The LkSG represents a paradigm shift: Until now companies only had to consider those human rights and environmental risks which represented a considerable threat to their economic success. The non-financial reporting duties, required since the 2014 EU CSR Reporting Directive were embedded in the national laws of EU member states, obligated German companies since 2017 to disclose environmental and social concerns of their business activities, but did not apply to risks in redundant, distant steps of the supply chain that were not necessarily relevant for delivery plans and reputation interests of companies. Due diligence was merely voluntary when dealing with these risks considered remote. The LkSG requires companies to

Image 2:

### Human Rights and Environmental Risks

#### § 2 (2) LkSG: Human rights risks



1. **Minimum age** for work
2. Worst forms of **child labor**



3. **Forced labor**
4. All forms of **slavery**



5. **Work-place safety** at production facility, especially:
  - a) Production facility or production means are obviously unsafe;
  - b) Lack of appropriate protection from chemical, physical or biological materials;
  - c) No prevention of excessive physical and mental fatigue;
  - d) Training and instructions of employees is unsatisfactory.



6. **Freedom of Association** (forming, joining and acting in labor unions)



7. **Equality in Employment**, independent of descent, origin, health status, disability, sexual orientation, age, sex, political opinion, religion or world view, including equal pay



8. **Fair wages** (possibly more than the minimum wage at the production location)



9. **Damaging environmental changes** (including excessive use of water) which cause considerable harm to people



10. Illegal **deprivation of land, forests and bodies of water** which serve the livelihood of people



11. Use of **security forces** who use excessive violence, especially against union members



12. Any other behavior in breach of a duty to act which is likely to cause **human rights** injuries in a particularly serious manner and which is obviously illegal in light of the circumstances

#### § 2 (3) LkSG: Environmental Risks



- 1.– 3. Production or use of mercury and the handling of mercury waste



- 4.–5. Production and use of persistent organic pollutants (POPs) and the handling, collection, storage and recycling of POPs



- 6.– 8. Export and Import of hazardous waste

establish preventive and remedial measures for human rights and environmental risks, regardless of any considerations concerning the economic success of the company and whether the costs are worth it. Companies will have to adapt the risk management systems accordingly.

The risk and prohibition definitions take up two pages of the legal text. The detailed listing of human rights risk definitions serves to provide legal certainty. A high level of certainty is considered important, since compliance with due diligence requirements is monitored by a governmental authority that can impose considerable fines (see below, VI). The catch-all human rights provision of § 2 (2) No.12 is worded in a more abstract manner to cover any other obviously illegal behavior which impairs a protected legal position in a particularly serious manner.

Business associations have complained that the general application of due diligence world-wide and without differentiation was unnecessarily burdensome, since the risks varied a lot regionally. They demanded the exclusion of certain countries or regions (Germany or the EU) from due diligence via a »white list« or to limit due diligence via a »black list« to a few high-risk areas similar to how the US elected to address conflict minerals in the Great Lakes Region of the DRC. The legislature did not take this approach. Even in countries that have ratified conventions, there are implementation deficits and risks, especially if regulatory weaknesses are obvious. German companies have to inspect their own German production facilities in order to determine whether risks under the LkSG exist. For example the mandate for equal pay, independent of sex and other criteria (§ 2 (2) No. 7) may be worth considering. Due diligence is not restricted to certain regions. Risk prioritization is left to companies, with the expectation that they focus on probable and serious risk which are amenable to influence (§ 5 (2)).

### III. DUE DILIGENCE DUTIES

The LkSG imposes on companies concrete due diligence duties which they have to apply in an »appropriate manner of acting« (§ 3). Companies have a duty to make an effort but they do not have to succeed. Companies do not have to guarantee the successful avoidance of violations and damages, but only appropriately strive for compliance. The government reasoning for the law cites the general legal principle that »the impossible cannot be demanded from anyone«<sup>4</sup> Company responsibility is subject to the various degrees of a company's capability to exert influence. Human rights due diligence requirements apply to the company's business activities and for direct suppliers. It is understood that at the far end of the supply chain, companies do not have direct contractual relationships and little ability to take influence, especially if only small amounts of production

products are purchased. Thus, companies have only a duty to end a violation if the violation occurs in their own business area (§ 7 (1) S. 3).

