Federal Ministry
of Labour and Social Affairs

SECTOR DIALOGUE
Automotive Industry

Business &
Human Rights

Respecting human rights along global supply and value chains of Germany's automotive industry

Guidelines for the integration of due diligence requirements into business management processes

Introduction

Contents

1. Basics

1.1 The relevance of human rights for the automotive industry

As a key industry in the German economy, at its production sites around the world, and together with a network of suppliers, the automotive sector contributes to employment, training and economic development. Over half of the value added within the sector is generated by suppliers – from the extraction of raw materials and manufacture of inputs through to component assembly and the production of entire vehicles.

At the same time, the situation in the automotive sector's globally dispersed supply and value chains poses significant human rights risks in many areas. This is particularly the case in upstream processes. Furthermore, human rights violations and corruption are more likely to occur in states where the rule of law is lacking, institutions are weak, and poverty is endemic. Human rights risks that may arise in such countries include damage to the health or safety of workers and local people, discrimination, restrictions on freedom of association and violations of indigenous peoples' rights.

Business enterprises have a responsibility to respect human rights. This means engaging proactively and globally to ensure that people are protected against harmful business activities while also strengthening the beneficial impacts of those activities on people. This principle must become an integral part of responsible business conduct; indeed, this awareness is called for by a wide range of stakeholders, including civil society organisations, unions and rights holders. Enterprises in the automotive industry maintain close links with their consumers. As such, the increasingly stringent requirements surrounding sustainability performance and human rights due diligence go beyond large manufacturers and suppliers of the automotive industry. Increasingly, small and medium-sized enterprises (SMEs) must also rise to the challenge of developing responsible supply and value chains.

1.2 Why is there a Sector Dialogue Automotive Industry?

Many car manufacturers and suppliers are already actively engaged in the field of human rights, either as individual enterprises or through national and international initiatives. Given the structural similarities between their respective supply and value chains, they can increase their impact through joint action.

This is why industry actors representing enterprises, business associations and unions have come together with civil society organisations and the Federal Ministry of Labour and Social Affairs (BMAS) to establish a sector dialogue for respecting human rights along global supply and value chains of Germany's automotive industry. There is a shared conviction among all members involved that responsible actions which promote respect for human rights in global supply and value chains will help to build a fairer globalised economy while also assuring long-term business success. To this end, they want to pool their expertise and resources. The Sector Dialogue has a clear objective, namely, to facilitate the integration of human rights due diligence into business management processes for enterprises of the automotive industry, in order to improve respect for human rights along global supply and value chains.

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Companies in the automotive industry

Audi AG

Bayerische Motoren Werke AG

BENTELER Automobil Technik GmbH

Brose Fahrzeugteile SE & Co. KG

Clarios Germany GmbH & Co. KG

Continental AG

Mercedes-Benz Group AG

Dr. Ing. h.c. F. Porsche AG

DRÄXLMAIER Group

Ford of Europe GmbH

FUCHS PETROLUB SE

HARTING Automotive GmbH

KIRCHHOFF Automotive Holding GmbH & Co. KG

Knorr-Bremse AG

REHAU Automotive SE & Co. KG

Rheinmetall AG

Robert Bosch GmbH

Röchling Automotive SE & Co. KG

Schaeffler AG

Volkswagen AG

WOCO Franz Josef Wolf Holding GmbH

ZF Friedrichshafen AG

Trade associations

Arbeitgeberverband Gesamtmetall e. V.

Verband der Automobilindustrie e. V.

Trade unions

IG Metall

Non-governmental organisations

Germanwatch e. V.

INKOTA-Netzwerk e. V.

SÜDWIND e. V. – Institut für Ökonomie und Ökumene

Transparency International Deutschland e. V.

WEED e. V. – World Economy, Ecology & Development

Initiatives

UN Global Compact Netzwerk Deutschland

econsense – Forum Nachhaltige Entwicklung der Deutschen Wirtschaft e. V.

German Institute for Human Rights

Deutsches Institut für Menschenrechte e. V.

1.3 What is the National Action Plan for Business and Human Rights?

The German Federal Government adopted the National Action Plan for Business and Human Rights (NAP) on 21 December 2016. The NAP is based on the United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles). In accordance with these principles, the NAP sets out the duty of the state to protect human rights and the responsibility of enterprises to respect human rights in their global supply and value chains. For the latter, the NAP establishes five core elements of human rights due diligence:

- human rights policy statement
- procedure for the identification of actual or potential adverse impacts on human rights
- measures to ward off potential adverse impacts and to review the effectiveness of these measures
- reporting
- grievance mechanism

1.4 Does the Sector Dialogue also support the implementation of the requirements formulated in the Act on Corporate Due Diligence Obligations in Supply Chains?

