

Press release

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Corporate due diligence regulations should neither be a paper tiger nor a bureaucratic nightmare

Scientific Advisory Board presents expert report on corporate due diligence obligations in the agri-food sector to Federal Minister Cem Özdemir / Prof. Dr. Christine Wieck from the University of Hohenheim heads the board's working group

Corporate due diligence regulations can be a success for human rights, labour standards, as well as for environmental and climate goals – if they are designed with clear objectives in mind. To ensure that the new regulations do not become bureaucratic nightmares or paper tigers, the Scientific Advisory Board for Agricultural Policy, Food, and Consumer Protection (WBAE) has formulated recommendations for policymakers. Today, on December 8, Federal Minister for Food and Agriculture, Cem Özdemir, received the report "New due diligence obligations for companies in the agri-food sector: recommendations on current legislative developments" in Berlin. The group of scientists analyse the potential impacts of the new due diligence regulations and also identify trade-offs, such as those related to trade policy. A public presentation of the report will take place on December 11, 2023, at 4:30 p.m.

Currently, there are increasing indications of possible violations of the German Supply Chain Act, which also affect the agri-food sector. The rising numbers of child and forced labour also highlight the human rights risks along global supply chains. "The WBAE expressly welcomes legislation on corporate due diligence that obligates companies to comply with fundamental human rights and labour standards among their suppliers. This also applies to the more ambitious plans of the EU Directive," says Professor Christine Wieck, University of Hohenheim, and lead of the WBAE working group.

Paradigm shift for companies caused by new due diligence obligations

Statutory due diligence regulations of supply chains are a relatively new policy instrument that represent a paradigm shift in management for most companies. Companies are now required to consider human rights and labour standard risks of their suppliers. "The WBAE recommends establishing due diligence regulations as a learning system, harmonizing various due diligence regulations with a minimum of bureaucracy and supporting companies in their implementation," explains Professor Achim Spiller, University of Göttingen, and chair of the WBAE.

"Environmental and climate targets should be integrated step-by-step in due diligence regulations as soon as the necessary measurement and monitoring systems are in place and the required parameters for companies are controllable. Additionally, it is important to systematically evaluate implementation experiences," adds Dr Hiltrud Nieberg, Thünen Institute, and deputy chair of the WBAE.

Board recommends state regulation of certification schemes

According to the board, the supervision of due diligence regulations should not only focus on reports and thereby become a "paper tiger". In practice, certification schemes will play a significant role in the implementation of due diligence obligations. However, current certification schemes have shortcomings and are not regulated by law, which is why the board recommends state regulation of these certification schemes.

"Improved, state-monitored certification schemes should protect companies from liability and at the same time, from a developmental perspective, reduce the relevant risk that companies withdraw from high-risk areas because they would be particularly exposed to liability there," explains Professor Achim Spiller, justifying this recommendation.

Concretisation of regulations crucial for liability issues

The WBAE supports the civil liability for infringements currently being negotiated in the draft EU Directive. A prerequisite for this is the sufficient clarification of the respective regulations. Due diligence obligations in terms of prohibitions, such as the prohibition of forced labour, enable clear definitions of violations and allow for liability.

"Violations of target agreements, such as the Paris Agreement, on the other hand, currently offer few possibilities for liability. Therefore, the due diligence obligations must be further specified by the legislator to become effective," says board member Professor José Martinez from the University of Göttingen. Especially in agriculture, there is still a lack of necessary clarification of due diligence obligations for climate protection and biodiversity conservation.

Wage and income levels important for the right to food

The WBAE also sees scope for expanding corporate due diligence obligations with regard to the right to food, as in many cases the wages paid and prices realised do not protect against hunger. "Ensuring the human right to food requires a living wage for agricultural workers and a living income for smallholders," explains board member Professor Regina Birner from the University of Hohenheim. "We see great potential in the development of sectoral agreements that aim to achieve this goal."

Countries in the Global South must be heard

With the corporate due diligence regulations, Germany and the EU are intervening deeply in global supply chains and thus in the actions of companies from other countries, because they are tightening the enforceability of international agreements in the field of human rights and labour standards. By obligating European companies, they aim to change legal enforcement in other countries.

For this reason, the WBAE believes that it is particularly important in the current geopolitically difficult situation that the approaches of trading partner countries are taken into account and that structures for the exchange of experiences and information are created. "Countries in the Global South should be supported in terms of trade and development policies," concludes Professor Christine Wieck.

BACKGROUND: In early 2023, the Act on Corporate Due Diligence in Supply Chains took effect in Germany for companies with more than 3,000 employees. The EU's Regulation on Deforestation-free Supply Chains came into force, and discussions are ongoing regarding the details of a more extensive EU Directive on Corporate Sustainability Due

Diligence. The envisaged EU Directive is likely to go beyond the requirements of the German Act as more environment-related and climate-related due diligence obligations are being negotiated, along with civil liability for companies. In addition, companies with fewer than 3,000 employees are to be included in the scope of application from the outset. The WBAE makes recommendations on the design of the forthcoming EU Directive, which is currently in the trilogue negotiations among the European Commission, European Parliament, and Council, and for the necessary adaptation of the German law.

SAVE THE DATE: The board has developed three areas of recommendation: 1. Recommendations for effective design and implementation, 2. Recommendations for shaping the policy environment, 3. Recommendations for systematic development of due diligence obligations. These will be presented by WBAE members in a public presentation of the report on December 11, 2023, from 4:30 p.m. to 6:00 p.m., with sufficient time allocated for exchange with all interested participants.

Please register via https://uni-goettingen.zoom-x.de/webinar/register/WN_w75ztNa2Tvqd3JSSsOZVgg

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URL for press release: http://www.bmel.de/DE/Ministerium/Organisation/Beiraete/_Texte/AgrOrganisation.html

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Federal Minister Cem Özdemir (r.) receives the new report of the Scientific Advisory Board for Agricultural Policy, Food, and Consumer Protection (WBAE) from the Chairman of the Advisory Board Prof. Dr. Achim Spiller on December 8, 2023. BMEL



Federal Minister Cem Özdemir (r.) and the Chairman of the Scientific Advisory Board for Agricultural Policy, Food, and Consumer Protection (WBAE) Prof. Dr. Achim Spiller.
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