

**2024  
Edition**

**Factsheet 14:  
Lessons for Fashion: How the  
agricultural sector is tackling  
commercial compliance through the EU  
Directive on unfair trading practices**

# **An Apparel Supplier's Guide 2.0**

**Key Sustainability Legislation  
in the EU, US, and UK**

EU Strategy for Sustainable and Circular Textiles  
EU Corporate Sustainability Due Diligence Directive  
EU Corporate Sustainability Reporting Directive  
New York Fashion Act  
EU Forced Labour Regulation & Guidance  
US Uyghur Forced Labor Prevention Act  
EU Ecodesign for Sustainable Products Regulation  
EU Packaging & Packaging Waste Directive & Provisional Regulation  
EU Microplastics Regulation  
UK Plastic Packaging Tax  
EU Product Environmental Footprint Guide  
EU Textiles Regulation  
EU Taxonomy  
The German Due Diligence in the Supply Chain Act

**Lessons for Fashion: How the agricultural sector is tackling  
commercial compliance through the EU Directive on unfair trading  
practices**

# Acknowledgements

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**The Remedy Project** is a social enterprise that works to improve access to justice and remedy for migrant workers in global supply chains. They work constructively with governments, civil society, law enforcement, and the private sector to translate the UN Guiding Principles on Business and Human Rights into practice. For more information please see [www.remedyproject.co](http://www.remedyproject.co).

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# Introduction

UPDATE

## a. Objective

In July 2023 the first iteration of this guide covering, 12 pieces of legislation, was published. This document is an update to that guide and includes updates to the 12 factsheets issued last year as well as three additional factsheets covering new legislation not previously included.

This document is intended to enable suppliers in the apparel value chain that are established or headquartered outside of the Global North<sup>1</sup>, or whose operations are based outside these jurisdictions or whose supply chains extend to the Global South, to better understand how sustainability-related legislation in the Global North could potentially impact them. While suppliers may not, in all cases, be directly subject to the obligations created by these Global North

laws, they may still experience knock-on effects as they form an integral part of the global apparel value chain and produce goods for multinational brands and retailers who have increasing compliance obligations as they adopt new practices in order to respond to the increased legislation. As such, this document aims to:

- Offer a public resource and roadmap for suppliers to proactively respond to and prepare for the requirements of these Global North laws.
- Provide a platform for dialogue and information exchange where suppliers and manufacturers can explore engagement (where possible) with policy makers in Global North jurisdictions.
- Support suppliers in delivering the fashion industry's social and environmental performance goals, and drive meaningful change for rights holders – whether workers, local communities, cotton farmers– globally.

## b. Important legislative context to understand

As governments in the Global North embark on ambitious plans to transition towards climate neutrality, inclusive and sustainable growth, the body of sustainability legislation is expanding rapidly.

The European Union (EU) is at the forefront of these changes, introducing a plethora of legislative and non-legislative measures to implement priority policies such as the [European Green Deal](#). The European Green Deal is a cornerstone of the EU's industrial strategy, comprising a series of proposals to make the EU's climate, energy, transport, and taxation policies fit for reducing net greenhouse gas emissions by at least 55% by 2030, and to secure the global competitiveness and resilience of European industry<sup>2</sup>. There are also sector-specific initiatives such as the EU Strategy for Sustainable and Circular Textiles, which aim to implement the commitments made

<sup>1</sup> For the purposes of this document, "Global North" encompasses the European Union, United Kingdom, and the United States.

<sup>2</sup> European Commission, [A European Green Deal](#)

under the European Green Deal (see infographic on the next page “**Snapshot of the Legislative Landscape in the Global North**”), by setting out measures to address the design and consumption of textile products, and promote a greener and fairer value chain in the textiles industry. The legislations covered in this document such as the EU Ecodesign for Sustainable Products Regulation and Digital Product Passport, EU Corporate Sustainability Due Diligence Directive, EU Regulation on Prohibiting Products Made With Forced Labour on the Union Market (Forced Labour Regulation), are only some of the initiatives taken by the EU to execute on the European sustainability policy objectives<sup>3</sup>.