§ 3 (2) LkSG addresses the term »appropriate manner« by providing four criteria which the government reasoning further clarified by adding auxiliary criteria:<sup>5</sup>

1. »The nature and extent of the company's business activity« is to be considered when determining how likely risks and violations are;
2. »The ability of the company to influence the party directly responsible for a risk« means that the size of the contract and the size of each contract partner should be considered;
3. The severity, probability and reversibility of the violation are to be considered;
4. »The nature of the causal contribution of the company to the risk... or to the violation« is to be considered to determine whether only the company or the company as one of several actors caused the violation.

Companies do have some discretion and can take measures tailored<sup>6</sup> to individual situations, but have to document their decisions.

The LkSG substantiates how companies have to fulfill their due diligence duties. There are eight duties which the legislature intentionally adopted from the UN Guiding Principles on Business and Human Rights (UNGPs):<sup>7</sup>

1. The establishment of a risk management system (§ 4) with appropriate and effective due diligence measures (Nos. 2–8) and its anchoring in all relevant business processes.
2. An appropriate risk analysis, regularly in the own business area and for direct suppliers, and upon actual indications of violations for the remainder of the supply chain, including the possibility of prioritization of risks according to the appropriateness criteria of §§ 5 and 9 (3).
3. A policy statement adopted by senior management which describes the strategy and procedures to implement due diligence duties, including prioritized risks and expectations for suppliers (§ 6 (2)).
4. Prevention measures embedded in the own business area (§ 6 (1) and (3)), including human rights purchasing strategies, training measures and control mechanisms;

<sup>4</sup> Reasoning of the parliament Committee on Labor and Social Affairs, BT-Drs. 19/30505, re § 3 d aa aaa.

<sup>5</sup> Grabosch (2021) Das neue Lieferkettensorgfaltspflichtengesetz, § 2 margin no 66 ff.

<sup>6</sup> Lutz-Bachman /Vorbeck/Wengenroth, BB 2021, 906 (910).

<sup>7</sup> Government reasoning, Part B, Part A I, and re § 3 (1) and § 2 (1).

for direct suppliers (§ 6 (4)) through contractual obligations and control mechanisms.

5. If violations occur: Remedial measures in the own business area and for direct suppliers (§ 7); appropriate remedial measures further down the supply chain (§ 9 (3)). A withdrawal or a termination of the business relationship is only required for especially serious violations when minimization is not suitable and other measures, including increasing influence capabilities, are not viable (ultima ratio).
6. Establishment of a complaints procedure with rules of procedure in text form which are publicly available and also for indirect suppliers accessible to allow affected persons to report potential risks and violations (§ 8, § 9 (1)).
7. The documentation on the fulfillment of due diligence duties which can be reviewed by the supervisory authority (§ 10 (1)).
8. Preparation of an annual report about identified risks, measures taken and an assessment of the effectiveness of the measures taken to be published within four months of the end of the business year (§ 10 (2)).

A risk management system is effective under the LkSG if it is suitable to prevent or minimize violations in the supply chain that were caused by the company or to which it contributed (§ 4 (2)). Companies do not have to address risks with which the company is only directly connected through the supply chain (according to UN Guiding Principle 13), if they have not contributed to adverse human rights impacts. However, risk causation may already occur if a company's does business in regions where certain human rights violations are obvious, as in countries where labor unions are prohibited.<sup>8</sup>

When establishing and implementing these measures companies have to give due consideration to the interests of stakeholders (§ 4 (4)). Stakeholders are employees in the company and in the supply chain and neighboring communities if large projects pollute their land.<sup>9</sup> The Act does not require an actual dialog with stakeholders. Companies have to document internally how they considered stakeholders' interests. The effectiveness of preventive and remedial measures as well as the complaints procedure has to be regularly reviewed and the measures have to be updated if necessary (§§ 6 (5), 7 (4), and 8 (4)).

## IV. THE SCOPE OF DUE DILIGENCE

Due diligence requires measures to minimize and avoid risks in the »own business area« and in the »supply chain«, § 3 (1). These terms are defined in § 2 (5) and (6). The own business area includes all business activities worldwide and includes dominated subsidiaries.<sup>10</sup> The supply chain includes all products and services of a company and all production steps in Germany and abroad which are necessary for the production or performance of service, from the raw material extraction to the delivery of the product to the end-user. Supply chain means value chain.

The duty to conduct regular risk analyses (§ 5 (1)) as it was worded in the first draft bill referred to risks in the total supply chain. After controversial discussions the words »in the supply chain« were deleted. The final version of the LkSG may be understood to mean that a risk analysis is to be conducted »at the desk«, but to include consideration of risks present in the total supply chain. It is likely that another interpretation will prevail to the effect that a risk analysis only has to address risks in the own business area and in the area of direct suppliers.<sup>11</sup> This restrictive interpretation of § 5 (1) is supported by the fact that § 24 provides for a high fine as punishment for the violation.