Many enterprises are obliged to comply with Germany’s Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violations in Supply Chains (Lieferkettensorgfaltspflichtengesetz, LkSG, Supply Chain Act) from 2023 onwards. There is a great deal of thematic overlap between the LkSG and the NAP, especially with regard to the five core elements of human rights due diligence. As such, the Sector Dialogue offers enterprises valuable support when it comes to implementing the LkSG.

1.5 How exactly does the Sector Dialogue help?

In order to actively promote respect for human rights, your company is required to implement the core elements of human rights due diligence. Against this background, the Sector Dialogue members have prepared a dedicated and practical guideline for implementing each core element. These guidelines are designed as orientation and tools to support your enterprise in fulfilling its responsibilities appropriately. Implementing human rights due diligence is an ongoing and individualised process. Enterprises will need to undertake an ambitious ‘learning journey’ that reflects the specific context in which they operate, while gradually implementing the human rights due diligence processes set out in the guidelines over an appropriate period of time.

The guidelines highlight possible solutions (and their limitations) to the challenges involved in managing human rights risks and violations. In line with the NAP and the UN Guiding Principles, they follow a risk-based approach that allows enterprises to establish their respective priorities. Your enterprise will not be expected to implement every single aspect of the guidelines immediately and in full. Instead, you should focus first and foremost on those areas of human rights that are linked to serious violations as well as risks for (potentially) affected groups of people.

It is also recognised that small and medium-sized enterprises (SMEs) do not have the same financial and human resources as larger enterprises and that their procedures and structures are generally less formalised. Each guideline includes concrete advice and practical steps that illustrate how you can set about implementing the requirements of that core element.

2. A vision and a commitment for implementation of the guidelines in the Sector Dialogue Automotive Industry

In adopting the guidelines, those actively involved in the Sector Dialogue Automotive Industry – enterprises, business associations, unions, non-governmental organisations (NGOs), initiatives, the German Institute for Human Rights (DIMR) and the Federal Ministry of Labour and Social Affairs (BMAS) – affirm their commitment to the UN Guiding Principles on Business and Human Rights (UN Guiding Principles). With regard to implementation of the National Action Plan for Business and Human Rights (NAP) in Germany, the involved members have developed a shared understanding of how human rights due diligence can be put into practice.

By adopting the guidelines, the enterprises represented in the Sector Dialogue commit themselves to a shared understanding of the industry risks and due diligence requirements and to an ambitious programme of implementation in their own business context. Implementation is an individual and continuous process with the goal of integrating human rights due diligence into management processes. Against this background, the guidelines offer a vision of how to appropriately fulfil the due diligence obligations in each of the five core elements. In concrete terms, this means taking the following actions:

- Enterprises formally express their responsibility for respecting human rights by publicly adopting a policy statement and setting out how they intend to fulfil that responsibility.

- They perform a regular risk analysis in order to identify, assess and prioritise actual and potential adverse impacts on human rights.

- They implement measures designed to prevent, mitigate or remedy potential and actual human rights violations. They regularly review the effectiveness of the measures they have taken and to this end establish a dialogue with all those who are affected.

- Both internally and externally, they communicate transparently that they understand the actual and potential adverse impacts on human rights and are taking appropriate action to address them.

- They establish procedures that allow people to submit complaints concerning (potential) human rights violations, and they regularly review the effectiveness of those mechanisms.

The guidelines set out which requirements must be observed in order to fulfil the five core elements, and they specify the steps required for successful implementation.

The enterprises in the Sector Dialogue acknowledge these requirements and take appropriate implementation steps in their respective business contexts. This involves assessing their particular situation and on this basis identifying individual priorities, goals and measures in the form of an implementation plan. They also incorporate the perspective of rights holders.

Commitment to participate in the second stage of the Sector Dialogue Automotive Industry

The formal adoption of the guidelines marks the transition from the first stage of the Sector Dialogue (focusing on drafting) to the second stage (focusing on implementation); this second stage is expected to cover the period up to the end of 2023. During this second stage, as well as implementing the guidelines, the Sector Dialogue members undertake to engage fully with its activities.