These legislations create legally binding obligations on companies to consider how they are managing their social and environmental impact. Many of these laws and regulations have global application and/or will impact apparel manufacturing and sourcing hubs outside of the Global North. As such, while these laws originate from the Global North such as the EU, United Kingdom, and United States, they will impact companies operating outside of these jurisdictions. It is therefore a prescient

time for companies directly subject to these legislations, and for those who have business relationships with them, to align their sustainability policies and practices with these laws.

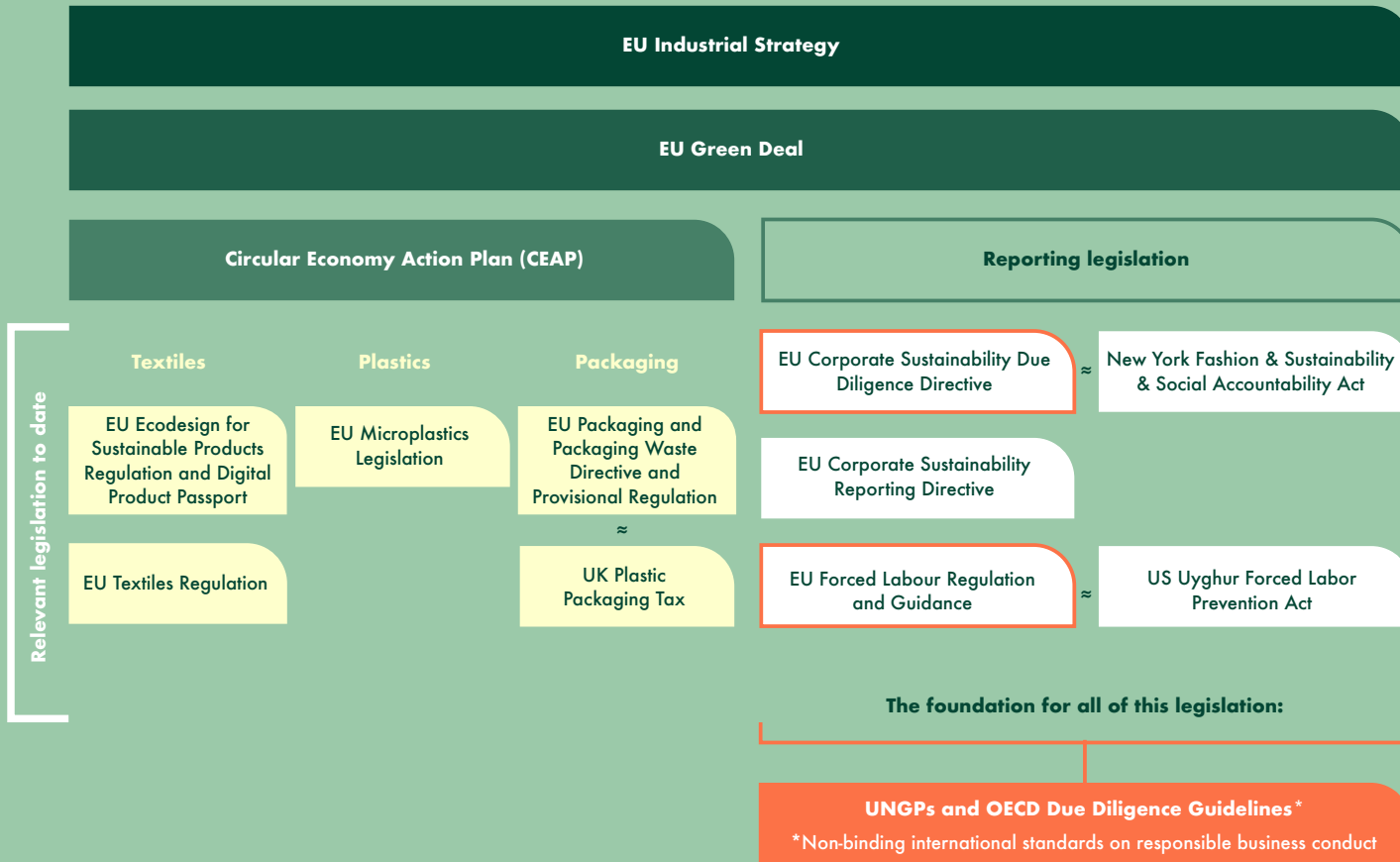
At a high level, these laws (especially those relating to mandatory human rights due diligence) can be collectively understood as a legal framework that translates elements of the United Nations Guiding Principles on Business and Human Rights (UNGPs) into binding legal obligations. The UNGPs represent the authoritative framework on how businesses should operationalize their commitments to human rights. As businesses are increasingly required to comply with different (and sometimes overlapping) laws in this area, it is The Remedy Project’s view that businesses that are able to operate in accordance with the UNGPs and other international frameworks such as the OECD Due Diligence Guidance for Responsible Business Conduct will be more successful in making this transition. Complying with the highest international standards could help future-proof business against future legislative changes and may also be more efficient from a process perspective. Furthermore, the Remedy Project sees a trend of many

