



Statement on the Proposal for a Supply Chain Register Act

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For months, there has been an intensive and controversial debate in Germany on a Human Rights Due Diligence Regulation (so called supply chain law). Recently, a new proposal has been under discussion - a law for a supply chain register.¹ This proposal was developed and is driven forward by CDU Member of the German Federal Parliament (Bundestag) Thomas Heilmann, who also held a non-public hearing on the supply chain register in December 2020. In addition to individual companies and business associations, non-governmental organizations such as Germanwatch, Greenpeace and INKOTA were invited to comment on the proposal for a supply chain register law. Now that the debate on the supply chain register is open to the public and this proposal has been submitted to the EU Justice Commissioner Reynders, Germanwatch, Greenpeace and INKOTA hereby present their key points of criticism of the supply chain register as well publicly. Thereby they underline their position that they consider the proposal for a supply chain register neither reasonable nor are supporting it:

1. The proposal for a supply chain register involves a completely different approach than the one that has been developed for years with the UN Guiding Principles on Business and Human Rights and to which Germany has committed itself and on which the German government's National Action Plan for Business and Human Rights is based. According to the UN Guiding Principles, a company cannot simply outsource its responsibility to respect human rights; rather, companies should implement due diligence processes themselves. A growing number of companies are already doing so and are advocating for a supply chain law.²
2. The proposed approach relies exclusively on certification, which in practice often have not proven to be effective to implement human rights and environmental standards in global supply chains. For example, the broken dam at Brumadinho (Brazil) as well as the collapsed textile factory at Rana Plaza (Bangladesh) were certified by the German auditing company TÜV. Numerous studies show the weaknesses of audits and certifications (e.g. "Fig leaves for fashion")³. Therefore, a sole focus on certification is neither sufficient nor purposeful.

¹ <https://www.handelsblatt.com/politik/deutschland/menschenrechte-cdu-politiker-fordern-digitales-lieferkettenregister-fuer-den-eu-binnenmarkt/26777122.html?ticket=ST-4225243-wcHswZUBt6kReEF4Yh7-ap1> ; „Proposal for key points of a law on the implementation of a digital supply chain register“, published at POLITICO https://pro.politico.eu/editorial_documents/7fb3cfd8-7155-4065-977a-479d525272d7

² <https://www.business-humanrights.org/de/schwerpunkt-themen/mandatory-due-diligence/gesetz/>

³ <https://cleanclothes.org/file-repository/figleaf-for-fashion.pdf/view>

3. The proposed approach shifts most of the responsibility towards the suppliers, as well as possibly the associated costs. This is very critical from a developmental perspective.

4. In order to set up the envisaged supply chain register, according to the proposal, the ministry of development and the foreign chambers of commerce would first have to carry out an enormous act of bureaucracy and would thus create what is likely to be a rather rigid and costly construct.

5. The proposal does not provide for the possibility for victims of human rights violations to sue for compensation. Experience from other European countries shows that, on the one hand, civil liability does not threaten companies with a wave of lawsuits, while on the other hand, due to civil liability companies implement due diligence processes more effectively and legal certainty for companies is increased.⁴

For the aforementioned reasons, we do not consider this proposal of a supply chain register to be an alternative to effective legal regulation of human rights and environmental due diligence obligations of companies. Rather, Germanwatch, Greenpeace and INKOTA, together with more than 120 organizations of the Supply Chain Law Initiative, urge Germany to swiftly adopt an effective supply chain law and thus provide an important impetus for effective EU-wide regulation.

Contact and further information:

- Cornelia Heydenreich, Germanwatch, T +49-30-2888356-4, heydenreich@germanwatch.org
- Johannes Schorling, INKOTA, T +49-30-4208202-57, schorling@inkota.de
- Viola Wohlgemuth, Greenpeace, T +49-40-30618-5261, viola.wohlgemuth@greenpeace.org

⁴ https://lieferkettengesetz.de/wp-content/uploads/2020/09/Initiative-Lieferkettengesetz_Verh%C3%A4ltnism%C3%A4%C3%9Ffig-und-zumutbar_Haftung-nach-dem-LieferkettenG.pdf ; Ernst & Young Oy 2020: Judicial Analysis on the Corporate Responsibility Act, Publications of the Ministry of Economic Affairs and Employment. 2020:44, p. 39. <https://julkaisut.valtioneuvosto.fi/handle/10024/162411>