



→ e-book

On the German Supply Chain Act

Aka Lieferkettensorgfaltspflichtengesetz

Europe appears to be making steady progress towards more ethical business practices. Germany is one of the Member States to go over and above EU law and to contribute to this positive cultural shift. The protection of human rights and the environment in global supply chains is, for the first time, becoming a legal requirement for German organisations. The German Federal Parliament (Bundestag) passed the Supply Chain Due Diligence Act (the Act), ‘Lieferkettensorgfaltspflichtengesetz’ (LkSG), on June 11, 2021. →

What is the German Supply Chain Act about

The LkSG calls for German organisations to comply with new due diligence obligations in their own business area and that of their supply chain. Organisations are now being obliged to establish processes to identify, assess, prevent, and remedy violations of human rights and the environment in their supply chains. Preventive and remedial measures, complaint procedures, and regular reporting are becoming mandatory.

The new due diligence obligations described in the Act are based on eleven internationally recognised human rights conventions. These refer to the topics of child labour, slavery and forced labour, health obligations, occupational safety, employee representation and the right to unionise,

adequate wages, access to food and water, as well as unlawful management of land and livelihood.

Who is concerned

The LkSG applies to organisations which, regardless of legal form, have their central administration, principal place of business, administrative headquarters, or statutory seat in Germany, and which have at least 3,000 employees. This includes any employees situated abroad. The Act also applies to organisations that have a German branch with at least 3,000 employees. The number will be reduced to at least 1,000 employees in 2024.

General requirements

The aim of the LkSG is to prevent or to end any risks to human rights or the environment on an all-encompassing level. Organisations are now required to protect human rights and ensure environmental sustainability in their own business area, just as much as in that of their suppliers. The Act mentions direct contractual partners, as well as indirect suppliers, extending the responsibility of organisations along their entire supply chain.

The core obligations described by the Act include the following:

- to establish a risk management system
- to designate a responsible person or team
- to perform regular risk analyses
- to issue a policy statement
- to lay down preventive measures for their own business area and their supply chain
- to take remedial action
- to establish a complaint procedure
- to implement obligations with regard to the indirect suppliers
- to document and report incidents

Deadlines

The LkSG came into effect on 1 January 2023. The deadline applied to organisations with at least 3,000 employees in Germany or abroad. From January 2024, the Act will be extended to include companies with at least 1,000 employees.

Enforcement

The Federal Office for Economic Affairs and Export Control (Bundesamt für Wirtschaft und Ausfuhrkontrolle, or BAFA) is the competent authority for enforcing the LkSG. The authority will be monitoring the supply chain management of organisations with the help of various enforcement instruments. These include the imposition of financial penalties. BAFA has released a first set of guidelines on conducting risk analyses in alignment with the LkSG. You can find these [here](#). Additional guidelines are in preparation.

Failing to comply

If organisations fail to comply, they could face serious administrative fines. These are likely to be based on turnover if the organisation has more than 400 million euros of annual turnover and could amount up to 8 million euros or up to 2% of the annual global turnover. Organisations could also be refused the opportunity to win any public contracts in case they face heavy fines.

Setting up a compliant complaint procedure

One of the Supply Chain Act's core obligations is for organisations to establish a complaint procedure. Obviously, compliance is important, but to create really meaningful change, organisations need to create an environment in which speaking up is made easy, and actively encouraged. We've made it our mission to create and provide the tools that normalise speaking up to create healthier workplaces and expose misconduct. Below are the requirements for the complaint procedure, as described by the LkSG.

The Complaints Procedure (Section 8 of the Act)

appropriate complaint reporting procedure is in place. The reporting procedure can be internal or external, and must meet the following criteria:

- The reporting mechanism must provide proof of receipt to the reporting person.
- Those responsible for handling the complaints procedure must discuss the reported facts with the concerned person. They may provide options for amicable settlement, if needed.
- The rules for using the complaint procedure must be provided in text and must be publicly available.
- Those trusted to conduct the procedure must offer a guarantee of impartiality - to be independent and uninstructed. They are bound to secrecy.
- Information on accessibility and responsibility, as well as the management of complaints must be appropriately and publicly communicated.
- The reporting procedure must be accessible by all potential parties involved.
- The reporting procedure must maintain confidentiality of identity.
- The reporting procedure must ensure effective protection against potential detriments as a result of making a complaint.
- The effectiveness of the mechanism needs to be reviewed at least once a year and on an ad hoc basis if the company must expect a significant change or additional risk in its own business area or that of a direct supplier.
- The reporting procedure must be set up in a way that also allows complaints about indirect suppliers.