brands upgrading their internal compliance and value chain requirements based on the UNGPs and international frameworks. Thus, complying with these international standards could help businesses position themselves to align with brands’ expectations and easily and effectively adapt to future legislative requirements, as well as satisfy the requirement of other business partners and customers. Instead of having to operate in accordance with different standards of compliance for each jurisdiction and each counterparty, the business can adopt a less fragmented, and thus less burdensome, approach to compliance. Of course, even if suppliers align with established international frameworks, different brands will continue to set varying detailed procedural requirements on their supply chain partners, particularly in the near future. We therefore continue to recommend that suppliers proactively work with brands and retailers on implementation to reduce the risk of multiple interpretations.

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<sup>3</sup> See for example the summaries of EU legislation on environment and climate change.

# Snapshot of the Legislative Landscape in the Global North



**Note \*** The legislations, regulations and directives in this diagram are not the complete set laid out under the umbrella strategies. Head to the [European Commission](https://ec.europa.eu/commission/press-room/index/infographic_en) website to learn more.

## c. General implications for companies supplying apparel & beyond

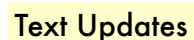
These legislative developments make clear that businesses will need to re-think the way they approach sustainability. This new era of legislation moves sustainability from “nice to have” to “must-have” and requires companies to implement human rights and environmental risk management practices. With this transition, we expect to see more cross-functional efforts to embed considerations of human rights and environmental impacts into business’ day-to-day operations and overall strategy. In this new landscape, in-house legal teams must work closely with procurement and sourcing, operations, product teams, and in-house sustainability experts to achieve compliance. There must also be executive and management level buy-in, and attention given to sustainability issues.

# How to Use ● This Document

This document comprises a series of factsheets. For each legislation, the factsheet will cover the following topics on the right.

Updates to Factsheets will be identified by these indicators:

UPDATE 

 Text Updates

## 1. Key Changes

A summary of key changes to the legislation since August 2023.

## 2. Overview

A summary of the key aspects of the legislation.

## 3. Context

A description of the political context and policy objectives that the legislation seeks to address or achieve.

## 4. Status

Whether the legislation is in effect and if not, the current stage of the legislative procedure. If known, the expected timeline for implementation is also provided. For proposed EU legislation, users may find it helpful to refer to the [European Parliament's infographic](#) for information on the different stages of the EU legislative procedure.

## 5. Scope

This section sets out the types of companies or products that fall within the scope of the legislation. This may include, for example, an explanation of the thresholds that a certain company must meet for the legislation to apply. Our suggestion to suppliers is to start by identifying whether they are directly in-scope and, if so, review the obligations and compliance recommendations for companies in-scope (Sections 5 & 6). If a supplier has established that they are not directly in-scope, it is our suggestion that those suppliers review whether the brands for which they produce are in scope. If a supplier's customer is within scope, our suggestion is to review the potential implications for suppliers to companies in-scope (see Section 7).

## **6. Obligations for companies in-scope**

A description of the duties and responsibilities that must be undertaken by the companies that are directly subject to the legislation.