The incidental duty to conduct a risk analysis in § 5 (4) explicitly addresses risks in the total supply chain from raw material procurement to the end-user. This duty to conduct a risk analysis is always activated if the company »must expect a significantly changed or expanded risk situation in the supply chain, for example due to the introduction of new products, projects or a new business field«. Changes in business activities require an ad hoc review of discernible, typical supply chain risks. The government envisions for the future an extension of company responsibility through the total supply chain.

Company responsibility for violations by indirect suppliers with whom the company does not maintain a direct contractual relationship is given if the company has »substantiated knowledge« of violations (§ 9 (3)). This knowledge may be derived from various sources, including complaints received via the complaints procedure (§§ 8 f.), reports from NGOs and unions or tips from government agencies.

<sup>8</sup> Government reasoning, BT-Drs., 19/28649, re § 2 (2) No. 6, [www.bundestag.de/drs](http://www.bundestag.de/drs).

<sup>9</sup> Government reasoning, BT-Drs., 19/28649, re § 4 (4), [www.bundestag.de/drs](http://www.bundestag.de/drs).

<sup>10</sup> The criteria for »dominated subsidiaries« in the government reasoning list various aspects: majority ownership of the parent company, joint processes such as company-wide compliance systems, joint supply chain management, influence over the shareholder meeting or the fact that the subsidiary offers the same products and services as the parent company.

<sup>11</sup> These are suppliers with whom a company has a direct contractual relationship. In order to avoid transactions aimed at evading due diligence duties, indirect suppliers will be treated like direct suppliers if there is evidence of improper use of indirect suppliers, § 5 (1) S. 2.

## V. COMPANY RESPONSIBILITY

(Senior) management is responsible for the establishment and implementation of due diligence measures in all relevant business processes. The requirements for risk management (§ 4) and the severe financial penalty provisions (§ 24) clarify this obligation. Management has to appoint a human rights officer to monitor risk management whom management will support or who will work autonomously. The legal duty to organize processes and systems remains with management. They are responsible for the selection of suitable personnel and providing them with the necessary capacities and authority to design business processes which comply with legal duties. Senior management must seek information on a regular basis about the work of the responsible person, § 4 (3).

The supervisory board, which consists of shareholders and employees, subject to the German Codetermination Act, generally controls the actions of management and will have to assume control of compliance with due diligence duties. Additionally, management has to report to the finance committee about matters related to the LkSG (Amendment in § 106 (3) No. 5b Works Constitution Act). The finance committee is tasked with advising management in economic matters and to keep the works council informed. Works council members have the opportunity to influence the concept development, implementation, evaluation and adjustment of appropriate due diligence.

## VI. MONITORING AND ENFORCEMENT BY THE AUTHORITIES

The effective implementation of the LkSG is ensured by considerable governmental competencies. The Federal Ministry for Economy and Export Control (BAFA), subordinate to the Federal Ministry for Economy and Energy, will monitor the annual due diligence reports of companies and may enter the premises of production facilities, question personnel, demand production of documents, take measures and publish industry-specific and cross-industry handouts.

Depending on the severity of the due diligence violation, BAFA may impose administrative fines of up to 100,000 Euros (for purely formal violations), up to 500,000 Euros (for violations of important duties) and up to 800,000 Euros (for violations of especially important duties). These administrative fines may also be imposed on managers and human rights officers who acted autonomously if they neglected their duties. For corporations and partnerships (practically all companies subject to due diligence) the highest possible fines are 5 million Euros and 8 million Euros respectively (§ 24 (2) S. 2). If damages were caused by the violation, the amount of the fine is partially dependent on whether the company made efforts to repair the damage and to take precautions to prevent future offences (§ 24 (4) S. 4 No. 7).

Affected persons may file a substantiated claim with BAFA for BAFA to initiate an investigation and take action (§ 14 (1) No. 2). If a violation of due diligence is to be considered, BAFA has to take action. If BAFA does not take action, the affected persons may file a complaint for failure to act in administrative court. Whether environmental associations have the right to file complaints for the violation of environmental duties is not yet clear.

Companies against whom an administrative fine of at least 175,000 was imposed, shall be excluded from the award of public contracts (§ 22).

