

ESG Legislation Tracker

October 2024



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Introduction

Climate change, regulatory requirements, geopolitical upheavals: Sustainability has played a central role for our clients worldwide for years. Today, the integration of environmental, social and governance (ESG) factors has become an integral part of corporate behaviour. By providing comprehensive advice, the ESG law firm Taylor Wessing ensures that legal certainty, sustainability, and economic success go hand in hand.

What is ESG legal advice?

The term sustainability encompasses many aspects: Compliance with environmental, social and governance standards is being demanded not only by an ever-increasing proportion of society including customers, investors and business partners. At the same time, regulatory requirements at national and international levels are evolving at a rapid pace and the sustainability obligations for companies are becoming ever stricter. It is therefore essential to take a comprehensive approach to ESG legal advice, whether in relation to environmental and climate issues, sustainable procurement and supply chains, business ethics and employment relations, diversity and inclusion, green advertising, sustainable governance and CSRD, ESG in M&A transactions, sustainable finance or ESG in the real estate sector.

The ESG Legislation Tracker

With our ESG Legislation Tracker, we aim to help companies monitor the challenges arising from fast-moving ESG issues and address them in a targeted manner as necessary. The ESG Legislation Tracker helps to monitor and comply with legal requirements in the areas of environmental, social, and corporate governance. This allows compliance risks to be identified and addressed; regulatory changes can be responded to at an early stage. The tracker is continuously expanded and updated.

Our ESG experts

Regardless of which ESG laws or areas your enquiry relates to, we will put you in touch with the relevant experts in our teams.



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Corporate Sustainability Due Diligence Directive (CSDDD)



Proposal for a Directive of the European Parliament and of the Council on corporate sustainability due diligence and amending Directive (EU) 2019/1937

Status

Adopted on 24 April 2024. Comes into force in stages from 2027 to 2029.

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

Content and objectives

Regulates corporate due diligence obligations to avoid human rights violations and the breach of environmental obligations in the supply chain. Protected goods: such as LkSG (see there) + right to life, liberty and security; right to privacy, family, home, correspondence, honour, reputation; right to freedom of thought, conscience and religion; right to adequate housing, food, clothing and sanitation for workers; protection of children with regard to highest level of health, education, adequate living conditions, protection from economic exploitation, sexual abuse, abduction and child trafficking; protection of biodiversity; prohibition of trade in endangered species of plants and animals; consideration of procedures for the import and export of toxic substances and pesticides; protection of the ozone layer; protection of natural heritage; protection of wetlands and protection from pollution from ships and pollution of the marine environment from discharges.

Addressees

From 2027:

- (i) Companies that are based in the EU and have more than 5,000 employees worldwide and a global turnover of more than EUR 1.5 billion or
- (ii) Companies that are based outside the EU and generate a turnover of more than EUR 1.5 billion in the EU

From 2028:

- (i) Companies that are based in the EU and have more than 3,000 employees worldwide and a worldwide turnover of more than EUR 900 million or
- (ii) Companies that are based outside the EU and generate a turnover of more than EUR 900 million in the EU

From 2029:

- (i) Companies that are based in the EU and have more than 1,000 employees worldwide and a worldwide turnover of more than EUR 450 million or
- (ii) Companies that are based outside the EU and generate a turnover of more than EUR 450 million in the EU or
- (iii) Franchisors with franchise or licence agreements in the Union and annual franchise fees of more than EUR 22.5 million and a turnover of more than EUR 80 million (for companies based outside the EU, only turnover in the EU applies to the thresholds in (iii)).

- For the calculation of the thresholds, the parent company is taken into account

Obligations

- Fulfilment of the following due diligence obligations (duty to make an effort / to fulfil the due diligence obligations, the CSDDD requires increased consultation with stakeholders):
 - (i) Integration of risk-based due diligence into corporate policy,
 - (ii) Identification and assessment of actual and potential adverse impacts (in the activity chain, i.e. upstream also regarding to the deeper supply chain, downstream only to a limited extent),
 - (iii) Taking prevention and mitigation measures (in the event of potential adverse impacts) and mitigation, minimisation and repair measures (in the event of actual adverse impacts),

(iv) Setting up a complaints procedure (accessible to internal and external persons), monitoring and reviewing the effectiveness of strategies and measures,

(v) Documentation and reporting once a year, usually via the sustainability report as part of the CSRD (see there).

Legal consequences of violations

- Fines, whereby the maximum fine is at least 5% of turnover
- Explicitly mentioned possible civil liability of companies

Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichtengesetz)



Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violations in Supply Chains) (Lieferkettensorgfaltspflichtengesetz - LkSG)

Status

Adopted on 22 July 2021. Entered into force on 1 January 2023. Will be replaced by the CSDDD and the national implementation law (date still unclear).

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

Content and objectives

Regulates corporate due diligence obligations for the prevention of human rights violations and breaches of environmental obligations in the supply chain.

Explicitly mentioned prohibitions: child labour; forced labour and slavery; disregard for occupational safety and health obligations and work-related health hazards; disregard for freedom of association and the right to collective bargaining; unequal treatment in employment; withholding of an adequate living wage; destruction of the natural basis of life through environmental pollution; unlawful violation of land rights; interference by security forces; prohibitions in connection with products containing mercury, persistent organic pollutants (POPs) and the import and export of hazardous waste.

Addressees

Companies that

(i) are based in Germany and

(ii) have at least 3,000 employees in Germany (since 2024 at least 1,000 employees in Germany are sufficient)

Obligations

Fulfilment of the following due diligence obligation (duty of care):

- Establishing a risk management system
- Performing risk analyses (in own business area and with direct suppliers; with indirect suppliers only in the case of substantive knowledge)
- Laying down preventive measures (for identified risks) and taking remedial action (for identified violations)
- Setting up a complaints procedure (accessible to internal and external persons)
- Ongoing documentation and annual reporting to the Federal Office of Economics and Export Control (BAFA)

Legal consequences of violations

- Fines of up to 2% of the company groups' annual turnover
- Exclusion from public tenders for up to 3 years

EU Deforestation Regulation (EUDR)



Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (Text with EEA relevance)

Affected areas

- [•] **E - Environmental**
- [•] **S - Social**
- [•] **G - Governance**

Status

Entered into force on 29 June 2023. To be applied from 30 December 2024.

Content and objectives

Prohibits the placing on the market, supply and export of certain raw materials (cattle, cocoa, coffee, oil palm, rubber, soya, wood) and certain products containing, fed with or produced using these raw materials (see Annex I) if these products (i) have contributed to deforestation or (ii) have not been produced in accordance with relevant legislation in the country of production (background: curbing international deforestation and protecting forests as CO₂ reservoirs and protecting biodiversity). In order to avoid this ban, companies must submit due diligence declarations in which they provide evidence that the products they provide have not contributed to deforestation and have been manufactured in accordance with the relevant legal provisions.

Addressees

- Any company (regardless of size) that is an operator (importer or exporter) or trader of a relevant product, whereby the EUDR will apply to all non-SMEs and medium-sized companies from 30 December 2024 and to small and micro-enterprises from 30 June 2025

Obligations

Obligations of non-SMEs:

- Collecting information, in particular geolocalisation, i.e. determining from which property the product originally originated
- Risk assessment, i.e.
 - (i) Verification that no deforestation has taken place on the country from which the product originated after 31 December 2020, and
 - (ii) Whether the product has been produced in accordance with certain relevant legislation of the country of production (including land use rights, environmental protection, forest-related regulations, third party rights, labour rights, human rights protected under international law, protection of indigenous peoples, tax, anti-corruption, trade and customs regulations)
- Possibly taking risk mitigation measures
- Submission of a due diligence statement in which the positive result of the previously described test for the respective product is presented (or review and reference to existing due diligence statement) to the competent authority (in Germany: Federal Agency for Agriculture and Food) and submission to customs authorities

These points require the establishment of a due diligence system that must be reported publicly and to the relevant authorities.

Obligations SMEs:

SME traders do not have to carry out due diligence, but only collect information on contractual partners. In principle, SME operators have the same obligations as non-SMEs, with the exception that if they already have a due diligence statement, they

- (i) do not have to review it and
- (ii) do not have to submit their own due diligence statement.

Legal consequences of violations

- Fines, whereby the maximum fine is at least 4% of turnover (publication of fines by the EU Commission)
- Confiscation of relevant products or revenue from relevant products
- Import, supply and export bans
- Exclusion from public tenders for up to 12 months

EU-Forced Labour Prevention Regulation (FLPR)



Proposal for a Regulation of the European Parliament and of the Council prohibiting products made with forced labour on the Union market (COM/2022/453 final)

Status

Adopted on 23 April 2024. Expected to come into force in May 2027.

