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The impact of national and EU due diligence legislation on procurement and supply chain management

June 2024

Content

[1] in negotiation and subject to final ratification

An analysis based on a survey of 681 participants from companies with more than 500 employees

Study

- Survey took place from November 10 to December 3, 2023 in cooperation with Verian

Sample

- Managing directors, board members, managers and other persons with procurement/supply chain responsibility in companies with more than 500 employees.
- 681 respondents, 351 from France and 330 from Germany
- Companies from 3 sectors: Industry, trade and services

Survey and data processing

- The data was divided into four categories
- All respondents from France
- All respondents from Germany
- Those responsible for procurement and supply chain:
- CPO
- Logistics managers
- Other procurement functions
- Members of the Executive Committee (C-Levels):
- CEO
- CFO
- COO

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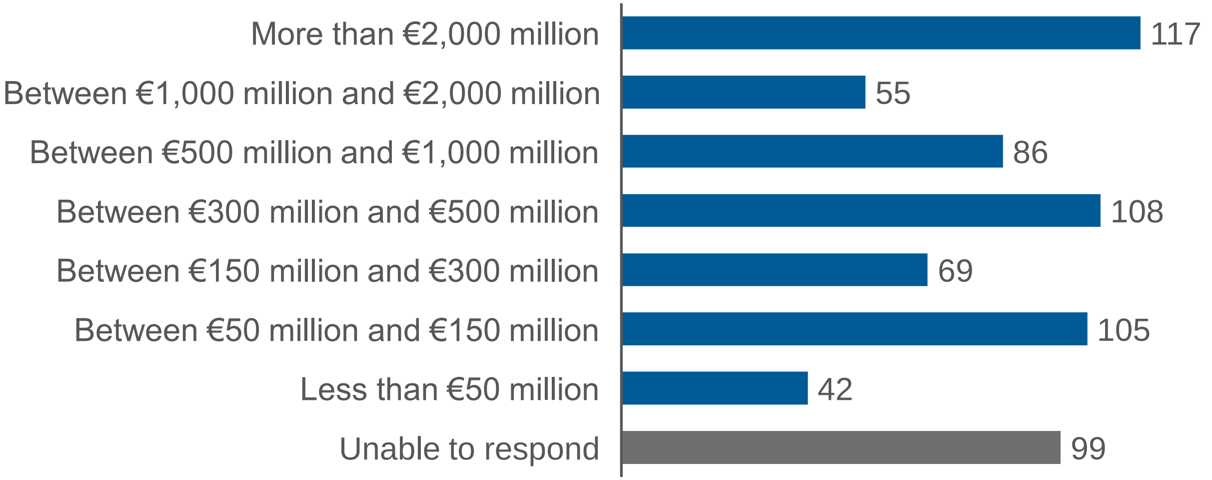
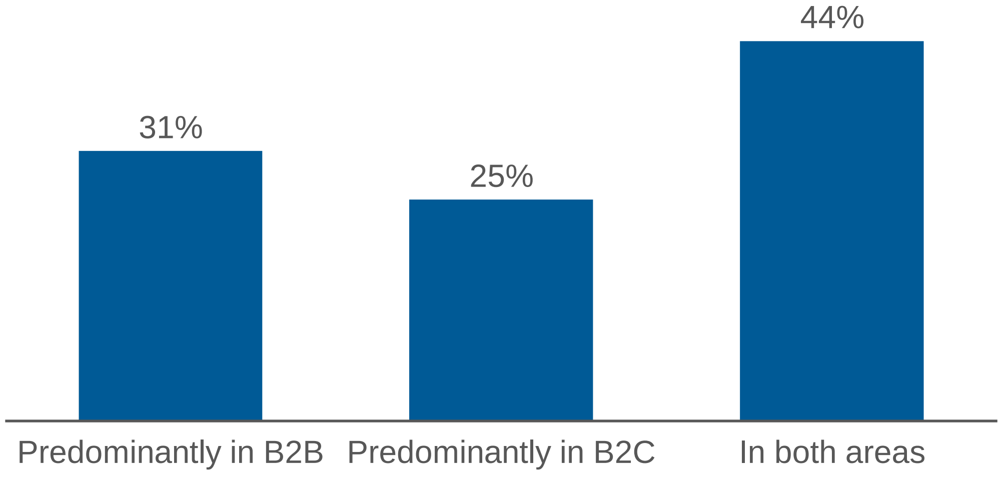
The participants work in companies of all business areas and industries which provides a conclusive and representative picture for the whole market

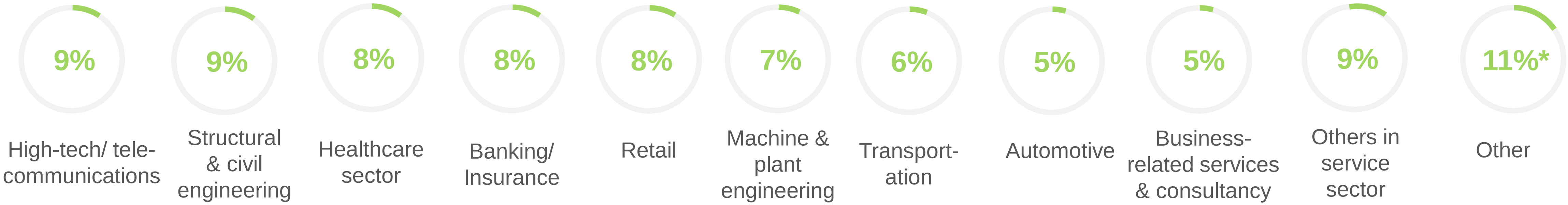
What was your company's annual turnover in 2022?



In which of these areas does your company operate?



