



CLAIM YOUR RIGHT

Human rights violations: Grievances against German companies under the Supply Chain Act

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In Germany, the Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichten-gesetz, LkSG), or Supply Chain Act for short, came into force on January 1, 2023. The law regulates corporate responsibility for respecting human rights in the global supply chains of German companies, or companies with a large branch in Germany. These companies must identify risks of human rights violations, take appropriate measures to prevent or end them/improve the situation, and set up grievance mechanisms. For those affected by human rights violations at suppliers of the companies covered by the Act, the Act creates better ways to have their grievances heard directly in Germany. In serious cases where companies fail to take action to end human rights violations, the state authority for the law BAFA can also impose heavy fines on companies.

The German Supply Chain Act improves the opportunities for workers to file grievances.

Our work in the context of the Clean Clothes Campaign network involves grievances about violations of labor rights and social standards in garment factories and shoe factories (or similar sewing and manufacturing factories, such as for bags or belts, etc.) as well as with suppliers in the lower supply chain (for example, cotton spinning mills or tanneries). However, grievances by residents of factories or tanneries or spinning mills whose rights are violated by the factory are also possible.

1 TWO STEPS FOR GRIEVANCES: (1) TO THE COMPANY AND (2) TO THE STATE AUTHORITY BAFA

STEP (1): GRIEVANCE TO THE COMPANY

The law requires all covered companies to establish their own company grievance mechanism in their supply chains or to join larger complaint procedures. If a human rights violation in the supply chain of a German company becomes known or is imminent, we recommend that those affected contact the company's grievance system directly. Companies are obliged to investigate the case and take appropriate action to remedy the situation. If those affected by the human rights violation are not aware of the company's grievance system, the German Clean Clothes Campaign can help. We maintain a list of the companies' grievance mechanisms. We recommend sending a reminder if the company has not responded within eight weeks.



Foto: boomerj1996, flickr.com

Both the companies and the state authority BAFA are obliged to follow up on justified indications of rights violations from affected people.

STEP (2): GRIEVANCE TO THE STATE AUTHORITY BAFA

If the company responsible for the human rights violation in the supply chain does not respond through its own grievance mechanism for approximately three months (more quickly, of course, in the case of acute threats) or does not adequately contribute to remedying the violation, it makes sense to involve the state authority enforcing the Supply Chain Act and file a complaint there. It is also possible to contact the state authority BAFA if you do not know exactly which company in Germany is responsible, but if there are indications that one or more companies in Germany are sourcing goods from the factory where the human rights violation took place.

The authority that enforces the Supply Chain Act in Germany is the BAFA (Federal Office of Economics and Export Control). The possibility to file a grievance to the state authority BAFA is an important mechanism for the law to have an impact and should be used. Unfortunately for those affected, however, submitting a complaint does not entail any compensation payment or other redress. The grievance to BAFA has the effect of encouraging the company to take appropriate measures to end the violation of the law and to better prevent human rights violations in the future. Such measures can include, for example,

Unfortunately, submitting a complaint does not entail any compensation payment.

training for the management of supplier companies or the payment of higher purchase prices so that supplier companies can implement the demanded social standards.

2. WHO CAN FILE A GRIEVANCE TO BAFA AND WHAT HAPPENS IF I DO SO?

TABLE: FILING A GRIEVANCE TO THE STATE AUTHORITY BAFA

WHO CAN FILE A GRIEVANCE?	people who are (potentially) affected by the human rights violations	NGOs, unions
THROUGH WHICH CHANNEL?	via the application form of the state authority BAFA	as a reference by mail
REMARKS	<ul style="list-style-type: none"> ✓ for a substantiated grievance, observe checklist (point 4) ✓ The grievance can also be filed on behalf of the affected persons by other persons or organizations -> for this, the affected persons must sign a power of attorney. ✓ If the affected persons have difficulties in naming the German company specifically, they should name all references to the German company that they have. For example: the brand of the product is known or several German companies are known to have production in the factory from time to time. ✓ BAFA must investigate a substantiated grievance. ✓ Those affected can also submit their complaint anonymously using the form. In this case, however, the grievance is not considered substantiated. 	<ul style="list-style-type: none"> ✓ NGOs and trade unions (from the production countries or Germany) can provide the authority with a notification, e.g. about a new study that proves human rights violations at supplier companies. ✓ The best way to send a notification to the state authority BAFA is by e-mail to liefkettengesetz@bafa.bund.de. ✓ Such complaints by NGOs and trade unions are considered non-substantiated. In this case, BAFA can follow up on the information, but it does not have to.

3. IN WHICH CASES CAN GRIEVANCES BE FILED?

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The Supply Chain Act obliges companies to prevent the human rights violations mentioned here and to work towards improvements when they occur.

4. THE GRIEVANCE FORM AND CHECKLIST FOR A GRIEVANCE

https://www.bafa.de/EN/Supply_Chain_Act/Submit_Complaint/submit_complaint_node.html

The [BAFA website](#) provides access to an online complaint form. Grievances can be submitted in German, English, Spanish and French.

Checklist for a grievance:

- ✓ Applicant person or group is violated in his or her own human rights, which belong to the human rights listed above.
- ✓ The company in Germany subject to due diligence is determined or can be determined without great effort. -> Give as many indications as possible that make it possible for state authority BAFA to determine the company(ies).
- ✓ Establish reference to the protected rights (see above).
- ✓ The human rights violation did not only occur before 2023/2024.

5. THE GRIEVANCE PROCEDURE AND POSSIBLE OUTCOMES

The state authority BAFA examines the submitted complaints. After the examination has been completed, the complainants receive feedback. This is not possible with anonymous grievances. However, an email address can also be left for anonymous grievances that does not allow any conclusions to be drawn about the person who filed the complaint. BAFA can then ask for further information on the case.

If the state authority BAFA finds serious cases of human rights violations that the company does not remedy, BAFA can impose financial penalties on the company and exclude the company from government contracts.

6. SUPPORT IN CASES OF GRIEVANCES

For assistance with grievances against German companies due to human rights violations in garment and footwear supply chains of, please contact

Artemisa Ljarja

Urgent Appeal Coordinator, Clean Clothes Campaign.

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6. FREQUENTLY ASKED QUESTIONS



FAQ on the Supply Chain Act by the German government:

<https://www.csr-in-deutschland.de/EN/Business-Human-Rights/Supply-Chain-Act/FAQ/faq.html>



FAQ on the Supply Chain Act by Initiative Lieferkettengesetz:

https://lieferkettengesetz.de/wp-content/uploads/2021/11/Initiative-Lieferkettengesetz_FAQ-English.pdf

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