Content and objectives

Prohibits companies from placing and making available on the market and exporting products manufactured using forced labour. The regulation contains numerous obligations for Member States in terms of systems to be set up and control tasks of the authorities regarding the objective of the regulation.

Addressees

- Any company (regardless of size) that is a operator, trader or exporter of a product manufactured using forced labour

Obligations

No direct obligations for companies, but:

- Companies suspected of having violated the ban on placing on the market, making available or exporting may be obliged by the competent investigating authorities to provide a wide range of information. In this respect, the authority must prove a violation of the ban (no reversal of the burden of proof)

Legal consequences of violations

- Fines
- Import, supply and export bans for products manufactured using forced labour
- Confiscation / destruction of products manufactured by forced labour

Affected areas

[] E - Environmental

[•] S - Social

[•] G - Governance

Corporate Sustainability Reporting Directive (CSRD)

(content: amendment of the CSR Directive Implementation Act) – see national implementation law



Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014 and Directives 2004/109/EC, 2006/43/EC and 2013/34/EU as regards corporate sustainability reporting (Text with EEA relevance)

Affected areas

[•] **E - Environmental**

[•] **S - Social**

[•] **G - Governance**

Status

Entered into force on 1 January 2024; transposition into national law required by 6 July 2024.

Content and objectives

To replace the current NFRD. According to the Directive, companies must release publications on the following topics: environment, social matters and the treatment of employees, anti-corruption and anti-bribery, respect for human rights, diversity on company boards (in terms of age, gender, educational and professional background).

Addressees

- From 2025 for 2024:
Large EU companies of public interest (capital market-oriented companies, credit institutions and insurance companies) with more than 500 employees and a balance sheet total > EUR 25 million or turnover > EUR 50 million (the same thresholds apply to EU parent companies on a consolidated basis)
- From 2026 for 2025:
Large EU companies that exceed two of the following three limits: Balance sheet total > EUR 25 million, turnover > 50 million, employees > 250 (the same thresholds apply to EU parent companies on a consolidated basis)
- From 2027 for 2026:
EU SMEs that exceed two of the following three thresholds: Balance sheet total > EUR 450,000, turnover > EUR 900,000 million, employees > 10 (the same thresholds apply to EU parent companies on a consolidated basis)
- From 2029 for 2028:
Non-EU parent companies with a turnover in the EU of more than EUR 150 million and either an EU subsidiary that itself exceeds the CSRD thresholds or an EU branch with a turnover of more than EUR 40 million
- Non-EU companies whose securities are listed on a regulated market in the EU are obliged in the same way as EU companies

Obligations

- Obligation to publish a sustainability report on material sustainability topics; fulfilment of disclosure requirements in accordance with the ESRS; description of sustainability targets; description of the role of the company's management with regard to sustainability and the inclusion of sustainability topics in the remuneration structure
- Obligation to identify material sustainability topics through materiality analysis based on the concept of double materiality
- Obligation to audit the sustainability report

Legal consequences of violations

- Sanctions are to be regulated in the national implementation law

Implementation Act for the CSRD

Amendment of various existing laws, in particular the HGB, WpHG, GmbH, AktG



Act implementing Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014 and Directives 2004/109/EC, 2006/43/EC and 2013/34/EU regarding corporate sustainability reporting

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

Status

Under consultation.

Content and objectives

Obligation for companies to publish a sustainability report on the impact of their activities on sustainability aspects and the impact of sustainability aspects on business performance, business results and the situation of the company. Sustainability aspects are environmental, social and human rights factors as well as governance factors.

Addressees

- From 2025 for 2024:
Large EU companies of public interest (capital market-oriented companies, credit institutions and insurance companies) with more than 500 employees and a balance sheet total > EUR 25 million or sales revenue > EUR 50 million (the same thresholds apply to EU parent companies on a consolidated basis)
- From 2026 for 2025:
Large companies that exceed two of the following three thresholds: Balance sheet total > EUR 25 million, sales revenue > EUR 50 million, employees > 250 (the same thresholds apply to EU parent companies on a consolidated basis)
- From 2027 for 2026:
SMEs that exceed two of the following three thresholds: Balance sheet total > EUR 450,000, turnover > EUR 900,000 million, employees > 10 (for EU parent companies, the same thresholds apply on a consolidated basis)
- From 2029 for 2028:
Non-EU parent company with a turnover in the EU of over EUR 150 million and either a German subsidiary that itself exceeds the CSRD thresholds or an EU branch with a turnover of over EUR 40 million
- Non-EU companies whose securities are listed on a German stock exchange are correspondingly obliged to companies domiciled in Germany

Obligations

- Obligation to publish a sustainability report on material sustainability topics; fulfilment of disclosure requirements in accordance with the European Sustainability Reporting Standards (ESRS); description of sustainability targets; description of the role of company management in relation to sustainability and the inclusion of sustainability topics in the remuneration structure
- Obligation to identify material sustainability issues by means of a materiality analysis based on the concept of double materiality
- Obligation to audit the sustainability report

Legal consequences of violations

- Fines for the company, the management and the supervisory board (personal liability)
- Criminal liability of the management and the supervisory board, e.g. in the event of a false balance sheet oath or incorrect presentation

European Sustainability Reporting Standards (ESRS)



Commission Delegated Regulation (EU) .../... supplementing Directive 2013/34/EU of the European Parliament and of the Council with sustainability reporting standards (C/2023/5303 final)

Status

Adopted on 31 July 2023. Entered into force on 1 January 2024.

Content and objectives

ESRS contain a total of approx. 1,000 qualitative and quantitative disclosure items/data (condensed presentation of all disclosure items/data in a spreadsheet published by EFRAG). The materiality analysis is an indispensable prerequisite for the applicability of the ESRS.

Addressees

All companies that are obliged to report on sustainability in accordance with the CSRD.

Obligations

The following tasks are to be published in the sustainability report:

- All publication points/data contained in the ESRS 2
- All disclosure items/data mentioned in the other ESRS, if the topic was recognised as material in the materiality analysis
- There are also publication points/data whose disclosure is voluntary

Legal consequences of violations

- No immediate consequences
- Sanctions for inadequate or incorrect reporting result from the regulations in accordance with the CSRD Implementation Act

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

Non-Financial Reporting Directive (NFRD)



Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU regarding disclosure of non-financial and diversity information by certain large undertakings and groups (text with EEA relevance)

Affected areas

- [•] E - Environmental
- [•] S - Social
- [•] G - Governance

Status

Entered into force on 6 December 2017. Will be replaced by the CSRD and the national implementation law.

Content and objectives

Extension of the reporting obligations of large capital market-oriented companies, credit institutions, financial services institutions and insurance companies on sustainability-related aspects (environmental, employee and social issues as well as respect for human rights and combating corruption and bribery).

Addressees

Aimed at capital market-oriented companies, institutions and insurance companies with more than 500 employees or a balance sheet total of more than EUR 20 million or turnover of more than EUR 40 million since the 2017 financial year.

Obligations

- Obligation to issue a non-financial statement containing the information necessary for an understanding of the company's business performance, results, position and the impact of its activities, covering at least environmental, social and employee matters, respect for human rights and the fight against corruption and bribery
- Has been applied since the 2017 financial year

Legal consequences of violations

- Pursuant to the CSR-RUG (national implementation of the NFRD) fines (up to EUR 10 million) for the company as well as the management and the supervisory board (personal liability)
- Criminal liability of the management and the supervisory board, e.g. in the event of a false balance sheet oath or incorrect statement

Implementation Act for the NFRD (CSR-RUG)

amendments to Sections 289 b ff. HGB, 315 b ff. HGB, Section 340 a, b HGB



Act to strengthen non-financial reporting by companies in their management and group management reports (CSR Directive Implementation Act)

Status

Entered into force on 19 April 2017. Will be amended by the CSRD and the national implementation law.

Content and objectives

Expansion of the reporting obligations of large capital market-oriented companies, credit institutions and insurance companies on sustainability-related aspects (environmental, employee and social issues as well as respect for human rights and combating corruption and bribery).

Addressees

Large EU companies of public interest (capital market-oriented companies, credit institutions and insurance companies) with more than 500 employees and a balance sheet total of more than EUR 20 million or a turnover of more than EUR 40 million.

Obligations

- Obligation to issue a non-financial statement containing the information necessary for an understanding of the company's business performance, results, position and the impact of its activities, covering at least environmental, social and employee matters, respect for human rights and the fight against corruption and bribery
- Has been applied since the 2017 financial year

Legal consequences of violations

- Fines for the company, the management and the supervisory board (personal liability)
- Criminal liability of the management and the supervisory board, e.g. in the event of a false balance sheet oath or incorrect statement

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

Taxonomy Regulation



Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088)

Status

Adopted on 22 July 2020. Entered into force on 1 January 2022.