Crucially, this involves regular discussions of the progress being made towards implementation and the effectiveness of the measures taken. The enterprises therefore undertake to deal transparently with their experiences, outcomes and challenges as they implement their due diligence obligations. All enterprises involved in the Sector Dialogue participate in the results-based sharing of knowledge and experience of implementing the due diligence obligations and contribute information for measuring the effectiveness of the measures they take. The second stage of the Sector Dialogue includes setting up a confidential process through which enterprises can reveal and discuss their individual action plans on jointly identified focus topics, including their approaches to measuring effectiveness. This process takes account of the particular situation of automotive component manufacturers in the supply and value chain.

Enterprises, BMAS, business associations, unions, NGOs, initiatives and DIMR commit themselves to disseminating the guidelines, for example by publishing the documents on their respective websites, informing and training their suppliers, and taking part in events to publicise the guidelines.

In addition, Sector Dialogue members may opt to engage with other topics such as 'Measuring effectiveness – process and indicators' and 'Human rights due diligence in politically sensitive contexts', as well as pilot projects.

3. Guidelines for the NAP core elements

3.1 How do the guidelines differ from other advice?

The guidelines for the five NAP core elements of human rights due diligence differ in key areas from previous advice and therefore provide significant additional value.

- The guidelines form a collection of self-contained and structurally identical manuals that fully address the NAP requirements.

- The purpose of the NAP is to set out the UN Guiding Principles on Business and Human Rights from an implementation perspective. The guidelines reference the UN Guiding Principles and therefore contribute significantly to the implementation of the wider international framework, whose goals are explicitly recognised by all the Sector Dialogue members.

- The guidelines include concrete references to the requirements of the Supply Chain Act (LkSG). This will help enterprises that fall under the scope of the law to meet their statutory obligations at the same time. At certain points, the guidelines go beyond the above-mentioned policy frameworks and regulatory requirements.

- Other relevant guidance has been incorporated into the guidelines alongside examples of current business practice. The guidelines take into account the characteristics of both large enterprises and SMEs.

- With the help of the guidelines, users can review their progress towards fulfilling the NAP requirements (e.g. through checklists). In this way, they create transparency and verifiability for enterprises and their stakeholders and can demonstrate the progress made towards implementation.

- The guidelines – or parts of them – can also be used by your enterprise for training courses or as training resources.

The Sector Dialogue members have spent roughly two years drawing up the guidelines in a multi-stakeholder process. The strength of the guidelines lies in the wealth of knowledge and experience of individual members, and as such they have been broadly welcomed among the Sector Dialogue's various stakeholder groups.

3.2 Content and structure of the guidelines

The five core elements of human rights due diligence should not be seen as a rigid sequence but as a description of closely linked and interdependent due diligence processes. The task of implementing them will therefore require as holistic an approach as possible. It follows that enterprises need not work their way through the guidelines and the corresponding steps in chronological order. Instead, the due diligence processes are interwoven and should be developed and refined continuously in line with your business activities and the legal requirements.

As the guidelines for each area of due diligence are self-contained, you can start wherever it makes most sense from your enterprise’s perspective. This work should build on the current state and maturity of the due diligence processes in your enterprise in order to close any gaps. This is particularly the case if you have already taken steps towards implementing individual core elements within your enterprise.

The five core elements and the links between them are set out below.

Policy statement

The policy statement as adopted by top management is a public declaration of how the enterprise will fulfil its duty to respect human rights. It should also include an overview of the most relevant human rights issues identified (for example in the risk analysis), (potentially) affected groups and responsible positions in the enterprise.

Risk analysis

Risk analysis is a continuous process that you should conduct regularly in order to identify, assess and prioritise actual and potential adverse impacts on human rights. The risk analysis findings act as a key point of reference when deciding which measures are required and support the implementation of those measures. They should also be incorporated into reports and the policy statement and are closely linked to the enterprise’s grievance procedures. Wherever possible, you should involve rights holders when conducting a risk analysis.

Measures and effectiveness tracking

Corporate due diligence is essentially a matter of establishing procedures that prevent, mitigate or remedy potential and actual human rights violations. You should regularly monitor the effectiveness of the measures taken by your enterprise and to this end enter into a dialogue with affected groups.