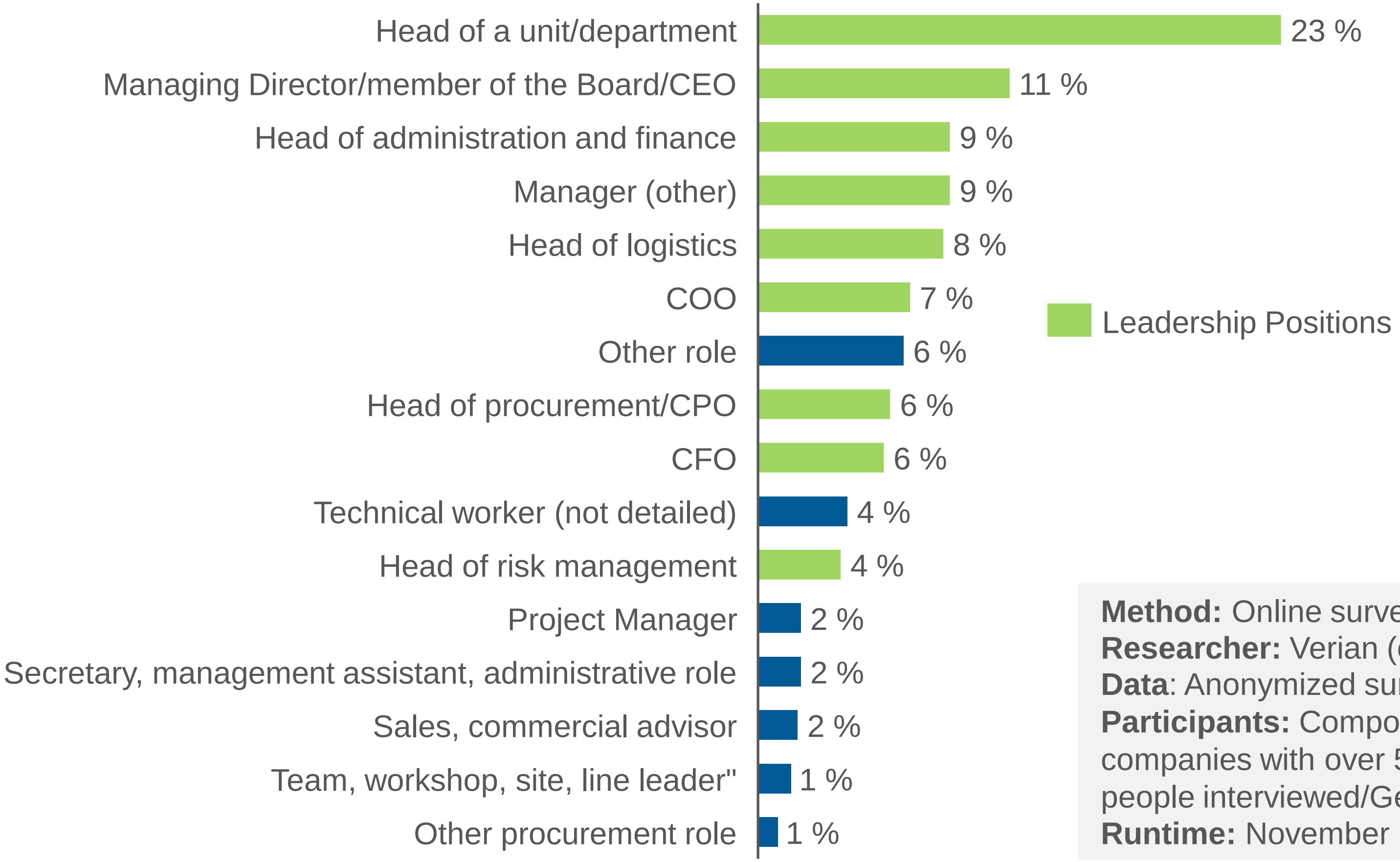
Which industry do you operate in?



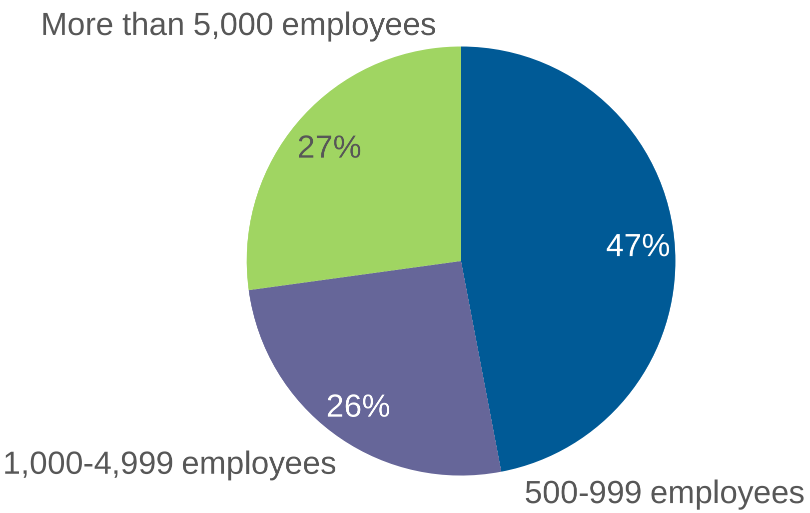
*Consumer goods, Service for private individuals, Pharmaceutical

More than three quarters of the participants hold leadership positions within their companies

What is your role in the company?