Content and objectives

EU-wide standardised definition of sustainability based on legally regulated criteria to ultimately prevent greenwashing.

Addressees

Aimed at (i) financial market participants and issuers in connection with financial products / corporate bonds that are provided as environmentally sustainable and (ii) companies that are required under the CSRD to publish a non-financial statement.

Obligations

- EU-wide standardised definition of sustainability based on legally regulated criteria for the areas E, S and G
- Establishing standardised and legally regulated criteria throughout the EU for the question of what is meant by the term environmental, social and governance sustainability. This is intended to create a standardised understanding of the term sustainability and ultimately prevent greenwashing

Legal consequences of violations

- Not directly in the Taxonomy Regulation, but the legal consequence is based on the law, which regulates the obligation to act with regard to sustainability and refers to the concept of sustainability in the taxonomy

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

Markets in Financial Instruments Directive (MiFID II) / Delegated Regulation (EU) (DelVO)



Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directives 2002/92/EC and 2011/61/EU

Commission Delegated Regulation (EU) 2021/1253 of 21 April 2021 amending Delegated Regulation (EU) 2017/565 as regards the integration of sustainability factors, risks and preferences into certain organisational requirements and operating conditions for investment firms

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

Status

- MiFID II: entered into force on 2 July 2014
- DelVO: Applicable since 2 August 2022

Content and objectives

In the context of investment advice and asset management, sustainability preferences and sustainability-related investment objectives of customers should be queried and then considered when investing.

Addressees

- Personnel: Investment firms
- Material: Investment firms that provide investment advice and financial portfolio management

Obligations

Enquiry and consideration of the sustainability preferences of (potential) clients as part of the suitability assessment by investment advisors and asset managers ("sustainability preferences" = decision of a (potential) client as to whether and, if so, to what extent one or more of the following financial instruments should be included in their investment: Sustainable financial instruments within the meaning of the Taxonomy Regulation, financial instruments within the meaning of the Disclosure Regulation (SFDR) or sustainable financial instruments by taking into account Principal Adverse Impact Indicators (PAIs) within the meaning of the SFDR)

Investment firms must also take sustainability risks into account as part of their risk management

Legal consequences of violations

- BaFin supervisory measures against an institution in the event of a regulatory compliance breach
- Violation of specifications could trigger civil liability claims by the customer in individual cases
- Compliance with regulatory requirements also part of the annual WpHG audit in accordance with Section 89 WpHG

Sustainable Finance Disclosure Regulation (SFDR)



Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector

Status

Adopted on 27 November 2019. Entered into force on 10 March 2021.

Content and objectives

Strengthening the transparency of financial products labelled as "sustainable" to increase investor confidence in them and ultimately channel capital into sustainable financial instruments.

Addressees

Concerns financial market participants (e.g. insurance companies, investment firms, fund managers, credit institutions) or financial advisors (above institutions that provide investment advice) as well as financial products (managed portfolios, funds).

Obligations

- Sustainability-related disclosure obligations at company level (i.e. at the level of financial market participants and financial advisors) and at product level (i.e. at the level of the products they offer/develop). The product-related disclosure obligations are, in particular, pre-contractual information obligations
- In particular, the obligated companies should develop strategies for dealing with the impact of their investment decisions on sustainability factors (ESG); these should also include their remuneration system
- Product level: Depending on how ESG-related the financial product or its investment strategy is, more detailed specific information about these ESG investment objectives must be provided

Legal consequences of violations

- Between the obligated institution and the customer: Possible liability from contractual breach of duty, e.g. if the pre-contractual disclosure obligations are not implemented
- Between the institution and its supervisory authority: Non-compliance with the obligations under SFDR constitutes a compliance violation for the institutions and can be penalised with supervisory measures)

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

ESG Rating Regulation



Proposal for a Regulation of the European Parliament and of the Council on the transparency and integrity of Environmental, Social and Governance (ESG) rating activities (COM/2023/314 final)

Status

Under consultation.

Content and objectives

Strengthen trust in and integrity of providers of ESG ratings, as they are often used as a basis for investment or capital decisions and therefore have considerable market power. ESG ratings provide an assessment of environmental, social and governance sustainability characteristics.

Addressees

ESG rating provider

Obligations

- Regulation of business organisation and transparency obligations for ESG rating providers
- ESG ratings are gaining more and more market power, as they are often used as a basis for capital or investment decisions. The more transparent their methodology is, the more users are protected from a non-transparent basis for decision-making

Legal consequences of violations

- Usual regulatory instruments, i.e. monitoring of the established business organisation and transparency obligations and, if necessary, regulatory sanctions in the event of violations

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

EU Benchmark Regulation

(including climate benchmarks through amending Regulation (EU) 2019/2089)



Regulation (EU) 2019/2089 of the European Parliament and of the Council of 27 November 2019 amending Regulation (EU) 2016/1011 as regards EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks

Affected areas

[•] **E - Environmental**

[] **S - Social**

[] **G - Governance**

Status

Entered into force on 10 December 2019.

Content and objective

Strengthen trust in and integrity of providers of "climate benchmarks". Applies to the provision of benchmarks, the contribution of input data to a benchmark and the use of benchmarks in the EU. Also includes specific requirements for climate benchmarks.

Addressees

- Personnel: Benchmark administrators
- Material: The legal act applies to the provision of benchmarks, the contribution of input data to a benchmark and the use of a benchmark in the Union

Obligations

- Ensure the accuracy and integrity of benchmarks that are used, for example, as reference values for financial instruments or for the performance of funds
- The Benchmark Regulation also introduced targets for EU reference values for climate-related change and Paris-aligned EU reference values (so-called climate benchmarks)
- Additional requirements apply to climate benchmarks with regard to their methodology
- Administrators of climate benchmarks must also fulfil special requirements and must publish, for example, which ESG factors are taken into account in the design of the climate benchmark

Legal consequences of violations

- Benchmark administrators are supervised companies; violations of the Benchmark Regulation are subject to supervisory penalties

EU Whistleblower Directive



Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law

Status

Entered into force on 16 December 2019.

Content and objectives

The EU Whistleblower Directive guarantees more protection for whistleblowers who wish to report breaches of EU law as defined in the Directive and obliges public and private organisations, legal entities and public authorities to set up secure channels for whistleblowing. This is intended to ensure improved protection for whistleblowers and better enforcement of EU law and policy in certain areas.

Addressees

Companies with more than 50 employees

Obligations

- The EU Whistleblower Directive obliges companies to set up and operate an internal reporting centre
- Selected authorities are also obliged to operate external reporting centres

Legal consequences of violations

- In accordance with the German Whistleblower Protection Act (national implementation of the EU Whistleblower Directive), fines of up to EUR 50,000 and, in the case of serious offences, the maximum limit for fines can be increased tenfold

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

German Whistleblower Protection Act (Hinweisgeberschutzgesetz)



Act for better protection of whistleblowers (Whistleblower Protection Act - HinSchG)

Status

Entered into force on 3 July 2023.

Content and objectives

The aim of the German Whistleblower Protection Act is to protect natural persons who have obtained information about offences in connection with their professional activities or prior to their professional activities and who report or disclose these to the reporting offices within the meaning of the Whistleblower Protection Act. In addition, persons who are the subject of a report or disclosure and other persons who are affected by a report or disclosure are protected.

Addressees

- Affects all companies with at least 50 employees; they must set up and operate an internal reporting centre
- Also applies to selected authorities that have to set up and operate an external reporting centre

Obligations

- The Whistleblower Protection Act obliges employers to ensure that they have set up an internal reporting centre and operate it in accordance with the provisions of the Whistleblower Protection Act

Legal consequences of violations

- Fines of up to EUR 50,000
- In the case of serious offences, the maximum fine can be increased tenfold

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

Lobbying Register Act (LobbyRG)



Act Introducing a Lobbying Register for the Representation of Special Interests in relation to the German Bundestag and the Federal Government

Status

Entered into force on 1 January 2022. Last amended by Article 4 of the Act of 12 June 2024 (Federal Law Gazette 2024 I No. 190).

Affected areas

[] E - Environmental

[] S - Social

[•] G - Governance

Content and objectives

The public Lobbying Register for the representation of interests in relation to the German Bundestag and the Federal Government has been kept electronically on the website of the German Bundestag since 1 January 2022. The Lobbying Register is intended to help strengthen public trust in politics and the legitimacy and integrity of the decision-making processes in parliament and government. The aim is to create more transparency regarding the influence of lobbyists on these processes. There are also Lobbying Register Acts in some Federal States.

Addressees

The legislator addresses all natural or legal persons, partnerships or other (non-governmental) organisations. Networks, platforms or other forms of collective activity are also addressees of the Lobbying Register Act.