## **7. Compliance recommendations for companies in-scope**

Suggested recommendations for companies to prepare for compliance with the legislation (where the legislation is not yet in effect), or considerations for companies seeking to improve their compliance (where the legislation is already in effect). For the avoidance of doubt, these compliance recommendations do not constitute legal advice or opinion; companies should seek legal advice from attorneys concerning any specific situation or legal question they may have. Moreover, as the text of the laws in many cases remains subject to change, companies should refer to the most updated version of the legislation in developing their compliance strategy. The enforcement actions undertaken by the relevant regulator (once the law is in effect) will also determine the scope of compliance obligations.

## **8. Potential implications for suppliers to companies in-scope**

In some instances, suppliers in the apparel value chain who are not directly subject to the concerned legislation, may still be impacted by the legislation as they supply to companies in-scope (i.e., a fashion brand or fashion retailer in-scope). These may include requirements around transparency and traceability, or obligations to undergo audits or obtain certifications. This section sets out the potential implications of the legislation for suppliers. For the avoidance of doubt, companies in-scope will approach compliance differently and many of the legislations covered in this document are in nascent stages of development. Moreover, the enforcement actions undertaken by the relevant regulator will also affect how companies in-scope respond to the legislation. As such, the guidance provided herein is only intended to represent our best estimates of the knock-on effects of the concerned legislation and is for informational purposes only.

### **9. Penalties for non-compliance**

Where applicable or known, the penalties for companies in-scope that fail to comply with the legislation are set out.

### **10. Form of Enforcement**

A description of the key forms of enforcement action that may be taken by the relevant authorities.

### **11. Reporting/disclosure for companies in-scope**

An overview of the key information disclosure obligations (if any) for companies in-scope.

### **12. Access to remedy mechanisms and litigation risk**

This section notes where the relevant legislation provides a right for legal action to be taken against a company for alleged non-compliance.

### **13. Opportunity to participate and engage in legislative development**

Where applicable, opportunities to participate in public consultation.

### **14. Useful resources to support compliance**

Links to third-party resources and guidance are provided for further detail on how companies in-scope may approach compliance and how suppliers or business partners to companies in-scope may prepare for cascaded compliance requirements.



# Glossary

**A glossary of key terms used in this document is set out below.**

**Brands:** For the purposes of this document, this refers to a multinational company that is engaged in the business of offering branded apparel products.

**Companies in-scope:** Companies that are directly subject to the obligations set out in the relevant legislation.

**Due Diligence:** A process that businesses should carry out to identify, prevent, mitigate, and account for how they address the actual and potential adverse human rights or environmental impacts in their operations, their value chain and other business relationships.

**EU Decision:** A “decision” is binding on those to whom it is addressed (e.g., an EU country or an individual company) and is directly applicable.<sup>4</sup>

**EU Delegated Act:** A delegated act is an EU legislative mechanism to ensure that EU

laws that are passed can be implemented properly or reflect developments in a particular sector.

**EU Directive:** A directive is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals<sup>5</sup>.

**EU Regulation:** A regulation is a binding legislative act. It must be applied in its entirety across the EU<sup>6</sup>.

**EU negotiation position:** A particular stance taken by a European Institution in a negotiation where it outlines the preferred result.

**EU provisional agreement:** When after negotiations, an informal agreement is reached on the text of a legislative proposal that then needs to be formally approved by the European Parliament and the Council of the European Union during the legislative procedure.

**Adopted:** When a law is officially approved at the end of the legislative procedure.

**Approved:** Used as a synonym for adopted or used in cases of approval of draft versions of the law.

**Derogated:** Not included or not applied.

**European Commission:** The European Commission is the EU’s politically independent executive arm. It is responsible for drawing up proposals for new European legislation, and it implements the decisions of the European Parliament and the Council of the EU.

**European Council:** The European Council is the EU institution that defines the general political direction and priorities of the European Union.

**European Parliament:** The European Parliament is the EU’s law-making body that is directly elected by EU voters every 5 years.

**Grievance Mechanism:** Any routinized, State-based, or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought<sup>7</sup>.

