

Rödl & Partner

Comparison of the key topics, as of 23 February 2022

	European Supply Chain Act	German Supply Chain Act „Sorgfaltspflichtengesetz“
Scope	<p>EU companies: Group 1: all EU limited liability companies 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 Group 1 thresholds 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>Non-EU companies operating in the EU that generate sales equal to Group 1 and Group 2 within the EU.</p> <p>Small and medium-sized enterprises (SMEs) do not fall directly within the scope of the Commission draft</p>	<p>Scope of application depends on the size of the company:</p> <p>Companies with their head office, main branch or registered office in Germany and at least 3,000 (year 2023) or 1,000 employees (from 2024)</p>
Range of the legislative	entire value chain	direct business partners in the supply chain, risk-based: if there are indications of violations, also extend to 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	concern potential or actual adverse impacts on human rights	
	far-reaching due diligence obligations with regard to climate and environmental protection (reference to the important environmental conventions)	Environmental protection only indirectly, insofar as human rights are directly affected by environmental degradation or international environmental agreements explicitly refer to environmental protection

European Supply Chain Act		German Supply Chain Act „Sorgfaltspflichtengesetz“
Measures for the implementation of due diligence	Risk analysis, prevention and mitigation measures	
	<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; and – communicate publicly about the performance of its due diligence. <p>Linking bonus payments to supply chain compliance</p>	<p>Risk analysis as well as sequential and interlinked prevention and remedial measures, namely:</p> <ul style="list-style-type: none"> – the establishment of a risk management system (§ 4 (1) LkSG), – the definition of an in-house responsibility for human rights protection (§ 4 (3) LkSG), – the performance of regular risk analyses (§ 5 LkSG), – the adoption of a policy statement (§ 6 (2) LkSG), – the establishment of preventive measures in the company's own business area (§ 6 Paragraphs 1 and 3 LkSG) and vis-à-vis direct suppliers (§ 6 Paragraph 4 LkSG), – the taking of remedial action in the event of a violation of a protected legal position (§ 7 (1) to (3) LkSG), – setting up a complaints procedure (§ 8 LkSG) for the notification of human rights violations, – the implementation of due diligence with regard to risks at indirect suppliers (§ 9 LkSG), and – documentation (§ 10 (1) LkSG) and reporting (§ 10 (2) LkSG) with regard to the fulfillment of due diligence obligations.
Control and enforcement	Supervision by national authorities	