Grievance mechanism

The term ‘grievance mechanism’ is used to describe any routine procedure established so that people can submit complaints about (potential) human rights violations that may have been caused by your enterprise, to which it contributes or with which it is associated, as well as where there is a risk of such violations in future. This mechanism can be used to identify early on (impending) human rights violations that arise due to your business activities or relationships and can therefore act as an early warning system. In turn, this can provide the basis for appropriate measures. Review your grievance mechanism regularly to ensure that it is effective, and use the information you gain from complaints that you receive as a source when conducting risk analyses. Finally, describe the grievance mechanisms that you have set up in both your policy statement and reports, and communicate the findings both internally and externally.

Reporting

Your enterprise’s due diligence obligations also include demonstrating that you are aware of the actual and potential adverse impacts of your activities on human rights and are taking appropriate measures to counter them. This needs to be documented and communicated both internally and externally in a transparent manner. Here, reports should be prepared both for the wider public and, in an open dialogue, through proactive communication with stakeholders and those (potentially) affected by the enterprise’s activities. All such reports should incorporate the findings of your risk analyses and grievance mechanisms, and should provide information about the measures you have taken and how effective they are.

3.3 Key points to consider when using the guidelines

You don’t have to start from scratch

In most cases, enterprises can build on existing procedures when implementing human rights due diligence processes. To do this, however, they must first identify any gaps in existing processes, documents and responsibilities that are relevant to respecting human rights. With this in mind, all the guidelines begin by recommending that you perform a baseline assessment.

If your enterprise has already implemented some human rights due diligence processes, the first step will be to review how far you already meet the requirements of each core element. You may find it helpful to refer to the corresponding overview in section 3, the baseline assessment step in section 4 and the checklist in section 5 of each guideline.

Decide on the best order for implementing the requirements

If your enterprise has little or no previous experience of addressing human rights due diligence, it is recommended that you start with the risk analysis. This will allow you to gain an understanding of (potentially) affected groups and adverse impacts that are specific to the business activities in your supply and value chains. As human rights due diligence is a dynamic process, it is important not to wait until you have implemented all your measures, assessed how effective they are and compiled all the findings from your grievance mechanisms before publishing your policy statement and preparing reports.

As a general principle, you should also adopt the perspective of (potentially) affected groups and involve them when implementing your due diligence obligations. The guideline for each core element shows you how this can be done, for example, in your risk analysis, when defining measures and monitoring their effectiveness, and when setting up and implementing grievance procedures.

Damage to the environment can lead to violations of human rights

Inevitably, the business activities of enterprises and their relationships with other businesses through supply and value chains also involve impacts on the environment. This may lead directly or indirectly to human rights risks as well as adverse human rights impacts. Air, water and soil pollution, for example, can threaten the livelihoods of local populations. If an enterprise extracts too much groundwater in a region already suffering from water shortages, it may violate the right to an adequate standard of living. Equally, inappropriate hazardous waste management may lead to human rights violations if it creates a danger to human health. The destruction of sites of cultural and ritual importance may also constitute a violation of human rights as it limits the right of people to take part in cultural life. It follows that human rights due diligence processes must also take into account, at least implicitly, any environmental damage that may have an adverse impact on human rights.

4. Frame of reference

4.1 What does the German Supply Chain Act (LkSG) require?

Scope of application

The German Supply Chain Act came into force on 1 January 2023. All enterprises based in Germany with at least 3,000 employees, regardless of their legal form, and all enterprises with a branch in Germany and at least 3,000 employees in the country, are now required to fulfil certain human rights and environment-related due diligence obligations. Within affiliated enterprises, the figure for the parent company includes the total number of workers employed at all the group’s companies in Germany and any employees currently on international secondments. From 1 January 2024, the threshold will fall to 1,000 employees. Small and medium-sized enterprises (SMEs) will also be affected indirectly, since enterprises subject to the LkSG will impose their own due diligence obligations on their suppliers.

Protected legal positions and environmental obligations

As set out in section 2 (1) LkSG, the term ‘protected legal positions’ refers within the meaning of the Act to legal positions established under international conventions on the protection of human rights. A ‘human rights risk’ or ‘environment-related risk’ within the meaning of the Act is ‘a condition in which, on the basis of factual circumstances, there is a sufficient probability that a violation of one of the ... prohibitions [set out in section 2 (2) and (3)] is imminent’. Within the meaning of the Act, the term ‘violation’ in respect of a human rights or environment-related obligation refers to any violation of a prohibition referred to in section 2 (2) and (3) LkSG. The Annex to the Supply Chain Act lists all the international conventions on which protected legal positions within the meaning of the Act are based. For the purpose of the LkSG, this is a complete and definitive list. Prohibitions of actions that constitute violations of human rights or environment-related obligations within the meaning of the Act are:

- child labour, forced labour, slavery
- disregard for occupational health and safety obligations
- disregard for the right to freedom of association
- unequal treatment in employment
- withholding an adequate living wage
- causing any harmful soil change, water pollution, air pollution, harmful noise emission or excessive water consumption
- unlawful eviction and the unlawful taking of land, forests and waters
- hiring or use of private or public security forces with disregard for human rights
- any other act which directly impairs a protected legal position in a particularly serious manner
- the manufacture of mercury-added products, the use of mercury in manufacturing processes and the treatment of mercury waste
- the production and use of persistent organic pollutants
- the handling, collection, storage and disposal of waste in a manner that is not environmentally sound
- exports and imports of hazardous waste

Due diligence

Enterprises must take appropriate action to fulfil all human rights and environmental due diligence obligations that relate to their supply chains in order to prevent and minimise human rights or environmental risks, and to end any violations of human rights or environmental obligations.

As part of your due diligence obligations, your enterprise must:

1. set up a risk management system
2. specify who is responsible within your enterprise
3. perform regular risk analyses
4. issue a policy statement
5. embed preventive measures in your own business operations and in your dealings with direct suppliers
6. take remedial action
7. establish a grievance procedure
8. implement due diligence obligations that address risks at your indirect suppliers
9. keep appropriate records and publish reports

Scope of due diligence

The due diligence obligations cover each enterprise's own area of business and its entire supply chain. For the purposes of the Supply Chain Act, this means the supply chain for all the enterprise's products and services. It includes every step, in or outside Germany, which is essential to manufacturing products or providing services, from the extraction of raw materials through to delivery to end customers. The Supply Chain Act distinguishes between direct suppliers (contractual partners) and indirect suppliers (i.e. all those which are not direct suppliers). The due diligence obligations with respect to indirect suppliers include setting up a complaints procedure, keeping records, producing reports and fulfilling any other obligations that apply in the case of 'substantiated knowledge' (section 9 LkSG). This means that if your enterprise has actual indications that suggest that a violation of a human rights-related or an environment-related obligation at indirect suppliers may be possible ('substantiated knowledge'), you must adapt your existing risk management system, perform an ad hoc risk analysis and embed appropriate preventive measures in your dealings with the source of the violation. You must also establish a plan to prevent, end or minimise the violation, and, if necessary, update your policy statement.

You are assumed to have 'substantiated knowledge' if your enterprise is in possession of actual, verifiable and credible indications of a (potential) human rights or environmental violation at an indirect supplier. Such indications may take the form of reports on the poor human rights situation in the region of production (e.g. media or NGO reports), the fact that an indirect supplier belongs to a sector exposed to a particularly high level of human rights or environmental risks, previous incidents involving an indirect supplier, alerts/complaints received from rights holders or information about risks in a particular region in which an enterprise or multiple suppliers operate.

Monitoring and enforcement

The official body responsible for monitoring and enforcement is the Federal Office for Economic Affairs and Export Control (BAFA). BAFA examines all reporting, and at its own discretion takes action to monitor compliance with due diligence obligations and orders specific measures to prevent violations. In the event of suspected violations, your enterprise may be subject to an on-site inspection by BAFA and to consequences such as an enforcement penalty or a regulatory fine. If a fine is imposed on your enterprise on account of a legally confirmed violation, it may be excluded from tendering for public contracts for up to three years. The Supply Chain Act explicitly excludes any liability under civil law. Equally, the Act has no effect on the general principles of liability in tort.