Obligations

- Interest representatives who contact the German Bundestag or the Federal Government must register in the Lobbying Register. The scope of application is broad and includes all bodies, committees, members, parliamentary groups or groups of the German Bundestag as well as their respective employees. Regarding the representation of interests in relation to the Federal Government, the Lobbying Register Act also applies to the Federal Ministries up to the level of Heads of Unit.
- The registration obligation includes the disclosure of personal information of lobbyists, such as names and contact details. Furthermore, disclosure of interests is also required, i.e. a transparent presentation of the client and the objectives pursued.
- The addressees must adhere to certain rules of conduct when contacting the German Bundestag or the Federal Government.
- The information provided must be updated and an annual activity report must be submitted.

Legal consequences of violations

- According to Section 7 (1) LobbyRG, a lobbyist commits an administrative offence if he or she fails to register despite being obliged to register or fails to make entries, amendments, updates or confirmations correctly, completely or in good time. The fine can be imposed up to an amount of EUR 50,000.
- There is also the threat of consequences for the granting of access authorisations to the German Bundestag or, for example, for participation in public hearings of the committees of the German Bundestag as a person providing information and for the so-called participation of associations at the level of the Federal Government in accordance with Section 47 GGO.
- Ultimately, offences can be publicly reprimanded and the respective stakeholder can be entered in the register as "sanctioned".

EU Battery Regulation (Batt-VO)



Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC (Text with EEA relevance)

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

Status

Adopted on 28 July 2023. Entered into force on 17 August 2023; comes into force in stages and will become increasingly strict by the mid-2030s.

Content and objectives

The EU Battery Regulation creates a standardised legal framework for the entire life cycle of batteries. It also promotes the circular economy - also to safeguard the EU's strategic independence - and minimises the environmental and social impact of the battery industry.

The EU Battery Directive replaces the old Battery Directive 2006/66/EC of 06.09.2006 and forms a standardised legal framework for the entire life cycle of batteries.

The aim is to create a toxic-free environment and strengthen the EU's long-term competitiveness and strategic independence.

Addressees

- **Personnel:** Economic players (including manufacturers, importers, distributors, importers and authorised representatives, fulfilment service providers) and other "players" in the battery industry (such as recyclers)
- **Material:** Any object that stores and supplies electrical energy generated by direct conversion of chemical energy, i.e. all categories of batteries, namely: portable batteries, starter batteries, batteries for light vehicles, electric vehicle batteries, industrial batteries

Obligations

- Comprehensive obligations in the current product compliance area
- Obligation of certain economic operators to participate in an EPR (Extended Producer Responsibility) system, registration obligations (producers who make batteries available on the market must register in the producer register)
- Due diligence obligations of certain economic operators (from net sales of EUR 40 million)

Legal consequences of violations

- Compliance with the Battery Regulation is a prerequisite for being allowed to market batteries
- Threat of recalls and sales bans
- Incidentally, no sanction provisions are currently in force under the Battery Regulation, but will be adopted at Member State level in the near future

Right to Repair Directive



Directive (EU) 2024/1799 of the European Parliament and of the Council of 13 June 2024 on common rules for the promotion of the repair of goods and amending Regulation (EU) 2017/2394 and Directives (EU) 2019/771 and (EU) 2020/1828 (Text with EEA relevance)

Areas Affected

[•] **E - Environmental**

[•] **S - Social**

[•] **G - Governance**

Status

Entered into force on 30 July 2024. Part of the so-called European Green Deal. The Directive must be transposed into national law by the Member States by 31 July 2026 at the latest.

Content and objective

The manufacturer is primarily responsible. If the manufacturer is not based within the European Union, the authorised representative, then the importer or ultimately the distributor is obliged to fulfil the manufacturer's obligations (whereby they can subcontract the repairs). From a material point of view, all goods are covered, i.e. movable tangible property, with the exception of water, gas and electricity. Warranty law will be adapted; goods will only be free of defects if they can be repaired in the same way as goods of the same type. In addition, there is an independent repair obligation. This is limited to goods for which the EU has laid down reparability requirements in delegated acts (see Annex II of the Directive). This currently includes the following product groups: household appliances (washing machines, washer-dryers, dishwashers), refrigerators, electronic displays, welding equipment, vacuum cleaners, servers and data storage products, mobile phones, cordless phones and slate tablets, as well as products containing batteries for light means of transport (e.g. e-bikes and e-scooters), whereby the EU will expand the list over time.

Addressees

■ manufacturers, authorised representatives, importers and distributors of goods and products.

Obligations

For manufacturers, this means above all that repairs can be demanded even after the warranty period of two years under sales law has expired. If the consumer demands the repair, the warranty period is extended by one year. The repair must be carried out free of charge or at a reasonable price, within a reasonable period of time and without significant inconvenience.

Legal consequences of infringements

Sanctions and responsibilities of authorities are to be regulated by the Member States at national level.

Ecodesign Regulation



Regulation (EU) 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products, amending Directive (EU) 2020/1828 and Regulation (EU) 2023/1542 and repealing Directive 2009/125/EC (Text with EEA relevance)

Areas Affected

[•] E - Environmental

[•] S - Social

[•] G - Governance

Status

Entered into force on 18 July 2024. Part of the European Green Deal.

Content and objective

The Ecodesign Regulation provides for minimum criteria to be applied to products to improve their recyclability and energy efficiency. The Ecodesign Regulation is intended to **permanently reduce the CO₂ and environmental footprint of the European Union**. The Ecodesign Regulation replaces the Ecodesign Directive 2009/125/EC. The Ecodesign Regulation also provides for

- Expanded information obligations and introduction of a digital product passport with which stakeholders along the value chain and consumers can quickly and easily access relevant information about products, including environmental sustainability.
- A framework to prevent the destruction of unsold consumer products

The ecodesign requirements cover the entire life cycle of the respective product, from production, transport and operation to disposal or recycling. The Ecodesign Regulation acts as framework legislation; the concrete, product-specific ecodesign requirements are defined by the EU in implementing acts. The implementing acts will set out specific requirements for the reliability, reusability, reparability, energy consumption and energy efficiency of the specific product group they address. In addition, the implementing acts define the digital product passport (e.g. regarding product codes, unique product identifiers, instructions for use) and regulate the labelling to be affixed to the products (particularly regarding the content, design and manner in which the label is to be displayed to customers).

Addressees

The Ecodesign Regulation applies to **all physical goods** that are placed on the market or put into service within the Union, including components and intermediate products ("**product**"). Foodstuffs, animal feed, medicinal products for human and veterinary use, living organisms and motor vehicles are excluded from the scope of application. It applies **personally to** so-called "**economic operators**" who place such products on the market or put them into service, i.e. **authorised representatives, importers, distributors, dealers and fulfilment service providers** in addition to **manufacturers**. In some cases, the regulation also applies to operators of **online marketplaces and search engines**.

Obligations

The individual economic operators have the following obligations: **Manufacturers** must ensure that their products fulfil the ecodesign requirements for a sustainable product. In addition to performance and information obligations and the provision of a digital product passport including all relevant product information, there is still an obligation to carry out a conformity assessment procedure and affix CE labelling. **Authorised representatives** are persons appointed in writing by the manufacturer to carry out certain manufacturer tasks on their behalf. **Importers** must ensure (mainly by means of testing) that the manufacturer has fulfilled its obligations. **Distributors** must ensure that the **required product-specific information** is available.

Legal consequences of infringements

The Member States are obliged to adopt provisions on penalties for infringements of the Ecodesign Regulation. It is worth noting that the Regulation provides for consumer claims for damages in the event of product non-compliance.

Electrical and Electronic Equipment Act (ElektroG)



Act on the Placing on the Market, Return and Environmentally Sound Disposal of Electrical and Electronic Equipment (Electrical and Electronic Equipment Act - ElektroG)

Status

The ElektroG first came into force in 2005 and was amended at the end of 2015 and further amended in January 2022 (ElektroG2 and ElektroG3).

Affected areas

E - Environmental

S - Social

G - Governance

Content and objectives

The ElektroG regulates the placing on the market, return and environmentally sound disposal of electrical and electronic equipment. The law first came into force in 2005 and was amended in 2015 (ElektroG2) and in 2022 (ElektroG3). The ElektroG only applies in Germany. Each EU Member State has its own WEEE legislation.

The aim of the law is to prevent or reduce the harmful effects of the generation and management of waste electrical and electronic equipment, to reduce the overall impact of resource utilisation and to increase the efficiency of resource utilisation.