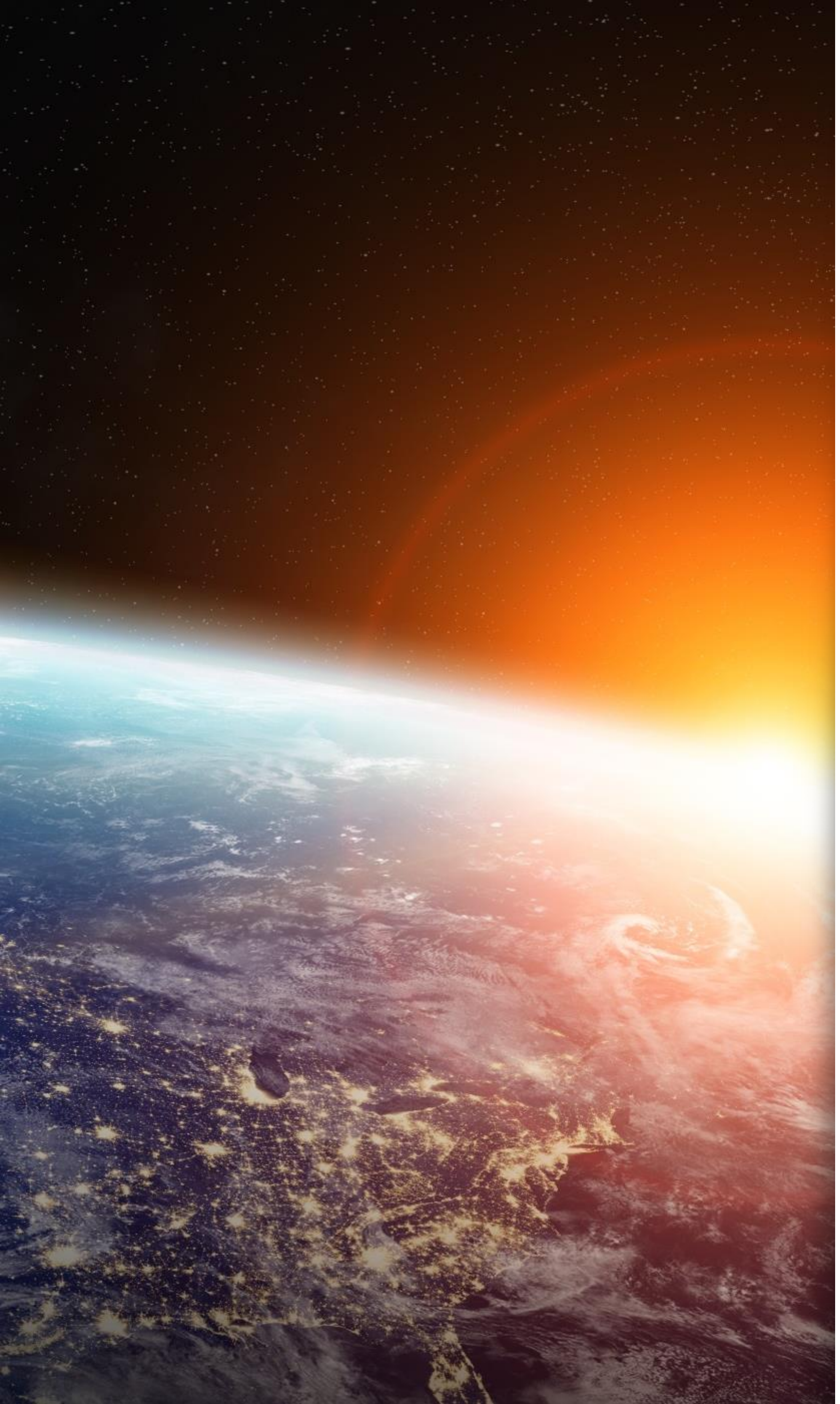


How many employees does your company have worldwide?



Method: Online survey
Researcher: Verian (on behalf of INVERTO GmbH)
Data: Anonymized survey and evaluation
Participants: Composed of CEOs, CPOs, decision-makers in procurement/SCM in companies with over 500 employees operating in France/Germany (France: 351 people interviewed/Germany: 330 people interviewed)
Runtime: November 10 – December 3, 2023

Content



Due diligence as an obligation to promote human rights and environmental protection

- The European Corporate Sustainability Due Diligence Directive (CSDDD) complements the Corporate Sustainability Reporting Directive (CSRD) introduced in 2024
- The aim is to oblige companies to **monitor and minimize their negative impact on human rights and the environment**
- **The Directive enters into force on 25 July 2024** after its publication in the Official Journal of the European Union. Member States will have two years to transpose the Directive into national law and communicate the relevant texts to the Commission. One year later, the rules will start to apply to companies, with a gradual phase-in between 3 and 5 years after entry into force, i.e., July 2027 to July 2029

The European Corporate Sustainable Due Diligence Directive is the result of more than 10 years of reflection

2013

April 24, 2013
Rana Plaza collapse in Bangladesh with 1,100 fatalities

2017

March 27, 2017
French law concerning the due diligence obligations of holding companies and contracting companies

2019

November 13, 2019
The Netherlands passes a law banning the provision of goods and services by child labor

2021

June/July 2021
Norway passes a law on due diligence

2023

January 1, 2023
German due diligence law takes effect

June 1, 2023
The European Parliament votes in favor of the CSDDD[1]

December 14, 2023
The European Parliament, the EU Council and Commission reach an agreement on the directives

2024

January 1, 2024
Entry into force of the CSRD[2] adopted by the European Parliament in 2022

May 24, 2024
CSDDD approved by member states

July 25, 2024
Entry into force of the CSDDD after being published in the Official Journal of the European Union

Trigger | Relevant legislation

[1] CSDDD: Corporate Sustainability Due Diligence Directive
[2] CSRD: Corporate Sustainability Reporting Directive

CSRD and CSDDD - two European directives to raise companies' awareness of their social responsibility

	CSRD: Commitment to transparency[1]	CSDDD: Due diligence (status July 2024)[2]
	CSRD establishes extra-financial reporting obligations to encourage corporate sustainability	The CSDDD establishes the legal responsibility of a company in cooperation with their direct suppliers, which includes the identification, prevention and mitigation of social and environmental impacts
Key data	Effective from: 01/01/2024 Vote: 2022	Effective from: 27/07/2026 - after 2 years time to transpose the Directive into national law. In-scope companies will be required to comply within a staggered timeline ranging from July 2027 to July 2029.
Companies	• Companies affected as of 01.01.2024: > 500 employees; turnover > € 40mn and € 20mn balance sheet total • Companies affected as of 01.01.2025: > 250 employees; turnover > € 40mn and € 20mn balance sheet total • Companies affected as of 01.01.2026: Listed SMEs except micro-enterprises	• *Three years after entry into force*: EU companies and parent companies > 5,000 employees; turnover (global or generated in the EU) > € 1.5bn • *Four years after entry into force*: EU companies and parent companies > 3,000 employees; turnover (global or generated in the EU) > € 900mn • *Five years after entry into force*: - EU companies and parent companies with > 1,000 employees; turnover (global or generated in the EU) > € 450mn - Franchise companies based in the EU with turnover > € 80mn if at least € 22.5mn generated through license fees (For non-European franchise companies, thresholds refer to turnover generated in the EU)
Parameters	Companies have to: • Provide detailed information on their environmental, social and, governance impacts • Publish reports on the risks and opportunities associated with these aspects • Use a standardized electronic reporting format	Companies have to: • Identify and manage impacts on human rights and the environment, including prevention, mitigation of potential risks and remediation of existing impacts • Establish grievance mechanisms, monitor the effectiveness of the measures and report transparently

