

## **The new Supply Chain Due Diligence Act: Challenges for international trade**

The new German Supply Chain Duty of Care Act will come into force on 01.01.2023. It is to be expected that this legislation, which has already taken root in some EU countries, will soon be codified as Community law.

As this will affect most companies that operate in a trade chain with German companies, i.e. trade, we hereby inform you of the best things to do to prepare for the entry into force of the law.

### **1. Regulatory content and aim of the law**

The aim of the law is to significantly improve compliance with human rights and certain environmental standards at international level through sustainable business practices. This is to be achieved by standardizing a regulatory framework for a more responsible management of international companies.

### **2. Why does this law affect your company?**

Subjectively, companies are covered by the law if they have their head office, principal place of business, administrative headquarters or registered office or a branch office in Germany and have at least 3,000 employees.

employees. The threshold will be reduced to 1000 employees from 2024.

This also includes employees posted abroad and all employees of affiliated companies, i.e. all companies that are controlled by the German are legally dependent on the main company. Under certain circumstances, the number of employees of subcontractors in the supply chain can also be included in this threshold.

Indirectly affected are also all foreign (e.g. Hungarian) companies that appear as direct suppliers in the trade chains of the directly affected companies.

You should also be aware of this because it is a legal requirement to contract primarily with trading partners and suppliers who comply with the standards of the law. This will give you a competitive advantage over those companies that neglect to implement the legal requirements.

### **3. Objective scope of application: what you need to consider**

Compliance with certain due diligence obligations must be observed. These are certain requirements for action that the law imposes on the addressees, i.e. German companies and their suppliers.

The central concept of risk plays an important role here: this refers to the risks of human rights violations and damage to the environment.

a. The law therefore standardizes the following risks:

1) Human rights risks include the likelihood of violating the following prohibitions:

- Child labor
- Forced labor
- Slavery

Furthermore, in the German-Hungarian context, the following human rights risks will also be of importance abroad:

- the payment of an appropriate wage

- equal treatment at work
- the freedom of association

The applicable law of the subcontract and, secondarily, the minimum wage of the country in which the work is performed shall be decisive for the payment of the appropriate wage. The contractual choice of law is clear from this extremely important in this respect.

2) In addition to human rights, the law also requires environmental risks to be avoided. This involves the prohibition of chemical processes and procedures in which hazardous substances such as mercury, hazardous waste and so-called persistent organic pollutants are used or produced.

b. Content of the duties:

The following preventive and repressive measures, among others, must be taken:

- Appointment of employees/departments responsible for risk management
- Submission of declarations of principle
- Establishment of a complaints system
- Demand contractual assurance of compliance with human rights standards from suppliers/trading partners
- Identification, prevention and, if this is not possible, minimization of existing injuries
- Event-related controls

#### **4. Concrete steps**

In particular, these include the creation of a position for the regular monitoring of risk sources, periodic and ad hoc reviews of supply chains by them and, in the event of breaches, possible restructuring. Proper documentation of this is the key to worry-free business with the LkSG

We are at your side with our expertise both for specific implementation concepts and for the labor, corporate and commercial law issues that arise in connection with their implementation!

We also offer you our business partner verification of compliance with

The company offers a comprehensive, digitalized third-party due diligence solution for companies in accordance with the German Supply Chain Due Diligence Act, which covers all aspects of business partner integrity checks.