Addressees

- (i) Manufacturers, producers, original equipment manufacturers (OEM) and importers of electrical and electronic equipment
- (ii) Distributors of electrical and electronic equipment
- (iii) Citizens as consumers of electrical and electronic equipment
- (iv) Public waste management organisations
- (v) Specialised waste management companies for waste electrical and electronic equipment

Obligations

- (i) Anyone placing waste electrical and electronic equipment on the market must register for all types and brands of equipment
- (ii) The products must be labelled.
- (iii) Manufacturers of the products must be clearly identified on the device
- (iv) Retailers with at least 400 square metres of retail, storage or dispatch space must take back old electrical appliances and dispose of them at their own expense; food retailers with a total sales area of 800 square metres or more are subject to this obligation.
- (v) Producers are responsible for the entire life cycle of their products; producers are responsible for the take-back of WEEE in the exercise of their product responsibility
- (vi) Etc.

Legal consequences of violations

- (i) Violations of the ElektroG can be sanctioned under both administrative and civil law
- (ii) Violations of obligations under the ElektroG are punishable as an administrative offence with fines of up to EUR 100,000 per individual case

EU Packaging Directive



European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste

Status

Adopted on 31 December 1994. Entered into force on 31 December 1994; updated several times, most recently 4 July 2018.

Affected areas

E - Environmental

S - Social

G - Governance

Content and objectives

Specifically, the aim is to protect the environment by preventing or avoiding packaging waste. To this end, the EU Member States are obliged to contribute to increasing the proportion of reusable packaging, ensuring that packaging can be recycled without compromising food safety and consumer health, and that the recycling targets applicable to the various types of packaging are guaranteed by creating suitable measures.

Addressees

- **Personnel:** Those who fill packaging initially, or forward already-filled packaging into the supply chain
- **Material:** All packaging and packaging waste placed on the market in the EU, regardless of whether it is generated in industry, trade, commerce, administration, the service sector, households or elsewhere, regardless of the materials of which it is made

Obligations

- Return obligation for B2B and B2C deliveries
- Orientation towards national legislation: Obligations in accordance with the Packaging Act (DE)
- Verification obligations for marketplaces and fulfilment service providers: Electronic marketplaces may only enable the offering of packaging subject to system participation for sale if the obligated mail-order and online retailers have system-participated their packaging and are registered in the LUCID Packaging Register; fulfilment service providers may only provide their services to companies that have fulfilled their obligation to register in the LUCID Packaging Register and their system participation obligation - operators of online marketplaces and fulfilment service providers must check and ensure that manufacturers are registered in the central Packaging Register and have participated in a dual system
- Licensing obligations in addition to the registration obligations for packaging subject to system participation
- Return obligation of manufacturers and distributors for packaging not subject to system participation
 - (i) Obligation of manufacturers and distributors of packaging not subject to system participation to provide evidence of fulfilment of the take-back and recovery requirements
 - (ii) Mandatory deposit for disposable plastic packaging and beverage cans
- Minimum recycled content for certain packaging: From 1 January 2025, disposable PET drinks bottles must consist of at least 25 % recycled plastic. From 2030, all single-use plastic drinks bottles must consist of at least 30 % recycled plastic

Legal consequences of violations

- In accordance with the Packaging Act (national implementation of the EU Packaging Directive in Germany), fines of up to EUR 200,000 in Germany for lack of or incorrect system participation or failure to report quantities, other sanctions possible in Member States; including civil law measures, packaging law warnings and fines of up to EUR 100,000, even if the goods are purchased from upstream suppliers.

EU Conflict Minerals Regulation



Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas

Status

Entered into force on 1 January 2021.

Content and objectives

Aims to ensure that EU importers only purchase tin, tantalum, tungsten, their ores and gold from responsible sources and not from conflict or high-risk areas. The aim is to prevent the financing of armed groups through profits from the raw materials trade. In this way, violence and human rights violations are to be curbed, the exploitation of local village communities ended, and local development supported.

Addressees

Directly affects companies that import 3TG minerals and metals into the EU (upstream industry) and exceed a certain quantity limit.

Obligations

- The regulation made extensive due diligence and reporting obligations along the supply chain binding for EU importers of tin, tantalum, tungsten, their ores and gold. They must apply risk management when purchasing raw materials, have this verified by an independent third-party audit and publish a report on this
- Importers affected by the EU regulation must implement a supply chain policy in their management system that corresponds to the five-step process of the "OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas"
- For risk management purposes, it is necessary to introduce a traceability system in which descriptions of the minerals or metals, quantities and information on origin (country of origin, supplier, smelter or refinery and other information) are documented
- The fulfilment of due diligence obligations must be verified by an independent 3rd party audit
- Furthermore, affected companies must publish a report on their supply chain due diligence activities, including via the internet

Legal consequences of violations

- The EU Conflict Minerals Regulation provides for each EU Member State to develop its own enforcement model
- The competent national authority in each Member State determines how infringements are dealt with

Affected areas

[] E - Environmental

[•] S - Social

[•] G - Governance

EU Emissions Trading Scheme (EU ETS)



Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (Text with EEA relevance)

Affected areas

E - Environmental

S - Social

G - Governance

Status

Entered into force on 25 October 2003; reformed by "Fit for 55" programme in 2023.

Content and objectives

Emissions trading with the aim of reducing greenhouse gas emissions within the EU. A fixed upper limit (cap) determines the maximum total amount of CO₂ equivalents that may be emitted by the regulated companies. The cap will be gradually lowered to reduce the total permitted emissions to zero by 2050. This is intended to incentivise companies to invest in climate protection.

Addressees

- **Personnel:** Plant operators, aircraft operators and shipping companies must purchase emission allowances for the CO₂ emissions that they have caused themselves (downstream emissions trading)
- **Material:** Large energy plants and energy-intensive industrial plants that release CO₂ and other climate-damaging gases (N₂O); air traffic with take-off or landing in the EEA; since 2024 maritime traffic within the EEA and due to port calls

Obligations

- Annual monitoring and reporting obligations on GHG emissions released
- Annual obligation to purchase and redeem EU ETS allowances; the number of allowances depends on the amount of GHG emissions reported

Legal consequences of violations

- Pursuant to the Implementation Act for breaches of the obligation to purchase and surrender EU ETS allowances: EUR 100 per tonne of CO₂ equivalents for which no allowance is surrendered

EU Emissions Trading Scheme 2 (EU ETS 2)



Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (Text with EEA relevance)

Affected areas

- [•] **E - Environmental**
- [] **S - Social**
- [] **G - Governance**

Status

Entered into force on 5 June 2023.

Content and objectives

In addition to the EU ETS, a separate EU ETS 2 is to be created in buildings, road transport and additional sectors. After a three-year preparatory phase (reporting obligation from 2024), EU ETS 2 will start in 2027 (Directive (EU) 2023/959 of 10 May 2023).

Until 2030, the EU ETS 2 will be treated in a separate market from the EU ETS 1.

Addressees

The connecting factor is the placing of fuels on the market, i.e. the link to the incurrance of tax in accordance with the Excise Duty Directive.

Obligations

- From 2025, regulated facilities must monitor the emissions attributed to them and report them to the competent authority from 2026; in addition, emissions for the year 2024 must be reported by 30 April 2025.
- From 2028, regulated facilities must surrender certificates for the emissions attributable to them from the previous year by 31 May each year. However, if it transpires that energy prices exceed a defined threshold, the start of trading will be postponed by one year.

Carbon Border Adjustment Mechanism (CBAM)



Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (text with EEA relevance)

Status

Entered into force on 19 May 2023.

Content and objectives

Serves to create a CO₂ border adjustment system: in future, importers will have to pay a CO₂ price for the emissions generated during the production of goods when importing certain emission-intensive goods from other EU countries into the EU. To this end, CBAM certificates must be purchased and redeemed with the EU from 2026. Since January 2024, importers have also been subject to extensive monitoring and reporting obligations regarding the emissions generated during the production of goods in other EU countries.

Addressees

- **Personnel:** aimed at importers, namely those who submit customs declarations
- **Material:** concerns all companies based inside and outside the EU that import certain goods in the iron, steel, cement, aluminium, electricity, fertiliser and hydrogen sectors, including upstream and downstream products from non-EU countries into the EU

Obligations

- Since January 2024, affected importers must submit quarterly reports on the CO₂ emissions generated during the production of the goods using a register installed by the EU. Importers must request the relevant information from their suppliers or the manufacturers of the goods
- From 2026, a CO₂ price will be levied on the goods. Affected importers must purchase the quantity of CBAM certificates that corresponds to the reported quantity of CO₂ emissions. From 2026, CBAM reports must be submitted annually rather than quarterly

Legal consequences of violations

- Violations of the reporting obligations: Penalties of between EUR 10 and EUR 50 per tonne of unreported emissions
- Violations of the obligation to purchase CBAM certificates: EUR 100 for each tonne of CO₂ emitted by the installation for which the importer has not purchased CBAM certificates

Affected areas

E - Environmental

S - Social

G - Governance

EU Energy Efficiency Directive (EED)



Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (text with EEA relevance)

Affected areas

E - Environmental

S - Social

G - Governance

Status

Entered into force on 10 October 2023.