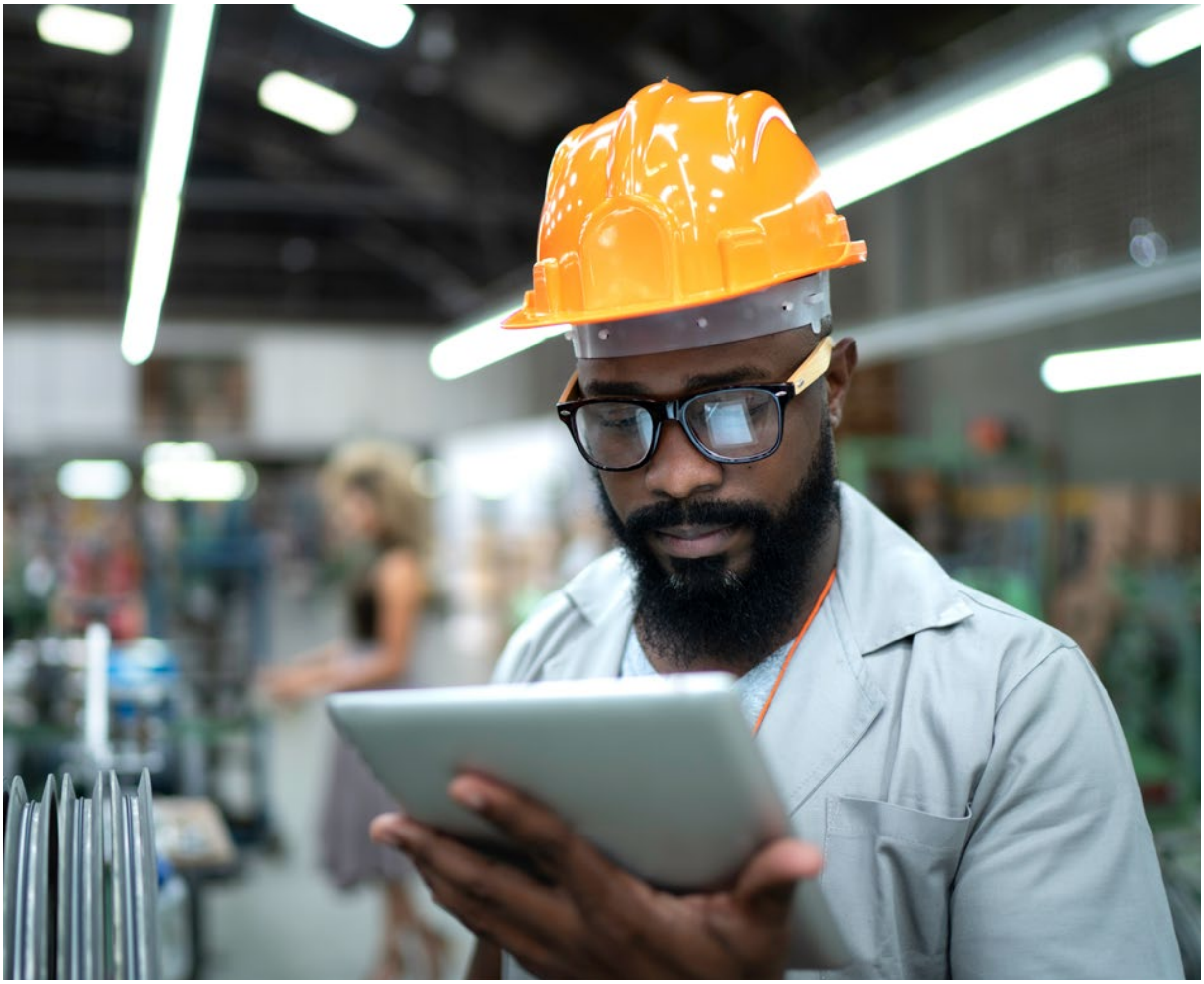
4.2 How do the NAP and the LkSG differ?

Both the NAP and the LkSG are based on the UN Guiding Principles (2011) as a reference framework. Consequently, the steps described in the guidelines to implement the NAP requirements will also help to fulfil the due diligence processes stipulated in the LkSG. Although the fundamental requirements of the NAP and the LkSG are comparable, the rights and obligations they establish are not identical.

One of the key differences between the two regulatory frameworks is that the NAP approach is voluntary, reflecting a general expectation of the German Federal Government that enterprises will take appropriate action to fulfil their corporate responsibilities at every point in their supply and value chains. By contrast, the LkSG is mandatory for all enterprises that fall under the scope of application. It obliges them to meet clearly defined due diligence obligations in their own area of business and in their dealings with both direct and indirect suppliers.

BAFA will make a separate assessment in each specific case to determine whether an enterprise meets the requirements of the LkSG. In deciding whether the measures taken are appropriate, consideration must also be given to the enterprise's specific business model. BAFA will publish information, aids and recommendations to facilitate compliance with the Act.

Section 3 of each guideline summarises both the NAP specifications and the LkSG requirements. The table on the next page shows which of the guidelines can be used to help fulfil the LkSG obligations.



