

ARENDR BY YOUR SIDE

Due diligence, litigation & investigations

Regulatory frameworks surrounding ESG are being strengthened globally with a clear focus in Europe, the USA and the UK. A number of them - for example, the NFRD and CSRD in Europe - require sustainability reporting for entities that fall within both the non-financial and financial sectors. Others - for example CSDDD - aim to ensure greater and proper ESG due diligence and accountability across a company's entire supply chain.

ESG regulations worldwide are making a shift from being a relatively 'voluntary' to becoming a 'mandatory' exercise, driving integration of ESG into risk management and risk-based due diligence. Non-compliance is being met with greater scrutiny and fines. Companies and investors need to be fully aware of their ESG requirements and obligations. If not, there is a real risk of ESG related litigation impacting their business.

- Under the Green Claims Directive, environmental claims will be scrutinised and non-compliance penalised, including revenue confiscation and exclusion from public procurement and public funding opportunities.
- A growing number of new regulations will continue to trigger a further increase in ESG litigation.



ESG due diligence should no longer need a business case

- Strong and diligent data analysis is key – while ESG reporting is improving, companies must be critical of this data and challenge it to ensure that claims are accurate and the data has been diligently verified.
- Supplier compliance is essential – companies can no longer turn a blind eye to their supply chain. They must understand the ESG risks (including ESG fraud) that can be associated with their suppliers before closing a deal.
- ESG due diligence should give clear, data-based insight into third parties' ESG performance, policies, compliance, and what a company is actually disclosing before they are onboarded or a transaction is financed.
- Lenders and investors are increasingly requesting a thorough ESG due diligence process. Insurers have started offering favourable terms to companies that have a strong ESG framework, including ESG due diligence.

ESG litigation is on the rise!

- The number of climate-related litigation cases worldwide has more than doubled since 2015*.
- Greenwashing is increasingly facing tough regulatory and public scrutiny, so it is more important than ever to ensure that marketing materials are thoroughly reviewed before publishing.

* London School of Economics, June 2022

Better to be prepared

Given the increasing risk of ESG-related claims, companies should reflect on the below questions:

- Do our ESG aspirations and, most importantly, our claims match our actions and performance?
- Do we have clear ESG-related KPIs? Do we have the right data to effectively track our progress?
- Is my supply chain compliant and do I have the right data to evaluate and manage related ESG risks?
- How do I perform thorough and proportionate ESG due diligence? What expertise is required?

How to handle a dawn raid in the event of a regulatory investigation?

How can Arendt help?

1. Designing policies and procedures that...

- Align with the ESG investment strategy;
- Comply with ESG regulations;
- Adhere to ESG frameworks;
- Anticipate ESG regulation road-mapping;
- Fulfil comprehensive internal and external stakeholder alignment.

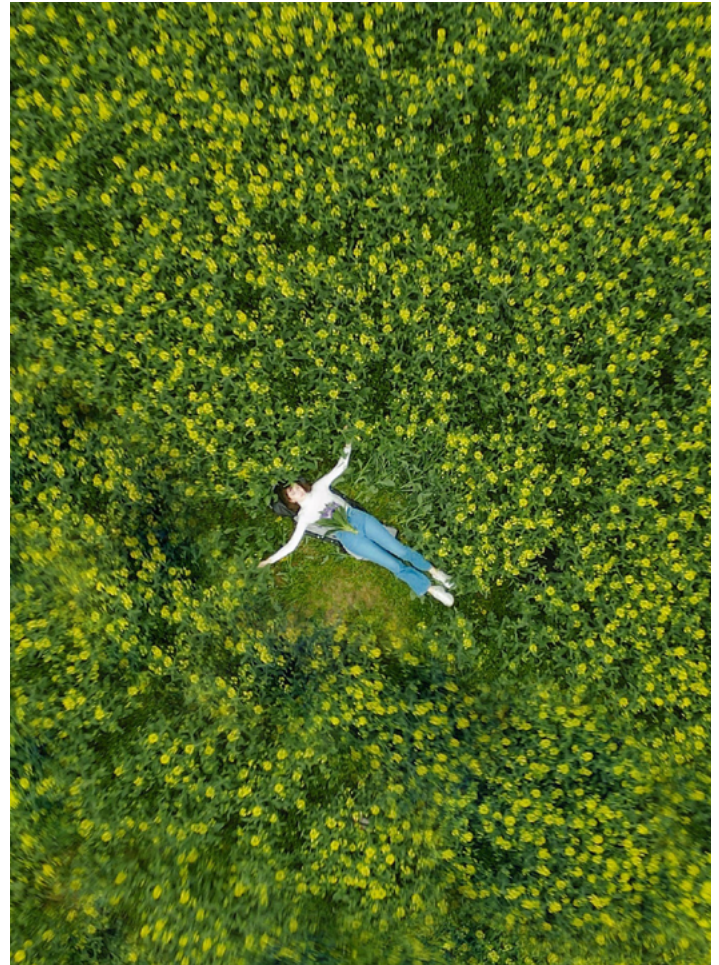
2. ESG due diligence

- Comprehensive assessment of material ESG risks and opportunities (risk mapping);
- Proportionate in-depth due diligence (including site visits when necessary) across ESG criteria, industry and client profile supported by our due diligence web-based tool;
- Stress testing your supply chain for ESG concerns;
- Structuring and documenting ESG due diligence reports, risk assessments and KPIs.

3. ESG litigation & dawn raid support

- Support any claims handling and litigation;
- Support during dawn raids and communicating with authorities' regulator/investors;
- Support in responding to and handling regulatory investigations.

Arendt combines all expertise to support companies with their ESG obligations and approach.



arendt is by your side

Contact us

If you would like more information, please contact us at esg.arc@arendt.com



Read more about our expertise