Content and objectives

The key point of the amended EED is the definition of binding European energy efficiency targets. The aim of the reform is to reduce final energy consumption, i.e. the total energy consumption of end consumers, across the EU by 11.7% by 2030 compared to the forecasts for 2020. By 2030, the Member States must save an average of 1.5% final energy per year, starting at 1.3% in 2025 and rising to 1.9% by the end of 2030. All Member States are obliged to set out their national contributions to achieving this target in their integrated national energy and climate plans (NECPs) by 2024. In Germany, the EED is transposed into national law by the Energy Efficiency Act (EnEfG).

Addressees

- Factual: The EED stipulates that energy-intensive companies are also obliged to set up energy and environmental management systems (Art. 11 EED)

Obligations

- The EED stipulates that energy-intensive companies are also obliged to set up energy and environmental management systems (Art. 11 EED)
- Further specific obligations arise from the national implementation laws, in Germany from the EnEfG

Legal consequences of violations

- In accordance with the EnEfG (national implementation of the EED) Fines of up to EUR 100,000

CO₂ Cost Sharing Act



Act on the Sharing of Carbon Dioxide Costs

Status

Entered into force on 1 January 2023. The regulation for non-residential buildings is to be adapted in 2025. The law is to be evaluated every two years and adapted if necessary. The first evaluation will take place at the end of 2025.

Content and objectives

The CO₂ Cost Sharing Act is intended to create further incentives to reduce carbon dioxide emissions (CO₂) and achieve the national climate protection targets. To this end, the CO₂ costs are to be apportioned according to the source.

Addressees

- Personnel: landlord and tenant
- Material: tenancies of residential and commercial premises heated with fossil fuels

Obligations

- For residential premises, the allocation follows a 10-tier model based on the CO₂ emissions per square metre. The worse the energy efficiency of the building, the higher the share of CO₂ costs that landlords must bear.
- For non-residential buildings, the CO₂ costs are currently split equally, but from 2025 onwards, these properties shall also transition to a tiered model.

Legal consequences of violations

- If the landlord overcharges, the tenant can reduce the heating costs by a flat-rate amount.

Affected areas

[•] **E - Environmental**

[] **S - Social**

[] **G - Governance**

Energy Efficiency Act



Act to Increase Energy Efficiency and Amend the Energy Services Act

Status

Entered into force on 18 November 2023.

Content and objectives

The Energy Efficiency Act serves to implement the EU Energy Efficiency Directive and is intended to significantly increase energy efficiency in Germany, including setting requirements for the energy efficiency of data centres.

Addressees

- Personnel: Data centre operators, companies with high energy consumption, federal and state governments
- Material: Data centres, energy-intensive industry

Obligations

Energy-intensive companies:

- Obligation to set up energy or environmental management systems from 7.5 GWh
 - Total energy consumption: preparation and publication of implementation plans for energy-saving measures from 2.5 GWh
- Data centre operators:
- Duty to provide information on waste heat potential
 - Energy efficiency and waste heat requirements Information obligations on energy consumption and waste heat utilisation

Legal consequences of violations

- Violations can result in fines of up to EUR 100,000

Affected areas

[•] **E - Environmental**

[] **S - Social**

[] **G - Governance**

Smart Meter Act



Act to Restart the Digitalisation of the Energy Transition

Status

Entered into force on 27 May 2023.

Content and objectives

The Smart Meter Act aims to accelerate and simplify the rollout of smart meters and the digitalization of the energy transition in Germany by reducing bureaucracy.

Addressees

- Personnel: Metering point operators, electricity suppliers, manufacturers of smart meters

Obligations

- Introduction of a statutory phased plan with target years 2030 and 2032 for the nationwide installation of smart metering systems

Affected areas

E - Environmental

S - Social

G - Governance

Solar Package I

(Solarpaket I)



Act Amending the EEG and Other Energy Industry Regulations to Increase the Expansion of Photovoltaic Energy Generation

Status

Entered into force on 16 May 2024.

Content and objectives

The Solar Package I aims to accelerate the energy transition and reduce bureaucracy in order to increase the share of renewable energies in electricity consumption to 80 % by 2030 and achieve a largely climate-neutral electricity supply by 2035. It implements the photovoltaic strategy of the German Federal Ministry for Economic Affairs and Climate Protection and comprehensively promotes the expansion of photovoltaic systems (PV).

Addressees

- Personnel: operators of photovoltaic systems, tenants, apartment owners
- Material: photovoltaic roof systems, balcony solar power systems, solar farms

Obligations

- Promotion of photovoltaic systems on buildings: The use of PV on commercial and residential buildings shall be strengthened through increased subsidies, flexible thresholds and simplified verification procedures. Balcony solar power systems shall be de-bureaucratized and shared building supply will be introduced to facilitate the use of PV electricity within a building.
- Strengthening solar farms: More land will be made available for solar farms and the bid quantities for solar farms will be increased. Minimum nature conservation criteria will be introduced and special solar installations such as agrivoltaics will receive targeted support.
- Expansion of further renewable energies and grid regulations: The Solar Package I also includes measures to promote wind power, biomass and electricity grids. It includes regulations to accelerate the approval process, promote wind turbines and facilitate the generation of electricity from biogas.
- Grid connections and storage for renewable energies: The Solar Package I introduces new regulations to accelerate grid connection and the flexible use of storage systems. Technical connection conditions will be standardised and the grid connection procedure will be extended to larger systems.

Affected areas

[•] **E - Environmental**

[] **S - Social**

[] **G - Governance**

Solar PV obligations set out in various German state laws

Laws: Baden-Württemberg Climate Protection Act, Bavarian Climate Protection Act, Berlin Solar Act, Brandenburg Building Code, Bremen Solar Act, Hamburg Climate Protection Reinforcement Act, Hessian Energy Act, Lower Saxony Building Code, NRW State Building Code, Rhineland-Palatinate State Solar Act, Schleswig-Holstein Energy Transition and Climate Protection Act

Affected areas

[•] E - Environmental

[] S - Social

[] G - Governance

Status

The different state laws came into force at different times in the respective federal state.

Content and objectives

State laws with so-called solar obligations, i.e. the obligation to build and operate photovoltaic systems, especially on buildings.

Addressees

- Personnel: varied, owners of buildings, public authorities
- Material: varied, commercial properties, residential buildings, car parks, public buildings

Obligations

- The various state laws stipulate different "solar obligations" depending on the federal state. For example, there are requirements to install photovoltaic systems on new buildings or car parks.
- Some federal states impose the obligation to retrofit photovoltaic systems on existing buildings.

Legal consequences of violations

Varies depending on the respective federal state

Act for the Improvement of Climate Protection in Emission Control



Act to Improve Climate Protection in Emission Control, to speed up emission control authorisation procedures and to implement EU law

Status

Entered into force on 9 July 2024.

Content and objectives

The law is intended to speed up the authorisation procedures under the Federal Emission Control Act enable a faster expansion of renewable energy plants.

Addressees

- Personnel: developers of renewable energy systems
- Material: renewable energy plants

Obligations

The climate is expressly included as a protected good in the Federal Emission Control Act (BlmSchG). This clarifies that ordinances issued on the basis of the BlmSchG can also regulate requirements for climate protection.

Authorisation procedures under emission control law, particularly for renewable energy plants, are to be significantly accelerated to achieve climate neutrality by 2045 as stipulated in the Federal Emission Control Act.

Individual requirements of the Industrial Emissions Directive 2010/75/EU on public participation in authorisation procedures and plant monitoring are to be implemented.

Affected areas

[•] **E - Environmental**

[] **S - Social**

[] **G - Governance**

Energy Performance of Buildings Directive (EPBD)



Directive (EU) 2024/1275 of the European Parliament and of the Council of 24 April 2024 on the energy performance of buildings

Status

Entered into force on 28 May 2024. The transposition into national law by the Member States of the European Union must be completed by the end of May 2026.

Content and objectives

Improving overall energy efficiency and decarbonisation are two of the most important goals of the EPBD. By 2050, the EU's building stock shall be highly energy efficient and decarbonised.

Addressees

- Personnel: Member States, indirectly building owners
- Material: Applies to new buildings (residential and non-residential buildings) and existing buildings (residential and non-residential buildings)

Obligations

From 2030, new buildings shall only be permitted as **zero-emission buildings**.