Area of due diligence	Guideline(s) for NAP core element(s)	Link to LkSG requirements
Policy statement	Guideline for the core element 'Policy statement'	Section 1 (Scope of application) Section 2 (Definitions) Section 3 (Due diligence obligations) (1) sentence 2 no. 4 in conjunction with section 6 (Preventive measures) (2) Section 3 (Due diligence obligations) (1) sentence 2 no. 8 in conjunction with section 9 (Indirect suppliers) (3) no. 4
Risk analysis	Guideline for the core element 'Risk analysis'	Section 1 (Scope of application) Section 2 (Definitions) Section 3 (Due diligence obligations) (1) sentence 2 no. 3 in conjunction with section 5 (Risk analysis) Section 3 (Due diligence obligations) (1) sentence 2 no. 8 in conjunction with section 9 (Indirect suppliers) (3) no. 1
Risk management	Guideline for all five core elements	Section 1 (Scope of application) Section 2 (Definitions) Section 3 (Due diligence obligations) (1) sentence 2 no. 1 in conjunction with section 4 (Risk management) (1) and (4) Section 3 (Due diligence obligations) (1) sentence 2 no. 8 in conjunction with section 9 (Indirect suppliers) (2)
Preventive measures	Guideline for the core element 'Measures and effectiveness tracking'	Section 1 (Scope of application) Section 2 (Definitions) Section 3 (Due diligence obligations) (1) sentence 2 no. 5 in conjunction with section 6 (Preventive measures) (1), (3) and (4) Section 3 (Due diligence obligations) (1) sentence 2 no. 8 in conjunction with section 9 (Indirect suppliers) (3) no. 2
Remedial action	Guideline for the core element 'Measures and effectiveness tracking'	Section 1 (Scope of application) Section 2 (Definitions) Section 3 (Due diligence obligations) (1) sentence 2 no. 6 in conjunction with section 7 (Preventive measures) (1) to (3) Section 3 (Due diligence obligations) (1) sentence 2 no. 8 in conjunction with section 9 (Indirect suppliers) (3) no. 3
Effectiveness and tracking effectiveness	Guideline for the core element 'Measures and effectiveness tracking'– step 6 Guideline for the core element 'Grievance mechanism' – step 5	Section 4 (Risk management) (2) Section 6 (Preventive measures) (5) in conjunction with section 8 (Complaints procedure) (1) Section 7 (Remedial action) (4) in conjunction with section 8 (Complaints procedure) (1) Section 8 (Complaints procedure) (5)
Documentation and reporting	Guideline for the core element 'Reporting'	Section 1 (Scope of application) Section 2 (Definitions) Section 3 (Due diligence obligations) (1) sentence 2 no. 9 in conjunction with section 10 (Documentation and reporting obligation)

Area of due diligence	**Guideline(s) for NAP core element(s)**	**Link to LkSG requirements**
Grievance mechanisms	Guideline for the core element 'Grievance mechanism'	Section 1 (Scope of application) Section 2 (Definitions) Section 3 (Due diligence obligations) (1) sentence 2 no. 7 in conjunction with section 8 (Complaints procedure) (1) to (4) Section 3 (Due diligence obligations) (1) sentence 2 no. 8 in conjunction with section 9 (Indirect suppliers) (1)
Designated internal responsibilities and human rights officer	Guideline for the core element 'Policy statement' – step 4 Guideline for the core element 'Risk analysis' – step 1 Guideline for the core element 'Measures and effectiveness tracking' – step 2 Guideline for the core element 'Reporting' – steps 4 and 6 Guideline for the core element 'Grievance mechanism' – step 7	Section 1 (Scope of application) Section 2 (Definitions) Section 3 (Due diligence obligations) (1) sentence 2 no. 2 in conjunction with section 4 (Risk management) (3)
Appropriateness, leverage, severity, nature of the 'causal contribution'	Guidelines for the core elements 'Risk analysis' and 'Measures and effectiveness tracking'	Section 1 (Scope of application) Section 2 (Definitions) Section 3 (Due diligence obligations) (1) sentence 1 and (2)

4.3 Preparations for European legislation and international regulation[1]

In early 2022 the European Commission put forward a proposal for European legislation (Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence) in order to improve corporate respect for human rights, compliance with environmental obligations and climate protection across global value chains, including both direct and indirect business relationships. A clear cross-party majority of members of the European Parliament (MEPs) had indicated their support for European legislation in 2021 and called on the Commission to draw up a draft directive. It is anticipated that the legislative process will be completed by 2024.