[1] Source: https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en#legislation
[2] Source: https://eur-lex.europa.eu/

The directives require companies to introduce preventive and corrective measures to avoid possible sanctions

Companies are expected to take measures to fulfill their due diligence obligations

- **Incorporating** due diligence into corporate guidelines
- **Identification** of actual or potential negative impacts of its own activities and those of its subsidiaries on human rights and the environment
- **Avoiding or mitigating** potential impacts and stopping (or minimizing) actual impacts with action plans tailored to the company's activities, contract amendments, project-, investment- or management adjustments
- **Establishing and maintaining** a procedure for complaints and internal warnings
- **Ongoing review** of the effectiveness of security guidelines and measures
- **Public communication** about the Due Diligence Directive

Monitoring measures and sanctions in accordance with the CSDDD[1]

Each state is required to set up a national supervisory authority to monitor and investigate companies' compliance with the regulations, and to sanction companies.

- Inspections and investigations
- In the future, companies will be held accountable for damages caused by CSDDD violations
- Fines of up to 5% of a company's global net turnover

[1] Source: https://eur-lex.europa.eu/

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The European CSDDD guidelines go beyond the guidelines of national regulations

Current regulations (Germany)

1. Companies based in Germany as of 2023:
   - Number of employees > 3,000
2. Companies based in Germany as of 2024:
   - Number of employees > 1,000

Current regulations (France)

1. Companies based in France:
   - Number of employees > 5,000
2. Foreign companies based in France:
   - Number of employees > 10,000

New regulation (gradual phase-in from July 2027 – 2029)

- *Three years after entry into force*: EU companies and parent companies > 5,000 employees; turnover (global or generated in the EU) > € 1.5bn
- *Four years after entry into force*: EU companies and parent companies > 3,000 employees; turnover (global or generated in the EU) > € 900mn
- Five years after entry into force (from July 2029):
  - Companies in the EU and third-country companies operating in the European Union: > 1,000 employees; turnover > € 450mn
  - Franchise companies based in the EU; turnover > € 80mn if at least € 22.5mn generated through license fees
- Note: Temporary exclusion of the Financial sector from the scope of the Directive

Current parameters (Germany)

- The companies' due diligence measures cover **the entire supply chain** - from raw materials to the final sales product
- The requirements are graded according to the company's size

Current parameters (France)

Identify, assess, mitigate, alert and monitor risks within:
- Subsidiaries
- Subcontractors
- Suppliers

New parameters: the activity chain

Identify, assess, prevent, mitigate, end, and remedy the negative impacts of its activities on people and the planet and on its partners, in particular with regard to:

- Production
- Procurement
- Transportation
- Warehousing
- Planning
- Distribution

The activity chain comprises the activities of the upstream and parts of the downstream value chain. In the downstream value chain, transportation, storage and distribution are only considered in direct business relationships, whereas the disposal of products is completely exempt from audits.

Content

Companies are receptive to more demanding regulation, despite difficulties due to lack of transparency and understanding

Companies prioritize the financial performance of procurement. ESG aspects are among the top 4 priorities

Due to successive crises that have impacted prices and procurement capacity - such as Covid, the Ukraine conflict, and other geopolitical and economic hurdles, the biggest challenges companies have faced in the last three years include labor shortages (61%), supply shortages and inventory issues (55%) raw material shortages (51%).

44% of C-level participants feel well informed about the EU directive (CSDDD), only 21% of procurement/SCM managers share this opinion

Our study shows that only 24% of procurement and supply chain managers believe that the directive can be implemented in planned and structured initiatives. Procurement and supply chain functions are waiting for concrete impulses in their companies. Although initial measures have been taken, almost one in five employees do not know how far these measures have progressed. Too few companies have created a materiality matrix, which is the key to implementing this directive.

72% of respondents have taken at least one measure to achieve compliance at a national or European level

Measures implemented include an annual business report, the development of compliance guidelines, and the introduction of supplier selection criteria. 42% find it difficult for their procurement and SCM functions to get a complete, transparent overview of the supply chain, particularly in terms of suppliers' ESG compliance, which explains the need for external support in building an implementation strategy for both the business aspects and data management.

In the long term, 71% of companies expect positive financial impacts in the long term; the rest of the respondents, especially industrial companies, fear a loss of competitiveness.

Despite the expected positive long-term effects, 70% of the companies surveyed anticipate additional costs. Only 30% expect no additional costs as a result of the new directives. 23% of the companies surveyed expect a loss of competitiveness as a result of the new regulations.

On average 42% of respondents expressed the need for training and a better allocation of resources in procurement and SCM

43% consider training a very relevant form of support to overcome the challenges posed by the new EU rules and regulations. 41% of the respondents expressed a need for additional resources (financial or personnel). Only one-third consider monitoring and reporting tools to be important in order to comply with the regulations.