Renovation of existing buildings:

The Member States are to set binding minimum energy efficiency targets for **non-residential buildings**. 16% of **non-residential buildings** with the poorest energy performance are to be renovated by 2030 and 26% by 2033.

For residential buildings, there are overall savings targets for the entire building stock, which must be met by the Member States.

Legal consequences of violations

It is unclear how the Member States will be able to achieve these goals.

Affected areas

[•] **E - Environmental**

[•] **S - Social**

[] **G - Governance**

Building Energy Act (Gebäudeenergiegesetz)



Act on Energy Conservation and the Utilisation of Renewable Energies for Heating and Cooling in Buildings

Status

The amended GEG came into force on 1 January 2024. Further amendments to implement the reformed EU Buildings Directive EPBD are likely.

Content and objectives

Serves to implement the EU Buildings Directive EPBD and applies to all heated/air-conditioned buildings. This is intended to ensure the most economical use of energy in buildings and an increasing use of renewable energies.

Addressees

- **Personnel:** Builder or owner of buildings, including condominium owners' associations
- **Material:** Concerns new buildings (residential and non-residential buildings) and existing buildings (residential and non-residential buildings), insofar as they are heated or cooled.

Obligations

- Since the beginning of 2024, only heating systems that generate at least 65% of their heat from renewable energy sources may be installed. This applies to both residential and non-residential buildings
- Transitional periods: Until Municipal Heating Plans are available, there is a deferral for existing buildings and new buildings outside of new development areas. In smaller municipalities (up to 100,000 inhabitants), the deadlines are extended until 30 June 2028 at the latest; while in larger municipalities it is until 30 June 2026. By these dates, municipal heating plans must be in place at the latest
- For non-residential buildings, the new GEG contains regulations on building automation (digital energy monitoring technology). Non-residential buildings (including existing buildings) above a certain nominal heating or air conditioning capacity must be equipped with appropriate technology by the end of 2024 at the latest

Legal consequences of violations

- Operating ban for heating systems that do not comply with legal requirements
- The competent authority may order the owner to make changes to existing installations
- Fines for building owners

Affected areas

[•] E - Environmental

[•] S - Social

[] G - Governance

Building Electromobility Infrastructure Act (GEIG)



Act on the Development of a Building-Integrated Charging and Cable Infrastructure for Electromobility

Status

Entered into force on 25 March 2021.

Content and objectives

The aim is to decarbonise the transport sector

Addressees

- Personnel: Builder or owner of buildings, including condominium owners' associations
- Material: Applies to new buildings (residential and non-residential buildings) as well as existing buildings (residential and non-residential buildings)

Obligations

- For new residential buildings, a certain percentage of parking spaces must be equipped with empty conduits; for new non-residential buildings, a certain percentage of parking spaces must be equipped with charging infrastructure and charging points
- There are retrofitting obligations for major renovation projects
- Certain buildings must be equipped with at least one charging point from 2025

Legal consequences of violations

- Violations may result in fines of up to EUR 10,000

Affected areas

[•] E - Environmental

[] S - Social

[] G - Governance

EU Construction Products Regulation (CPR)



Regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products

Status

While the original CPR is currently in force, a significantly updated version has been approved on 10 April 2024 and is expected to come into effect later in 2024, with some provisions having longer transition periods.

Content and objectives

The EU Construction Products Regulation (EU CPR) sets out harmonized conditions for the marketing of construction products within the European Union. The update to the EU CPR brings some key changes.

Addressees

- **Personnel:** Persons or companies that place construction products on the market, deal with them or provide services in this context
- **Material:** For construction products including used products

Obligations

The most important changes in the amended EU Construction Products Regulation (EU CPR) are as follows:

- Gradually mandatory declaration of defined environmental indicators for construction products in order to implement the Green Deal
- Introduction of product-inherent requirements and a digital building product passport
- Authorisation of the European Commission to create sustainability requirements for the environmentally friendly public procurement of construction products
- Incentives for Member States to use more sustainable construction products
- Introduction of a construction product passport register

Legal consequences of violations

Construction products that do not fulfil the requirements may not bear the CE mark.

If a construction product does not fulfil the requirements, the competent authority can demand that the product be adapted, sales be stopped or even recalled.

Affected areas

E - Environmental

S - Social

G - Governance

Restriction of Hazardous Substances (EU-RoHS 2)



Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (recast) (Text with EEA relevance)

Status

Adopted on 8 June 2011. Entered into force on 2 January 2013.

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

Content and objectives

The EU RoHS 2 Directive replaces the EU RoHS 1 Directive 2002/95/EC and regulates the restriction of the use of certain hazardous substances in electrical and electronic equipment and their maximum permitted concentration. By setting certain requirements for the placing on the market of electrical and electronic equipment, the aim is to reduce the release of particularly hazardous substances into the environment during the manufacturing and recycling processes and at the same time counteract harmful effects on the environment and human health.

Addressees

- **Personnel:** All economic operators (manufacturer, authorised representative, importer, distributor)
- **Material:** Any electrical and electronic equipment that is dependent on electric current or electric fields for its proper operation and falls into a category listed in Annex I

Obligations

- Restricted use of certain substances listed in Annex II of the RoHS 2 Directive, such as lead, mercury, cadmium and chromium, as well as other hazardous substances in electrical and electronic equipment, which can only be used up to a maximum concentration value in electrical and electronic equipment, unless exemptions under Annexes III and IV of the Directive apply.
- Internal production control, which proves that the maximum permitted concentration has been complied with
- Implementation of a conformity assessment procedure by the manufacturer
- Affixing of the CE mark by the manufacturer to declare the conformity of the product with the requirements of the RoHS 2 Directive, including the obligation to issue an EU Declaration of Conformity

Legal consequences of violations

- Product recalls, sales bans, in national implementation (DE) fines of up to EUR 100,000

Directive as regards Empowering Consumers for the Green Transition ("EmpCo Directive")



Directive (EU) 2024/825 of the European Parliament and of the Council of 28 February 2024 amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and through better information

Affected areas

- [•] E - Environmental
- [] S - Social
- [•] G - Governance

Status

Entered into force on 26 March 2024.

Content and objectives

With this directive, the EU Parliament wants to protect consumers from misleading marketing practices in the area of sustainability advertising and thus enable a more transparent purchasing decision. In future, companies will be subject to strict requirements regarding the use of environmental claims and the use of self-developed sustainability labels will be curbed. The regulations of the EmpCo Directive are only one component of the European Green Deal and are flanked by the Green Claims Directive.

Addressees

Every advertising company

Obligations

No direct obligations for companies, but:

- Prohibition of advertising with generic environmental claims
- Ban on product-related climate-neutral/-reduced or -positive advertising based on the offsetting of greenhouse gas emissions
- Regulation of advertising with sustainability labels: Requirement of a third-party certification scheme
- Extensive obligations to provide evidence to support the environmental claims

Legal consequences of violations

- As the directive will be implemented in the German Act Against Unfair Competition: Danger of warning letters and/or preliminary injunctions
 - (i) cease and desist order
 - (ii) Obligation to provide information
 - (iii) Financial compensation

Green Claims Directive



Proposal for a Directive of the European Parliament and of the Council on the substantiation and communication of environmental claims (Green Claims Directive) (COM(2023)166 final)

Status

Under consultation. Could come into force from 2025.

Content and objectives

The Green Claims Directive will regulate the substantiation and communication of environmental advertising against "greenwashing". It contains definitions such as "or environmental label", "environmental performance", "environmental aspect" and "environmental impact" and should contain special regulations (lex specialis) in addition to the Unfair Commercial Practices (UCP) Directive, such as

- (i) Minimum requirements for voluntary environmental claims (substantiation and communication)
- (ii) Requirements for environmental labels and environmental labelling schemes
- (iii) Verification procedures for environmental claims and environmental labels by independent, accredited test centres
- (iv) Stricter sanctions for violations, including fines and confiscation of products or proceeds from the transactions.

The Green Claims Directive is intended to supplement the EmpCo Directive. A proposal was adopted by the EU Parliament on 12 March 2024 and is now being negotiated.

Addressees

- Every advertising company (exception: micro-enterprises < 10 employees and < EUR 2 million annual turnover). SMEs (fewer than 250 employees and up to EUR 50 million annual turnover) are to be given an additional year to implement the new regulations

Obligations

No direct obligations for companies, but:

- Extensive obligations to provide evidence (internally and in external communication) for advertising with explicit environmental claims
- Pre-certification for the use of environmental claims (green claims)
- Ex post control by the authority to be set up
- IMPORTANT: Details are currently still unclear as the draft is still under consultation and changes are expected

Legal consequences of violations

- Under the proposal, companies that violate the rules can be excluded from public procurement procedures and face a fine of at least 4% of their annual turnover

Affected areas

E - Environmental

S - Social

G - Governance

Shareholders' Rights Directive (ARUG II)



Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement (Text with EEA relevance)

Status

Entered into force on 3 September 2020.