With regard to the worldwide legal situation, several countries have already enacted human rights due diligence obligations with corresponding liability provisions and sanctions for certain violations. Some examples of legislation in this area are given below:

- US Dodd-Frank Act Section 1502 (2010)
- California Transparency in Supply Chains Act (2010)
- UK Modern Slavery Act (2015)
- Australian Modern Slavery Act (2018)
- French Loi de Vigilance (Corporate Due Diligence Act) (2017)
- Dutch Wet Zorgplicht Kinderarbeid (Due Diligence Act on the Prevention of Child Labour) (2019)
- EU Conflict Minerals Regulation (2017)
- Norwegian Transparency Act (2021)

In addition to the national laws listed above, efforts have been made since 2014 to draft a UN treaty on business and human rights.

In many cases, national legislation also applies to foreign enterprises that maintain business operations or a subsidiary in the country or that are listed on a national exchange. This requires continuous monitoring.

Corporate due diligence legislation worldwide

A study entitled **Companies and Human Rights** by the Friedrich Ebert Stiftung (FES) provides a detailed global comparison of corporate due diligence obligations. The FES **website** includes a quick overview of the different regulations in the form of an interactive world map and further links (in German).

[1] The information provided in this introduction and in the guidelines is based on the regulations in force and the current state of knowledge on the date of publication (June 2022).

4.4 What are the reporting requirements?

Reporting requirements vary depending on the type of enterprise. Alongside the legislative approaches to human rights due diligence mentioned above, the following directives, regulations and standards already impose obligations to report on human rights observance:

- Germany's **CSR Directive Implementation Act,** which translates Directive 2014/95/EU into national legislation. This requires certain large capital market-oriented enterprises, and large banks and insurers, to report annually on their strategies (e.g. on respect for human rights), the results of those strategies, the associated risks and their key performance indicators.

- **Voluntary standards** for corporate reporting in the field of human rights observance. These include the German Sustainability Code (DNK), the Global Reporting Initiative (GRI), the Sustainability Accounting Standards Board (SASB) and UN Global Compact 'Communication on Progress' (CoP) reports.

- **Regulation (EU) 2020/852.** The EU's Taxonomy Regulation is a classification system and benchmark for environmentally sustainable ('green') economic activities. Its purpose is to facilitate sustainable investment and support the European Union's climate and sustainability goals. Starting in 2021, enterprises that fall under the scope of Germany's CSR Directive Implementation Act (CSR-RUG) and, looking further ahead, the Corporate Social Responsibility Directive (CSRD, see below), are obliged to disclose information in their (consolidated) non-financial statement (in future in the form of a sustainability report) setting out how and to what extent the enterprise's operations are linked to 'green' activities. These disclosures centre on three key indicators: 'green' revenue, 'green' capital expenditure and 'green' operating expenses as a percentage of the totals. For disclosure purposes, business activities can only be classed as economically sustainable (taxonomy-compliant) if the enterprise observes minimum (social) safeguards with regard to observance of human rights and labour rights.

- **New Corporate Social Responsibility Directive (CSRD) to amend CSR Directive 2014/95/EU (NFRD).** The CSRD considerably broadens the scope and content of sustainability reporting within the EU. It gradually extends sustainability reporting obligations to large non-capital market-oriented enterprises with over 250 employees. Enterprises that fall under the scope of the CSRD will also be subject to the reporting obligations set out in the EU's Taxonomy Regulation (see above). This broader and more standardised approach will be implemented through mandatory European Sustainability Reporting Standards (ESRS) that are expected to replace the current 'patchwork' of voluntary reporting standards. The currently presented drafts for these standards cover every sustainability dimension and will therefore regulate corporate reporting not only on different environmental aspects but also on a wide range of social and governance criteria. In addition, the CSRD will make the corporate sustainability report part of the (consolidated) management report and will require the disclosures to be audited. Sustainability reporting obligations will be extended in stages. Enterprises that already fall under the scope of Germany's CSR Directive Implementation Act will be required to apply the new CSRD from the 2024 reporting period onwards. Large enterprises that will be subject to these reporting obligations for the first time will be required to apply the CSRD from the 2025 reporting period onwards. Capital market-oriented small and medium-sized enterprises, and certain financial institutions, must comply with the new requirements from financial years that begin on or after 1 January 2026.

Whether or not an enterprise falls under the scope of a specific piece of legislation, the guidelines pursue a proactive and preventive approach. The aim is to identify, prevent and mitigate risks wherever possible and wherever they occur along your entire supply and value chain, not least in your enterprise's own economic interest. You should use existing standards and aids such as these guidelines as your framework of reference when performing human rights due diligence.

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