



minerva

business and human rights association

German Corporate Due Diligence in Supply Chains Act

Human rights mentioned non exhaustively in the Act:

- Prohibition of Child Labour
- Adequate Wage
- Protection Against Unlawful Land Confiscation
- Prohibition of Discrimination
- Protection Against Slavery and Forced Labour
- Occupational Safety and Health
- Clean Environment
- The Right to Form Trade Unions/Workers' Representative Bodies

The Act will apply to:

Enterprises that have their

- central administration,
- principal place of business,
- administrative headquarters,
- statutory seat or branch office in Germany



and enterprises with

- 3,000 and more employees from 2023

2023 → 3000 

- 1,000 or more employees from 2024 in Germany.

2024 → 1000 

Fines:

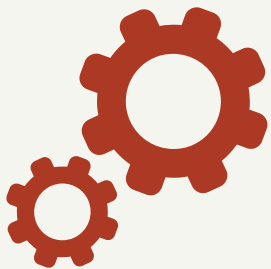


- Administrative fines for non-compliance (only for enterprises) imposed by the Act are up to EUR 8,000,000 or up to 2% of annual turnover. (fines based on turnover only to the enterprises with more than 400 million annual turnover)



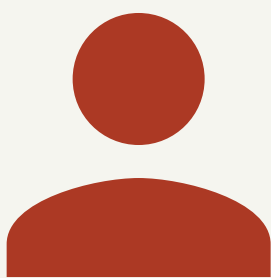
- Enterprises that fail to comply with the Act can be excluded from public contracts for up to 3 years if an administrative fine of a certain minimum amount is imposed (threshold depending on the severity of the violation: EUR 175,000 or EUR 1,500,000, EUR 2,000,000, 0.35% of annual turnover).

HUMAN RIGHTS DUE DILIGENCE OBLIGATIONS IN GERMAN ACT ON CORPORATE DUE DILIGENCE IN SUPPLY CHAINS



ESTABLISHING A RISK MANAGEMENT SYSTEM

- Enterprises must establish an appropriate and effective risk management system enshrined in all business processes to comply with their HRDD obligations.



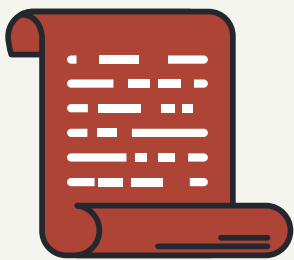
DESIGNATING RESPONSIBLE PERSON(S) WITHIN THE ENTERPRISE

- The enterprise must designate a person (or persons) responsible for monitoring risk management within the enterprise (i.e. a human rights officer). Senior management must seek information on a regular basis (at least once a year) on the work of the responsible persons.



PERFORMING REGULAR RISK ANALYSIS

- The enterprise must conduct an appropriate risk analysis to identify the HRs and environment-related risks in its own business area and at its direct suppliers. The results will be communicated internally. The risk analysis shall be carried out once a year and on an ad hoc basis if the enterprise must expect a significantly changed or expanded risk situation in the supply chain (i.e. due to the introduction of new products, projects or a new business field).



ISSUING A POLICY STATEMENT

- The enterprise must issue a policy statement on its human rights strategy to be adopted by the senior management and containing at least the procedure of the enterprise's fulfillment of its HRDD obligations, the enterprise's priority human rights and environment-related risks, as well as the human rights-related and environment-related expectations placed by the enterprise on its employees and suppliers.



LAYING DOWN PREVENTIVE MEASURES IN ITS OWN AREA OF BUSINESS AND VIS-À-VIS DIRECT SUPPLIERS

- If an enterprise identifies a risk in the course of a risk analysis, it must take appropriate preventive measures without undue delay. The effectiveness of the preventive measures must be reviewed once a year and on an ad hoc basis if the enterprise must expect a significantly changed or expanded risk situation in its own business area or at its direct supplier.



HUMAN RIGHTS DUE DILIGENCE OBLIGATIONS IN GERMAN ACT ON CORPORATE DUE DILIGENCE IN SUPPLY CHAINS

TAKING REMEDIAL ACTIONS



- If the enterprise discovers that a violation of a human rights-related or an environment-related obligation has already occurred or is imminent in its own business area or at a direct supplier, it must take appropriate remedial action to prevent, end or minimise this violation.
- If the violation of a human rights-related or an environment-related obligation at a direct supplier is unpreventable, then the enterprise must draw up and implement a plan for ending or minimising the violation. The enterprise will be obliged to terminate a business relationship under a limited number of cases only. The effectiveness of the remedial action must be reviewed once a year and on an ad hoc basis if the enterprise must expect a significantly changed or expanded risk situation in its own business area or at its direct supplier.



ESTABLISHING A COMPLAINTS PROCEDURE

- The enterprise must establish an appropriate and impartial internal complaints procedure to report HR and environment-related risks and violations that have arisen as a result of the economic actions of an enterprise in its own business area or of a direct supplier. The enterprise may also participate in an appropriate external complaints procedure, subject to the requirements set out in law.



IMPLEMENTING HRDD OBLIGATIONS WITH REGARD TO RISKS AT INDIRECT SUPPLIERS

- The enterprise must set up a complaints procedure for reporting HR or environment related risks and/or violations that have arisen due to the economic actions of an indirect supplier. In case the enterprise has substantiated knowledge that a violation is possible at indirect suppliers, it must carry out a risk analysis, lay down appropriate preventive measures, draw up and implement a prevention, cessation or minimisation plan and update its policy statement.



DOCUMENTING AND REPORTING

- The fulfilment of the HRDD obligations must be continuously documented and kept for at least seven years. The enterprise must prepare an annual report on the fulfilment of its HRDD obligations in the previous financial year and make it publicly available free of charge on its website no later than four months after the end of the financial year for a period of seven years.