Content and objectives

The aim of the ARUG II Directive is to further improve the participation of shareholders in listed companies and to facilitate cross-border information and the exercise of shareholder rights.

Following the implementation of the second European Shareholder Rights Directive (Directive (EU) 2017/828) by ARUG II, German stock corporation law stipulates that the supervisory board of listed companies must align the remuneration structure of the management board with the sustainable and long-term development of the company (see Section 87 (1) sentence 2 AktG).

Addressees

- **Personnel:** Only listed companies within the meaning of Section 3 (2) AktG fall within the scope of the provision, i.e. those whose shares are admitted to trading on the regulated market. Companies whose shares are included in the open market only are beyond the scope
- **Material:** The term "remuneration structure" comprises the remuneration of the management board which usually consists of a fixed basic remuneration and a performance-related variable component which is divided into short-term and long-term incentives

Obligations

- The supervisory board must regularly submit a management board remuneration system to the annual general meeting for approval that regulates, among other things, the remuneration structure (Sections 87a, 120a AktG)
- The terms "sustainability" and "long-term" are not defined; in any case, social and ecological aspects should also be taken into account, which may include, for example, basing variable remuneration on environmental targets such as the reduction of CO₂ emissions
- Variable remuneration components should have a multi-year assessment basis (Section 87 (1) sentence 3 AktG)

Legal consequences of violations

- Supervisory board members may be liable for damages if they culpably violate the statutory requirements for the appropriateness and structuring of management board remuneration and the company suffers damages as a result (Section 116 in conjunction with Section 93 (3) AktG). In the case of intent, the criminal offence of embezzlement (Section 266 StGB) may also be fulfilled

Affected areas

[•] E - Environmental

[•] S - Social

[•] G - Governance

General Equal Treatment Act (AGG)



General Equal Treatment Act (AGG)

Status

Entered into force on 17 August 2006.

Content and objectives

The law is intended to prevent discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual identity.

Addressees

- Personnel: All employees, employers as well as self-employed persons and board members (insofar as conditions for access to employment and career advancement are affected)
- Material: Generally in all areas and phases of working life, including the application phase

Obligations

- Taking the necessary (also preventive) measures to protect against discrimination
- Employer's duty to provide information on the inadmissibility of discrimination
- Working to ensure that discrimination does not occur
- Sanction requirement for employers in the event of violation by employees

Legal consequences of violations

- Claims for elimination of the disadvantage, Section 21 para. 1
- Claim for damages, Section 21 para. 2, a reversal of the burden of proof in favour of the employee applies

Affected areas

[] E - Environmental

[•] S - Social

[] G - Governance

Occupational Health and Safety Act (ArbSchG)



Law on the implementation of occupational health and safety measures to improve the safety and health protection of employees at work (Occupational Health and Safety Act - ArbSchG)

Status

Entered into force on 21 August 1996; last amendment on 2 July 2023.

Content and objectives

The law ensures and improves the safety and health protection of employees through occupational health and safety measures; more specialised laws may apply depending on the specifics of the workplace

Addressees

- Personnel: Basically all employees
- Material: Generally in all areas of activity

Obligations

- Taking the necessary health and safety measures in consideration of the circumstances
- Assessment of the hazards
- Checking the effectiveness of the measures and making adjustments if necessary

Legal consequences of violations

- Violation can be considered both an administrative offence, Section 25 (fine of up to EUR 30,000) and a criminal offence, Section 26 (fine or imprisonment of up to 1 year). In addition, civil damages if applicable

Affected areas

[] E - Environmental

[•] S - Social

[•] G - Governance

Management Position Laws (FüPoG I and FüPoG II)



Second Management Positions Act - FüPoG II (previously: First Management Positions Act (FüPoG I))

Status

Entered into force on 12 August 2021.

Content and objectives

Serves to increase the proportion of women in management positions in both the private and public sectors to ensure equal participation of women and men in these areas.

Addressees

- Personnel: Minimum participation requirement of one woman applies to management boards with more than three members of listed companies and companies determined on a parity basis
- Material: Concerns management positions in the private and public sectors as well as federal bodies

Obligations

- Companies in the private sector: Minimum participation requirement of one woman (applies to management boards with more than three members of listed companies and companies with co-determination on a parity basis). Obligation for companies to justify why they do not appoint women to the management board
- Companies with majority shareholding federal government and public corporations: fixed gender quota of 30 % in supervisory boards

Legal consequences of violations

- Fines for incomplete or incorrect information in the corporate governance statement (administrative offence pursuant to Section 334 (1) HGB)

Affected areas

[] E - Environmental

[•] S - Social

[•] G - Governance

Accessibility Reinforcement Act (BFSG)



Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on accessibility requirements for products and services (Text with EEA relevance) and amending other laws.

Status

Key provisions enter into force on 28 June 2025.

Affected areas

[] E - Environmental

[•] S - Social

[] G - Governance

Content and objectives

In implementing the European Accessibility Act (EAA), the law obliges private economic actors (manufacturers, retailers, service providers) to comply with accessibility requirements for their products and services for the first time. Products and services are considered accessible if they can be found, accessed and used by people with disabilities without particular difficulty and generally without assistance.

Addressees

- **Personnel:** Manufacturers, importers, distributors and service providers of products/service providers covered by the law; exception for small companies
- **Material:** Personal computers, notebooks, smartphones, tablets, e-book readers, self-service terminals such as ATMs, telecommunications services, e-books, banking services, all e-commerce services

Obligations

- **Product/service compliance:** Obligation to place accessible products on the market and to provide accessible services. Requirements are slightly concretised in the BFSGV
- **Law contains presumptions of conformity:** Compliance with norms/standards, such as EU harmonised standards, DIN, ISO or WCAG, means that accessibility requirements can be met
- **Obligation to provide documentation, carry out conformity assessment procedures and labelling**
- **Ongoing inspection obligations after placing on the market**

Legal consequences of violations

- **Inspection and sanction powers of the market surveillance authority up to the cessation of product distribution or service provision**
- **Fines of up to EUR 100,000**

Ordinance on the Accessibility Improvement Act (BFSGV)



Ordinance on the accessibility requirements for products and services in accordance with the Accessibility Improvement Act (Ordinance on the Accessibility Improvement Act - BFSGV)

Status

Key provisions enter into force on 28 June 2025.

Content and objectives

The Ordinance sets out the accessibility requirements for products and services, which the BFSG formulates in a programmatic and abstract manner. However, the requirements resulting from the ordinance remain vague.

Addressees

- Personnel: Manufacturers, importers, distributors and service providers of products/service providers covered by the law; exception for small companies
- Material: Personal computers, notebooks, smartphones, tablets, e-book readers, self-service terminals such as ATMs, telecommunication services, e-books, banking services, all e-commerce services

Obligations

- Numerous specifications on accessibility, legibility, perceptibility, operability, interoperability with assistance systems of products, especially products with a screen, user interface or for communication
- Products and features such as identification methods for banking services that are used as part of the provision of services must also fulfil the accessibility requirements
- Product and service information and information on their accessibility must be accessible without barriers (legible, perceptible) and fulfil the two-senses principle, i.e. always be accessible via two of the three senses of sight, hearing and touch

Legal consequences of violations

- Inspection and sanction powers of the market surveillance authority up to the cessation of product distribution or service provision
- Fines of up to EUR 100,000

Affected areas

[] E - Environmental

[•] S - Social

[] G - Governance

German Corporate Governance Code (DCGK)



German Corporate Governance Code (DCGK)

Status

Adopted on 30 August 2002. Entered into force on 27 June 2022.

Content and objectives

Contains principles, recommendations and suggestions for the management board and supervisory board

on appropriate corporate governance based on applicable law, in particular stock corporation law and internationally recognised standards of good and responsible corporate governance.

Relevant topics include the tasks, organisation and structure of the management board and supervisory board, compliance with the law, monitoring tasks of the supervisory board, avoidance of conflicts of interest, transparency and remuneration.

Addressees

- Listed companies
- In addition, non-binding best practice code for all other companies

Obligations

- Obligation for listed companies to issue a declaration of compliance in accordance with Section 161 German Stock Corporation Act (Aktiengesetz, AktG) "comply or explain"
- There is no specific obligation for unlisted companies, but the Code is often used as a guideline for duties of care

Legal consequences of violations

- Incorrect or omitted submission of the declaration of conformity may have the following consequences:
 - (i) Claims for damages against the management board or company
 - (ii) If applicable, criminal liability of the management board in the event of incorrect submission

Affected areas

[] E - Environmental

[] S - Social

[•] G - Governance

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