

## UPDATE ON THE CORPORATE SUSTAINABILITY DUE DILIGENCE DIRECTIVE

On March 15, 2024, the Permanent Representatives Committee presented a compromise version of the Corporate Sustainability Due Diligence Directive („CSDDD“), which the EU Council has yet to formally approve.

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It is expected that this compromise version will soon clear the final hurdle in the European Parliament and thus be adopted prior to the European Elections in June 2024. The CSDDD in its latest draft has now been watered down compared to the former trilogue version. Obligated companies will therefore be faced with a „European Supply Chain Law“, which provides for simplifications in parts, but also tightening compared to the German Supply Chain Act.

## What do companies need to consider now?

First of all, the draft's scope of application is softened, as it eventually sets the threshold for companies based in the EU at more than 1,000 employees and a worldwide annual net turnover of more than EUR 450 million. The German Act, in contrast, does not set a turnover threshold, which is why fewer companies will fall within the scope of application. In addition, the draft directive provides for different transitional periods depending on the size of the companies affected:

- Three years after the CSDDD enters into force: Companies with more than 5,000 employees and an initial worldwide annual turnover of more than EUR 1.5 billion fall within the scope of application.
- Four years after the CSDDD enters into force: Companies with more than 3,000 employees and a worldwide annual turnover of more than EUR 900 million fall within the scope of application.
- Five years after the CSDDD enters into force: Companies with more than 1,000 employees and a worldwide annual net turnover of more than EUR 450 million fall within the scope of application.

The draft now also provides for the definition of a so-called „value chain“. In the case of own suppliers („upstream“), direct and indirect business partners are still covered. In the case of own supply obligations („downstream“), only distribution, transportation and storage activities are to be covered. In contrast to the German Act, the draft also continues to provide for civil liability for companies. Additionally, fines of up to 5% of global net annual turnover could be imposed.

## Stricter rules on climate protection

Environmental duties of care for companies have been significantly tightened compared to the German Act. On the one

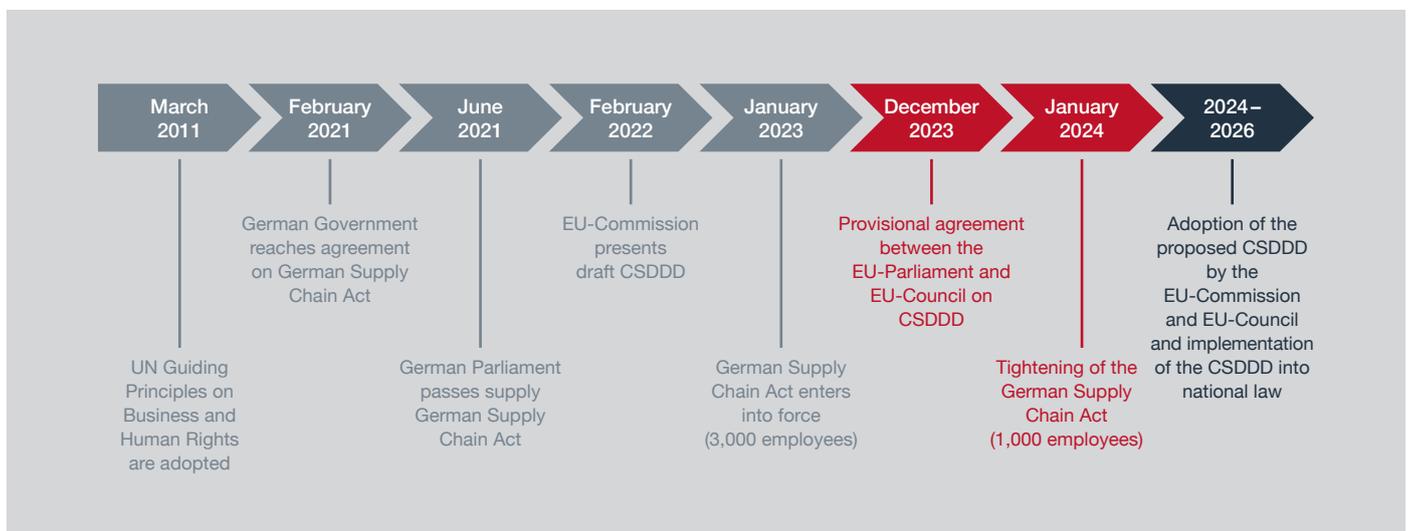
hand, companies are obliged to adopt a plan which ensures that their business model and strategy are compliant with the Paris Agreement on climate change and obliges affected companies to implement this to the best of their ability.

## Does the CSDDD have a direct impact on companies?

The directive does not have an immediate effect on companies for the time being. First, the directive has to be formally adopted by the EU Council and the EU Parliament. Thereafter, the directive must be implemented into national law by the EU member states within the planned implementation period of two years. Even after this, different transitional periods will initially apply depending on the size of the company measured in employees and annual global net turnover. It is to be expected that the German Supply Chain Act will be amended accordingly.

## How should companies act now?

The directive will presumably become binding after implementation into national law. Taking into account the transitional periods, obligations will partly not become binding up until 2027. Until then, companies should address the requirements of the German Supply Act, particularly with regards to the reduced threshold of 1,000 employees that has been in force since January 1, 2024. Until further ado, the German Supply Chain Act remains in full force and effect. Furthermore, companies should consider the CSDDD and revise their compliance regulations (e.g. declaration of principles, human rights strategy, codes of ethics, rules of conduct for suppliers), including their own purchasing and sales conditions.



## How can we provide assistance?

The implementation of the Supply Chain Act within a company is a complex challenge. Sound and up-to-date legal knowledge is indispensable. Our multidisciplinary team specializes in the legal issues of the Supply Chain Act and has in-depth practical experience from corresponding projects.

Using special software solutions can also be advantageous, especially when reviewing numerous suppliers and integrating the Supply Chain Act into the company's existing IT systems.

We have an experienced IT partner at our disposal who has tailor-made software solutions to meet the requirements of the Supply Chain Act.

**Feel free to contact us! We will be happy to provide assistance.**

## How are we different – Why Andersen?

Our multidisciplinary team specializes in the legal aspects of both the German and European supply chain act and provides comprehensive legal advice at the highest level.

We provide comprehensive expertise in legal advice and provide IT services out of one hand.

As a member of Andersen Global, we operate in over 170 countries worldwide and can therefore offer consulting services that are tailored to your individual needs worldwide.



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