## VII. RESTITUTION FOR AFFECTED PERSONS

The LkSG does not give rise to any liability under civil law for persons to obtain damages if they have suffered from a violation of the LkSG obligations (§ 3 (3) S. 1), but defers to otherwise existing liability under civil law provisions (§ 3 (3) S. 2). Due to the Rome-II-Regulation of the EU<sup>12</sup> German law is rarely applicable to claims for damages, since foreign law regularly applies to damages sustained abroad.<sup>13</sup> Civil liability under foreign law generally requires a finding of fault, that means a violation of due diligence duties. Thus, a civil court would have to at least *consider* LkSG due diligence duties which apply to the production facilities of German companies, since due diligence duties are rules of conduct under Art. 17 Rome-II-VO.<sup>14</sup> An argument can be made that civil courts have to *apply* LkSG duties as »Eingriffsnorm« in the context of cross-border disputes (Art. 16 Rome-II-VO).

In litigation, plaintiffs face financial, language and other practical difficulties. In order to lower these barriers, the LkSG allows plaintiffs to authorize NGOs and unions to represent them in German civil courts (§ 11). These representatives appear in court on behalf of the person affected, file a complaint for damages (in Superior Court, represented by an attorney) and litigate the claim in their client's best interest. Until now the concept of a »special capacity to sue« was (nearly) exclusively permitted for executors and liquidators.

The LkSG does not regulate whether companies, besides having to end the violation, also have to pay damages if damage has already occurred. § 24 (4) addresses a respective incentive: When BAFA calculates the amount of the administrative fine it has to consider the company's efforts to repair the damage which is one of eight criteria for the assessment of a fine.

<sup>12</sup> The Rome-II-Regulation (EU) regulates which national law has to be applied in cross-border disputes (for example in a claim for damages).

<sup>13</sup> Grabosch (2013), 69 ff.

<sup>14</sup> Schmidt-Räntsch, ZUR 2021, 387 (394); Grabosch (2013) 88 ff.

## VIII. CONCLUSION

After decades of discussions about voluntary company responsibility, the LkSG imposes on companies a framework for the outsourcing of production to countries with low labor and environmental standards. Improvement of living standards worldwide through global division of labor is only possible if companies observe those minimum standards which the majority of countries have adopted. The LkSG stands for sustainable transformation and represents considerable progress which hopefully will inspire foreign legislatures.

The LkSG regulates comprehensive due diligence duties and requires a risk management system for the own business area of companies, including dominated subsidiaries and the total value chain. The duties apply directly to about 4,800 companies and have to be extended into the supply chains through contractual provisions.

The duty to conduct regular risk analyses is limited to the own business area and direct suppliers. However, the ad hoc risk analysis for changed/expanded risk situations potentially covers risks everywhere in the value chain in line with the requirements of the UN Guiding Principles.

The LkSG does not contain any duty to provide restitution (such as damages). But civil courts will not ignore LkSG due diligence duties when applying otherwise existing civil law provisions (of mostly foreign law). Additionally, the LkSG offers incentives for voluntary restitution due to the criterions used to set the administrative fine.

Germany makes an important and ambitious contribution, in comparison to other international legal frameworks<sup>15</sup>, to the protection of human rights and the environment as well as to the reaching of the UN Sustainable Development Goals. Works council members will have the opportunity to work towards the effective implementation of LkSG provisions in their company.

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<sup>15</sup> Grabosch (2019).

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## ABOUT THE AUTHOR

**Robert Grabosch**, LL.M. (Cape Town) is an attorney in Berlin specializing in CSR compliance. He has served as legal expert for the German government and the German Federal Parliament in the development of the National Action Plan for Implementation of UNGP on Business and Human Rights in 2015 and the LkSG in 2021. He advises companies in the area of due diligence duties in German and foreign legal systems and trains specialists for human rights due diligence duties in supply chains.

## IMPRINT

Friedrich-Ebert-Stiftung e.V. | Godesberger Allee 149 |  
53175 Bonn | Germany

E-Mail:  
[info@fes.de](mailto:info@fes.de)

Register no.: VR2392  
Bonn Register of Associations  
Bonn Local Court

President: Martin Schulz  
Secretary General: Dr Sabine Fandrych

Content Responsibility:  
Tina Blohm and Frederike Boll-von Galen

Contact /Order:  
[Christiane.Heun@fes.de](mailto:Christiane.Heun@fes.de)

Translation: Anna Engelhard-Barfield, J.D. (WFU)  
Design: Ludger Stallmeister

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Responsible coordinator: [Tina Blohm, tina.blohm@fes.de](mailto:tina.blohm@fes.de)