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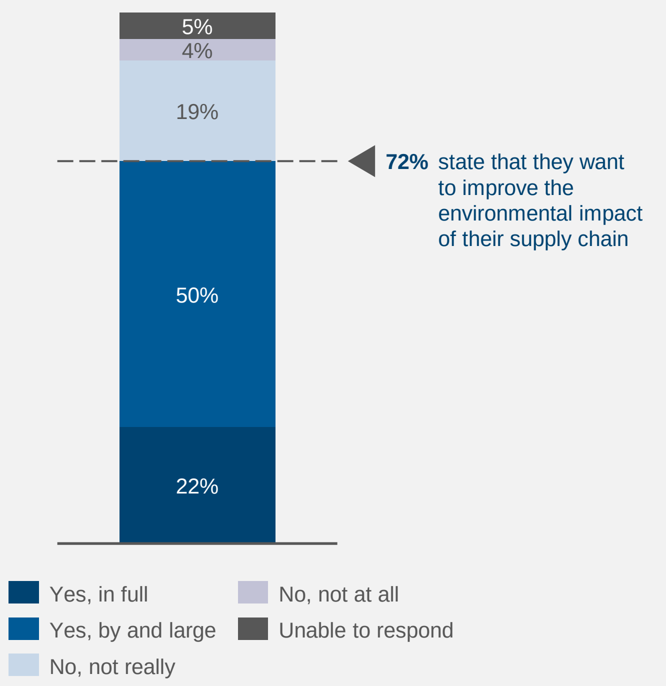
While 72% of respondents feel that supply chain optimization in terms of ESG is a corporate priority, only 31% ranked this as a top three priority for procurement

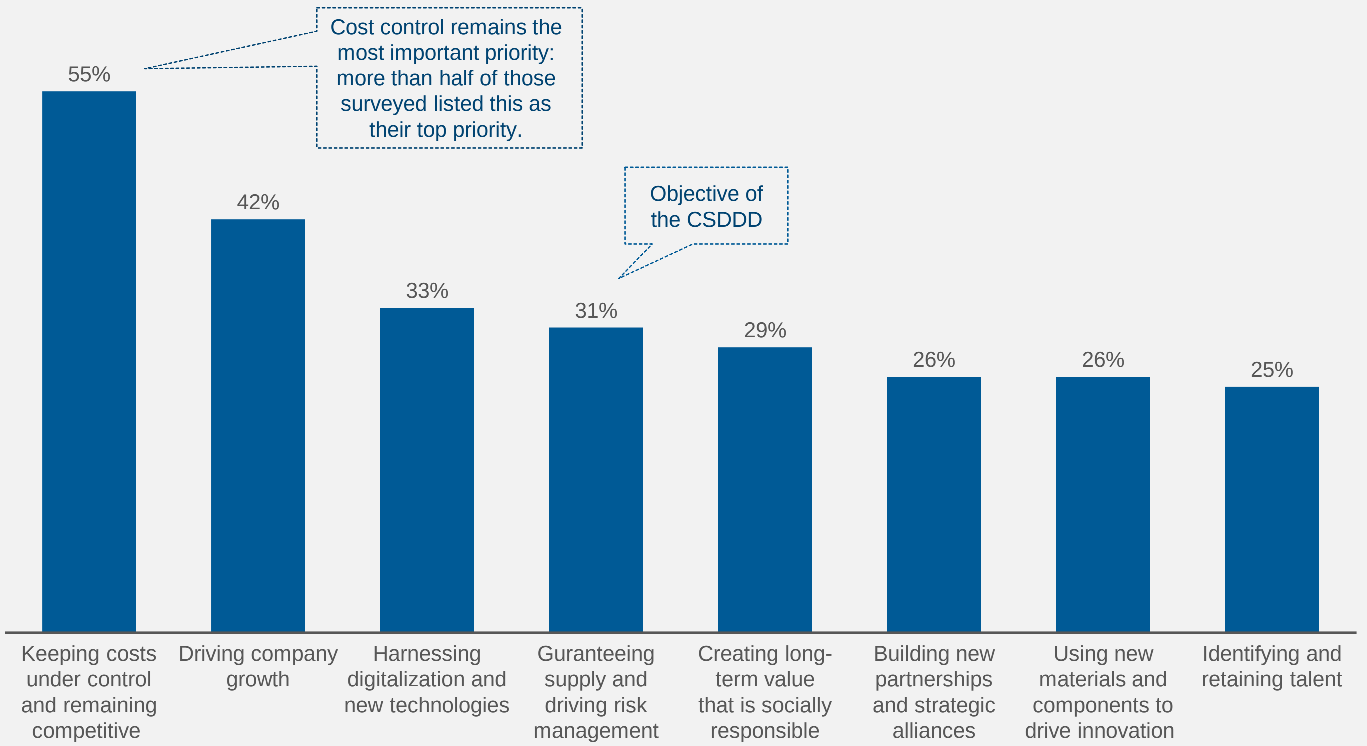
Topic awareness

Do you currently feel that optimizing the supply chain in terms of environmental protection and human rights is a priority for your company?



Order of priority

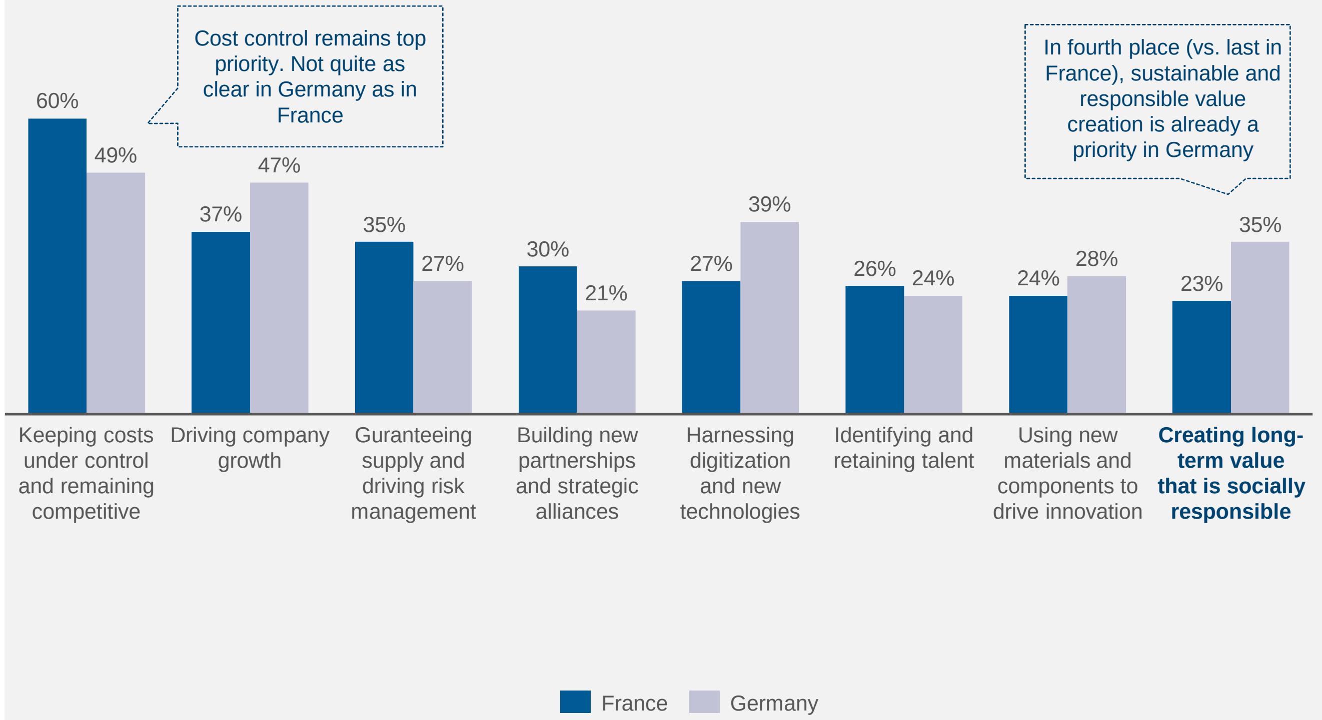
In terms of procurement, what are the top 3 priorities for your company? (multiple answer: max. 3)