The SpeakUp solution

Organisations can facilitate their efforts to comply by outsourcing their complaint procedure needs. Doing the right thing has always been a driving factor at SpeakUp. We believe that speaking up can create meaningful change, but we know that being the loudest voice in a crowd is not always the easiest thing. We also understand how hard it is for organisations to have meaningful conversations and strengthen ethical behaviour when they are strictly checking off compliancy tick boxes. That's why we help organisations transition from a compliance culture to a speak up culture.

Since our first steps in the early 00s, we've helped over 2000 organisations find new ways to approach difficult conversations, leading to the development of our industry-defining software. We were creating open dialogues and transparency since before it was a requirement, and definitely before it was cool. That's how we make sure that SpeakUp exceeds the expectations for the complaint procedure as set out by the LkSG.

SpeakUp removes the barriers involved in making a complaint. It helps organisations effectively identify and resolve issues by facilitating a quick and secure dialogue with employees and third parties in more than 70 languages and in full anonymity. SpeakUp is available 24/7/365 and can be accessed via web, phone, and mobile app, from anywhere in the world. Organisations can set up multiple reporting channels and make SpeakUp available to different groups as needed.

Within the context of the Supply Chain Act, the versatility and accessibility of the complaint procedure is of crucial importance. How can organisations stay ahead of issues involving indirect suppliers? SpeakUp allows organisations to identify and manage issues that occur deep in the supply chain. More importantly, all complaints, internal and external, are collected and handled within the same secure environment. This allows for efficient case management and facilitates reporting efforts – another key requirement of the LkSG. With the help of statistics, organisations can export and interpret SpeakUp data for effective governance.



→ Creating a speak up culture

With appropriate effort from the organisation, this is how SpeakUp can help check the requirements of the complaint procedure:

Requirement	SpeakUp
The reporting mechanism must provide proof of receipt to the reporting person.	SpeakUp automatically confirms receipt to the reporter and lets them know when to expect a response. It also reminds company professionals of the timeframes to respect, in line with other relevant laws (i.e. EU Whistleblower Directive)
Those responsible for handling the complaints procedure must discuss the reported facts with the concerned person. They may provide options for amicable settlement, if needed.	Company professionals can have an uninterrupted dialogue with those raising concerns regardless of geographical or cultural distance. They can also exchange documents to facilitate substantiated conclusions and satisfactory solutions of complaints.
The rules for using the complaint procedure must be provided in text and must be publicly available. Information on accessibility and responsibility, as well as the management of complaints must be appropriately and publicly communicated.	During implementation, we offer support and share best practices for drafting your SpeakUp Policy.
Those trusted to conduct the procedure must offer a guarantee of impartiality – to be independent and uninstructed. They are bound to secrecy.	SpeakUp prioritises anonymity to minimise the probability of biased processing.
The reporting procedure must be accessible by all potential parties involved. The reporting procedure must be set up in a way that also allows complaints about indirect suppliers.	SpeakUp is available worldwide and complaints can be made in more than 70 languages. SpeakUp can facilitate handling complaints from people inside and outside the organisation (including indirect suppliers!).
The reporting procedure must maintain confidentiality of identity.	SpeakUp fully supports confidential and anonymous reporting.
The reporting procedure must ensure effective protection against potential detriments as a result of making a complaint.	With the strong combination of anonymity and the highest privacy and security standards, SpeakUp helps ensure the protection of anyone making a complaint.
The effectiveness of the procedure needs to be reviewed at least once a year and on an ad hoc basis if the company must expect a significant change or additional risk in its own business area or that of a direct supplier.	SpeakUp offers easy visualisation of report data. It is also possible to extract data from SpeakUp for reporting purposes which can facilitate assessing the effectiveness.

Interested in seeing how you can use SpeakUp to leverage the German Supply Chain Act?

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