<sup>4,5,6</sup> European Union, Types of legislation

<sup>7</sup> UNGPs Principle 25 and commentary

## Types of EU legislation

- **Directive:**  
A legislative act that sets out a goal for EU countries who then have to devise their own laws on how to reach these goals.
- **Regulation:**  
A binding legislative act which must be applied in its entirety across the EU.
- **Decision:**  
A binding law only on those to whom it is addressed (e.g. an EU country or an individual company) and is directly applicable (it does not have to be implemented by the recipient).
- **Delegated and Implementing Acts:**  
Non-legislative acts adopted by the European Commission aimed at supplementing elements of a legislative act for uniform implementation.

**Supplier:** For the purposes of this document, unless otherwise specified, this refers to a supplier in the apparel value chain. While the information provided herein is applicable across the entire value chain, it is primarily intended for Tier 1 suppliers and sub-contractors who produced finished goods for fashion brands and retailers, and Tier 2 suppliers and sub-contractors who provide services and goods, such as knitting, weaving, washing, dyeing, finishing, printing for finished goods, and components (e.g., buttons, zippers, soles, down and fusible) and materials for finished goods.

**Value Chain:** A value chain encompasses all activities related to the production of goods or the provision of services by a company, including the development of the product or the service and the use and disposal of the product as well as the related activities of upstream and downstream business relationships of the company.

**Intentionally added:** Deliberately utilized in the formulation of a material or component where its continued presence is desired in the final product to provide a specific characteristic, appearance or quality.

# Lessons for fashion: How the agricultural sector is tackling commercial compliance through the EU Directive on unfair trading practices

NEW \*

## 1. Overview

It is notable how few of the pieces of legislation covered in this guide address purchasing practices and inequity across the fashion value chain. Unlike the other factsheets in this guide, this section aims to give suppliers insight into how the agricultural sector, characterised by similarly asymmetrical commercial relationships, is working to improve these issues through the EU Directive on unfair trading practices.

# 1. Context

The EU Directive 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (UTP Directive) recognises that unfair trading practices are widespread in the EU and can have harmful effects, particularly for small and medium-sized enterprises (SME) in the agricultural and food supply chain. The main objectives of the UTP Directive are:

- ▶ to protect farmers, farmers organisations and other weaker suppliers of agricultural and food products against stronger buyers;
- ▶ to prohibit a range of unfair trading practices that are considered the most harmful;
- ▶ the enforcement of the unfair trading practices by authorities in each EU Member State and coordination among the authorities; and
- ▶ to introduce a uniform minimum standard of protection across the EU.

The food supply chain is highly vulnerable to unfair trading practices, as there are significant imbalances between a large number of farmers and smaller suppliers of partly perishable and non-perishable products and a few large processors, distributors and food retailers. Farmers and small suppliers often do not have the means to defend themselves against unfair trading practices such as late payment, leading them to reluctantly accept unfair terms in order to maintain business relationships, which causes significant problems in the availability of working capital and cash flow. Unfair trading practices not only jeopardise the livelihoods of farmers and small suppliers who are particularly exposed to biological and meteorological risks, but also the supply of food for the EU population. Recognising the strategic nature of the agricultural sector, the importance of small farmers and the stark imbalance of power in the supply chain, the EU adopted the UTP Directive to improve the protection of farmers and smaller suppliers by banning certain unfair practices. As part of a wider governance strategy (Farm to Fork), this Directive also aims to improve the position of farmers in the agri-food supply chain.

The EU Directive 2019/633 was adopted on 17 April 2019. Member states were mandated to incorporate the Directive into their national legislation by 2021. In Germany, the UTP Directive has been transposed into the Agrarorganisationen-und Lieferketten-Gesetz (Agricultural Organisations and Supply Chains Act, "AgrarOLkG"), which entered into force on 9 June 2021.



## 2. Scope and the relevance of size in the agri-food supply chain

The Directive aims to protect the entire agri-food supply chain, in particular farmers and weaker suppliers who sell agricultural and food products to economically more powerful buyers, including groups of buyers and public sector organisations. The Directive does not apply to the final consumer.