Overall, the top 3 priorities for companies in procurement are: cost control, company growth and digitalization

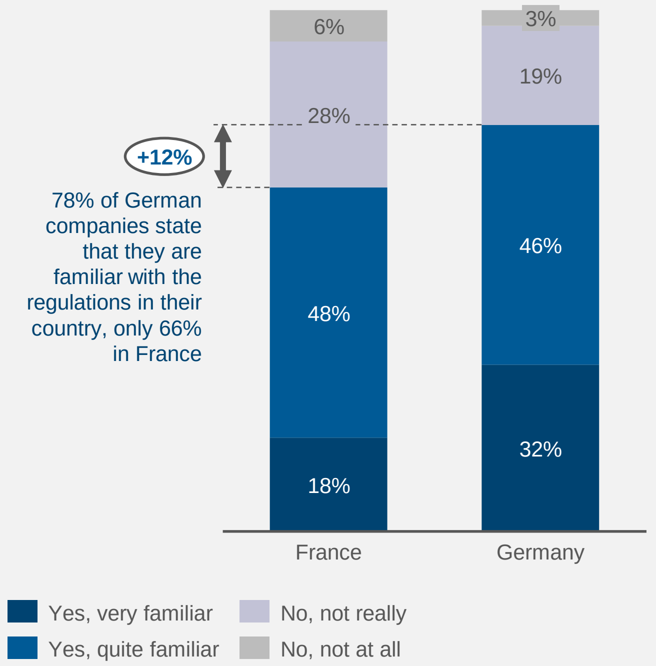
Order of priority (Germany vs. France)

In terms of procurement, what are the top 3 priorities for your company? (multiple answer: max. 3)



Knowledge of national legislation

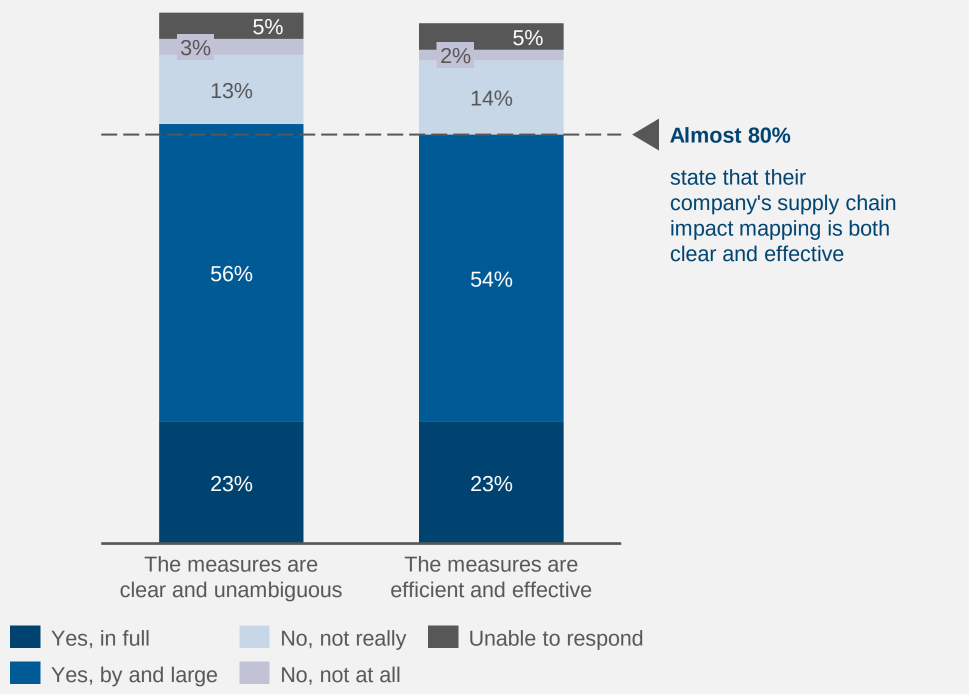
Are you familiar with the current national legal requirements for due diligence?



