



## EU Takes the Gloves Off on Environment and Human Rights

### New reporting obligations for the legal profession due to supply chain regulation?

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At both the European and the national level, plans for supply chain regulations are taking shape. It is about new due diligence obligations of companies in their value chains (see also AnwBl 2020, 531). On 10 March 2021, the European Parliament finally took a stance. Its resolution calls on the European Commission to submit a legislative proposal that would oblige companies to take human rights, environmental standards and good governance into account within their supply chains.

The due diligence obligations comprise a broad set of regulations. Among other things, companies are required to identify potential and/or actual adverse impacts on ESG standards (E = Environment, S = Social, G = Governance) in their operations and within their value chains and business relationships, to assess them, and respond accordingly. They can take preventive measures as well as reduce or even terminate their activity. Small and medium-sized enterprises should also fall under the scope of the required directive, provided they are listed on the stock exchange or operate in high-risk sectors. Foreign companies operating in the internal market and belonging to these categories are covered as well. Moreover, the Parliament's proposal provides for a civil liability regime.

EU Justice Commissioner Didier Reynders had announced that he will present a legislative proposal in June 2021. According to public announcements, this may go even further than the demands of the MEPs.

In parallel to the European efforts, the German government surprisingly settled the previous protracted dispute within the coalition government on a national supply chain law at the end of February 2021. It is supposed to be passed as quickly as possible now (selected associations were given just a few hours to comment before the draft was rubber-stamped by the cabinet two days after publication).

The national law features a classical compromise. As expected, criticism is voiced by both sides: human rights organizations say the draft does not go far enough whereas German business fears disadvantages, as foreign companies are not to be covered by the law. In addition, the timing of the publication is not very convincing from Brussels' point of view - almost parallel to the announcement of a Europe-wide, harmonized legal regulation.

For the legal profession, these plans are both good and bad. On the one hand, the need for legal advice from companies will increase significantly. On the other hand, law firms themselves will be subject to new reporting obligations, at least indirectly,

should they, as feared, be regarded as part of their clients' supply chain. The DAV has already raised this issue with EU Justice Commissioner Reynders.