### ● Who can be a supplier?

- Farmers, including their organisations (e.g. cooperatives)
- Processors (food industry)
- Distributors, e.g. wholesalers
- Producer organisations, incl. cooperatives

### Note

**The Directive applies if at least either the supplier or the buyer is based in the EU.**

Source: European Commission: The Directive on unfair trading practices in the agriculture and food supply chain

### ● Who can be a buyer?

- Producer organisations, incl. cooperatives buying from their farmer members
- Processors
- Distributors, e.g. wholesalers
- A retailer or retail association
- Public authorities
- Also, buyers outside the EU

The Directive takes a stepwise approach to protecting weaker suppliers from economically stronger buyers based on their turnover. For example, farmers with a turnover of less than €2 million would be protected from buyers with a turnover of more than €2 million. Farmers with a turnover of between €2 million and €10 million would be protected from buyers with a turnover of €10 million or more. This tiered system ensures that suppliers with a turnover of up to €350 million are protected from stronger buyers. A supplier who sells to public sector organisations is protected against unfair commercial practices irrespective of the actual turnover.

### 3. Obligations: how unfair purchasing practices are defined and prohibited

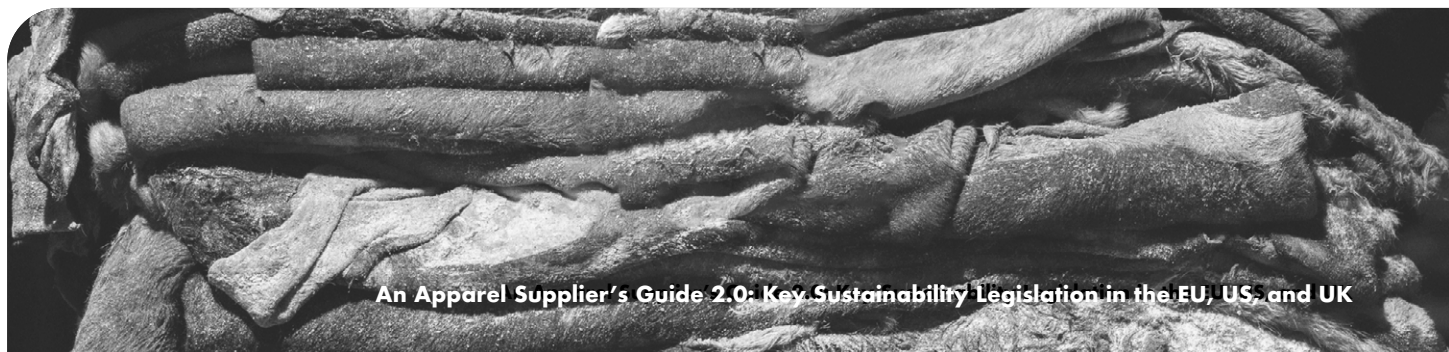
The Directive targets 16 unfair trading practices that are deemed most harmful. The Directive classifies unfair trading practices into “black” and “grey” categories. Black practices are unconditionally prohibited, while grey ones are permissible if both supplier and buyer consent in a clear and unambiguous manner beforehand. This requirement for clear and unambiguous agreement aims to ensure transparency and predictability, clarifying the rights and obligations of both parties.

#### Black practices

1. Payments later than 30 days for perishable agricultural and food products
2. Payment later than 60 days for other agri-food products
3. Short-notice cancellations of perishable agri-food products
4. Unilateral contract changes by the buyer
5. Payments not related to a specific transaction
6. Risk of loss and deterioration transferred to the supplier
7. Refusal of a written confirmation of a supply agreement by the buyer, despite request of the supplier
8. Misuse of trade secrets by the buyer
9. Commercial retaliation by the buyer
10. Transferring the costs of examining customer complaints to the supplier

#### Grey practices

1. Return of unsold products
2. Payment of the supplier for stocking, display and listing
3. Payment of the supplier for promotion
4. Payment of the supplier for marketing
5. Payment of the supplier for advertising
6. Payment of the supplier for staff of the buyer, fitting out premises





## 4. Enforcement and reporting

EU Member States have designated an authority to enforce the Directive. The enforcement authorities are authorised, for example, to act upon a complaint, conduct investigations, terminate an infringement, or impose fines and other sanctions.