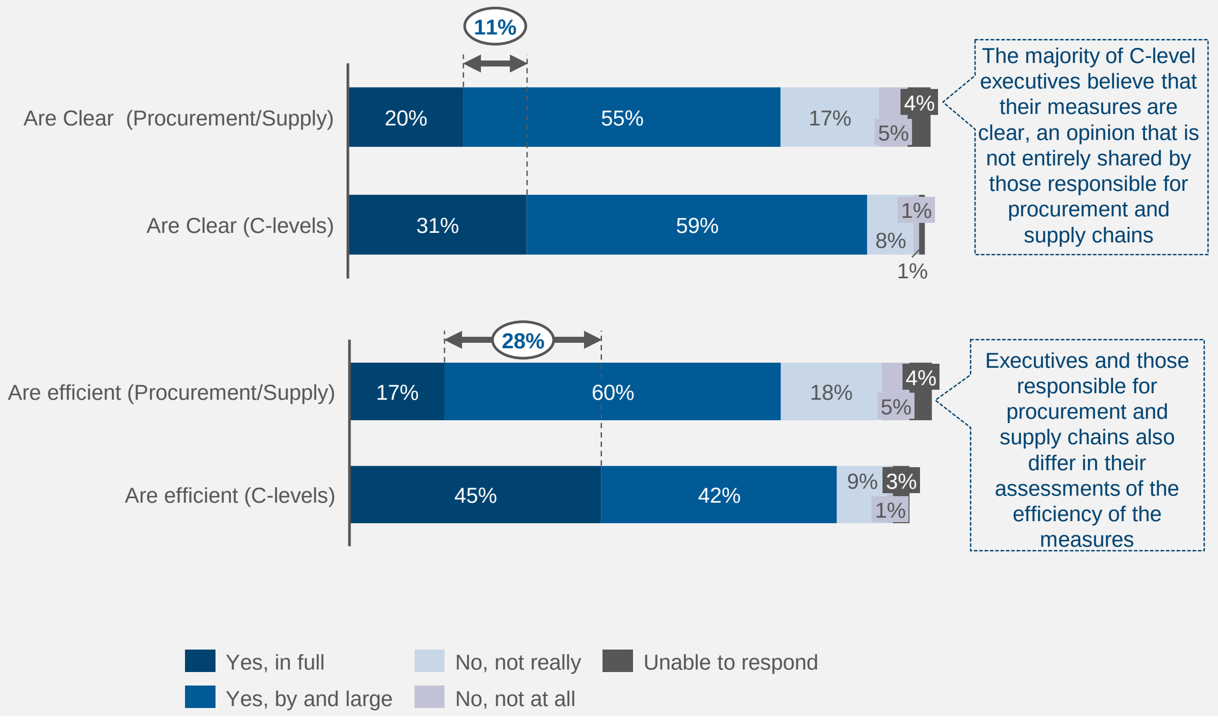
The company's measures for managing and recording supply chain influences are rated as clear and efficient by a large majority of the respondents

Measures taken by your company to record and manage supply chain influences

Do the following statements apply to your company's measures to record and manage supply chain influences?



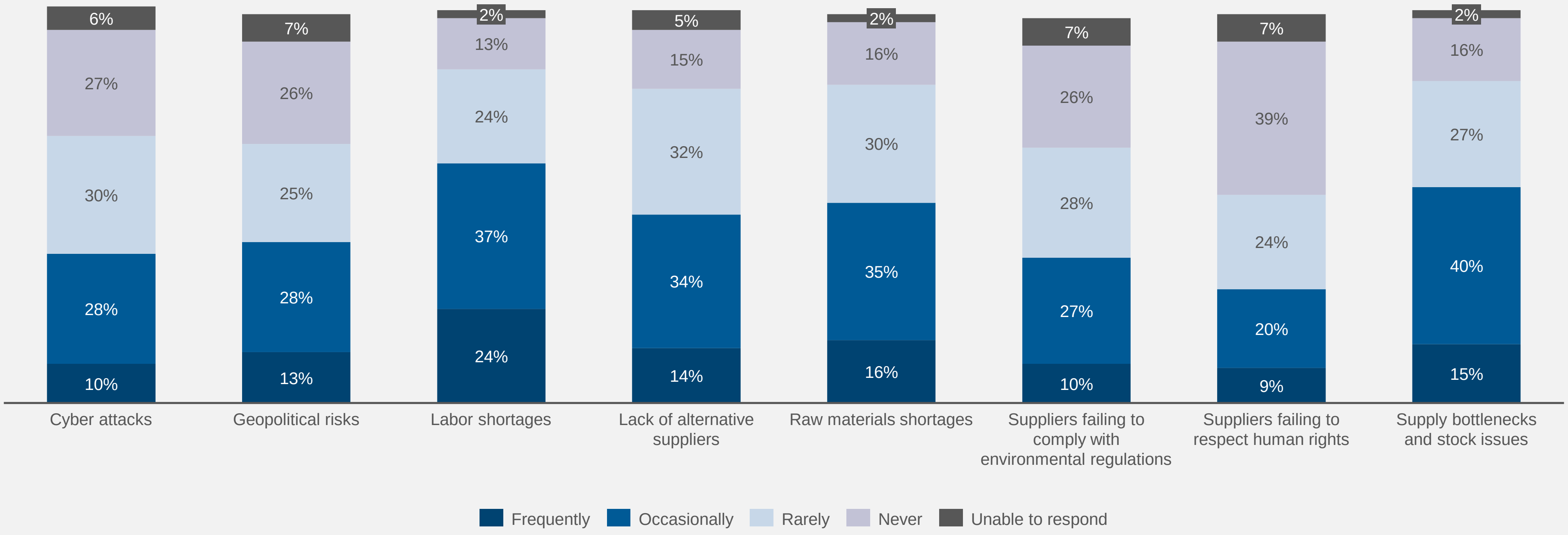
Focus: Function within the company



Out of all the risks and challenges affecting the supply chain, the participants had the least problems with the supplier’s respect of human rights

The biggest challenges in the supply chain

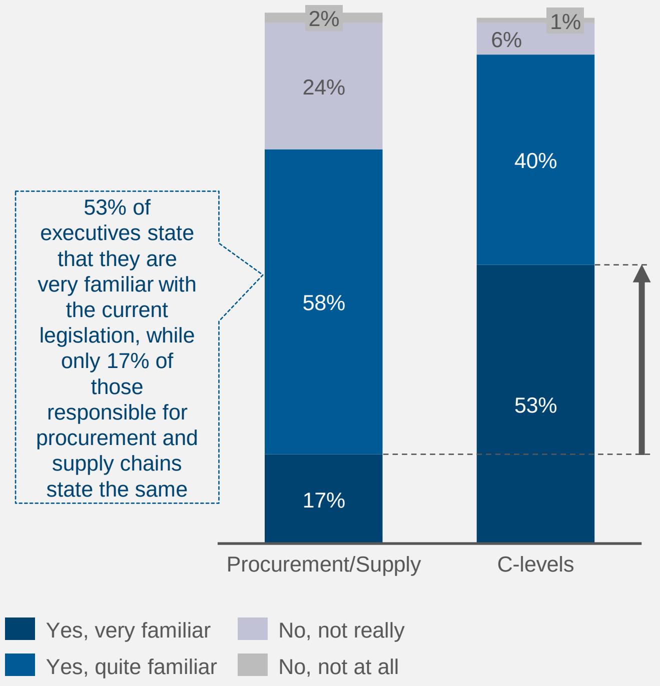
Have any of the following risks and challenges affected your supply chain in the last three years?