There are no reporting requirements for in-scope companies. Enforcement authorities publish an annual report including the number of complaints received and the number of investigations opened or closed during the previous year. For each closed investigation, the report shall include a summary description of the matter, the outcome of the investigation and, where appropriate, the decision taken, subject to confidentiality requirements.

Weaker suppliers often refrain from pursuing their rights due to concerns about potential commercial reprisals and the financial risks associated with litigation. The Directive underscores several measures aimed at addressing these barriers:

- ⊕ Suppliers have the option to submit a complaint to the national enforcement authority.
- ⊕ Suppliers can choose whether to file a complaint with the authority in their own EU Member State or with the authority in the EU Member State where the buyer is located.
- ⊕ The complainant has the right to request anonymity and specify which information is to be treated confidentially. If confidential information needs to be disclosed in order to resolve the complaint, the complainant is informed by the corresponding authority and can decide on how to proceed. The complainant and the buyer may also agree to make use of alternative dispute resolution procedures (e.g. ombudsperson).
- ⊕ Suppliers may seek the assistance of a producer organisation (e.g. a cooperative) or other relevant organisations to represent them and file complaints on their behalf.
- ⊕ Authorities are authorised to initiate investigations on their own initiative, e.g. on the basis of anonymous information.

The German enforcement authority, the Federal Agency of Agriculture and Food (Bundesanstalt für Landwirtschaft und Ernährung, BLE), conducted six proceedings in 2022, only two of which were based on complaints. Companies were supported in the application of the law in over 50 cases. According to a survey by the EU Directorate-General for Agriculture and Rural Development, fear of retaliation and low expectations of enforcement authorities are the main reasons why unfair trading practices are still not reported on a large scale ([EU Directorate-General for Agriculture and Rural Development 2024](#)).

## 5. Conclusion

The commercial practices and dynamics between buyers and suppliers in the garment industry are similar to those in the agri-food supply chain, even if the conditions are different. Late payment and last-minute order changes or cancellations can have serious consequences for suppliers and rightsholders. Fashion suppliers and their respective representative bodies must ensure that policy makers are aware of the impact of these harmful practices on the supply chain and incorporate responsible purchasing practices into policies relevant to the fashion industry.

## 6. Sources

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019L0633>

[https://agriculture.ec.europa.eu/common-agricultural-policy/agri-food-supply-chain/unfair-trading-practices\\_en](https://agriculture.ec.europa.eu/common-agricultural-policy/agri-food-supply-chain/unfair-trading-practices_en)

[https://agriculture.ec.europa.eu/document/download/292c98d9-5df5-4c9e-b92f-090b5b171afd\\_en?filename=brochure-utp-directive\\_en.pdf](https://agriculture.ec.europa.eu/document/download/292c98d9-5df5-4c9e-b92f-090b5b171afd_en?filename=brochure-utp-directive_en.pdf)

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# Discover Other Factsheets from An Apparel Supplier's Guide 2.0

0

**EU Strategy for Sustainable and Circular Textiles**

1

**EU Corporate Sustainability Reporting Directive**

2

**EU Corporate Sustainability Due Diligence Directive**

3

**New York Fashion Act**

4

**EU Forced Labour Regulation and Guidance**

5

**US Uyghur Forced Labor Prevention Act**

6

**EU Ecodesign for Sustainable Products Regulation**

7

**EU Packaging and Packaging Waste Directive and Provisional Regulation**

8

**EU Microplastics Regulation**

9

**UK Plastic Packaging Tax**

10

**EU Product Environmental Footprint Guide**

11

**EU Textiles Regulation**

12

**EU Taxonomy**

13

**German Supply Chain Due Diligence Act**

14

**Lessons for fashion: How the agricultural sector is tackling commercial compliance through the EU Directive on unfair trading practices**