Most participants consider themselves well informed about the regulations, and are positive about their training, and support from management

Knowledge of the current legislation

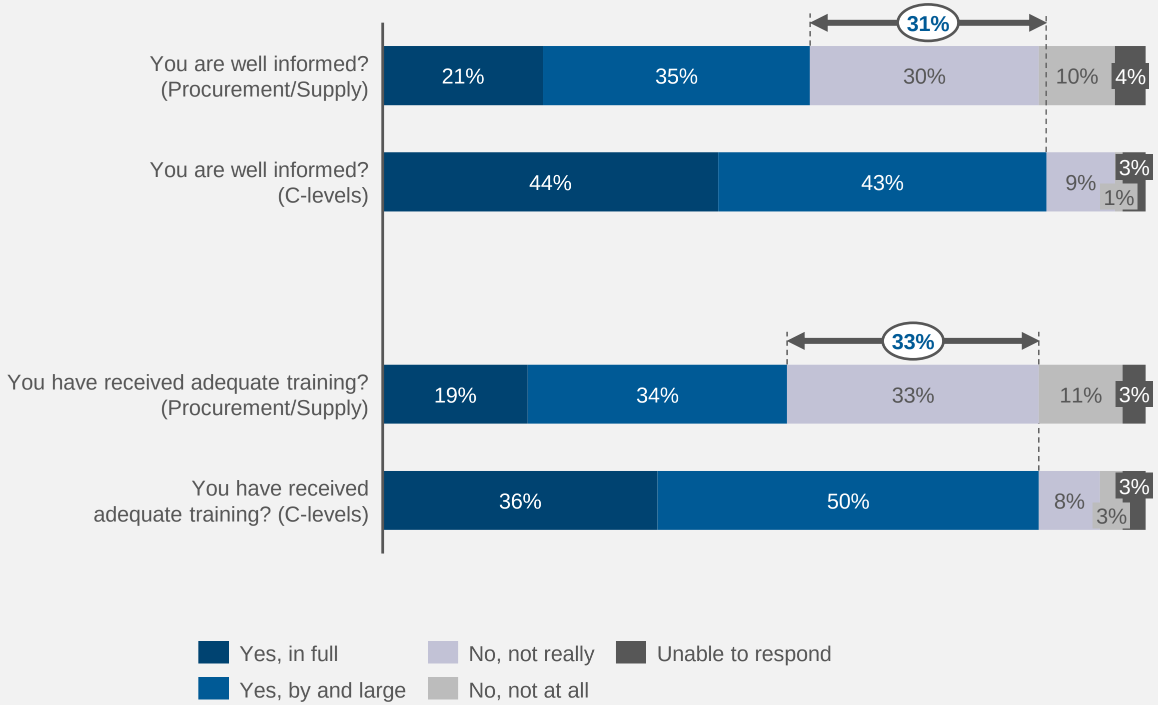
Are you familiar with the current national legal requirements for due diligence?



53% of executives state that they are very familiar with the current legislation, while only 17% of those responsible for procurement and supply chains state the same

Information on regulatory developments

When it comes to the planned EU due diligence regulations, would you say that:



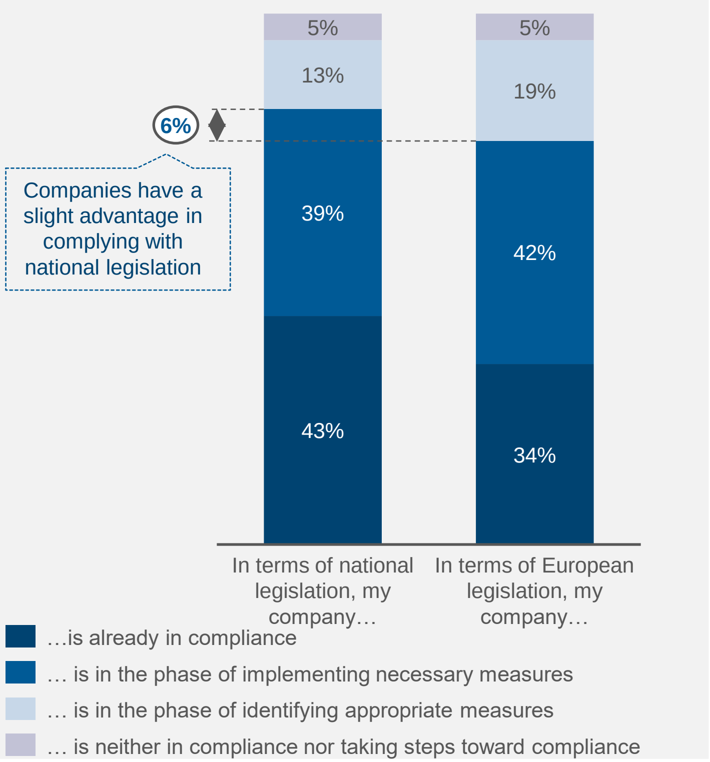
Executives consider themselves to be very well informed, those responsible for procurement and supply chains less so.

The lack of training is felt more strongly by procurement & SCM respondents than by C-Suite executives.

More than three quarters of the companies are either in compliance or in the process of becoming compliant with both European and national regulations

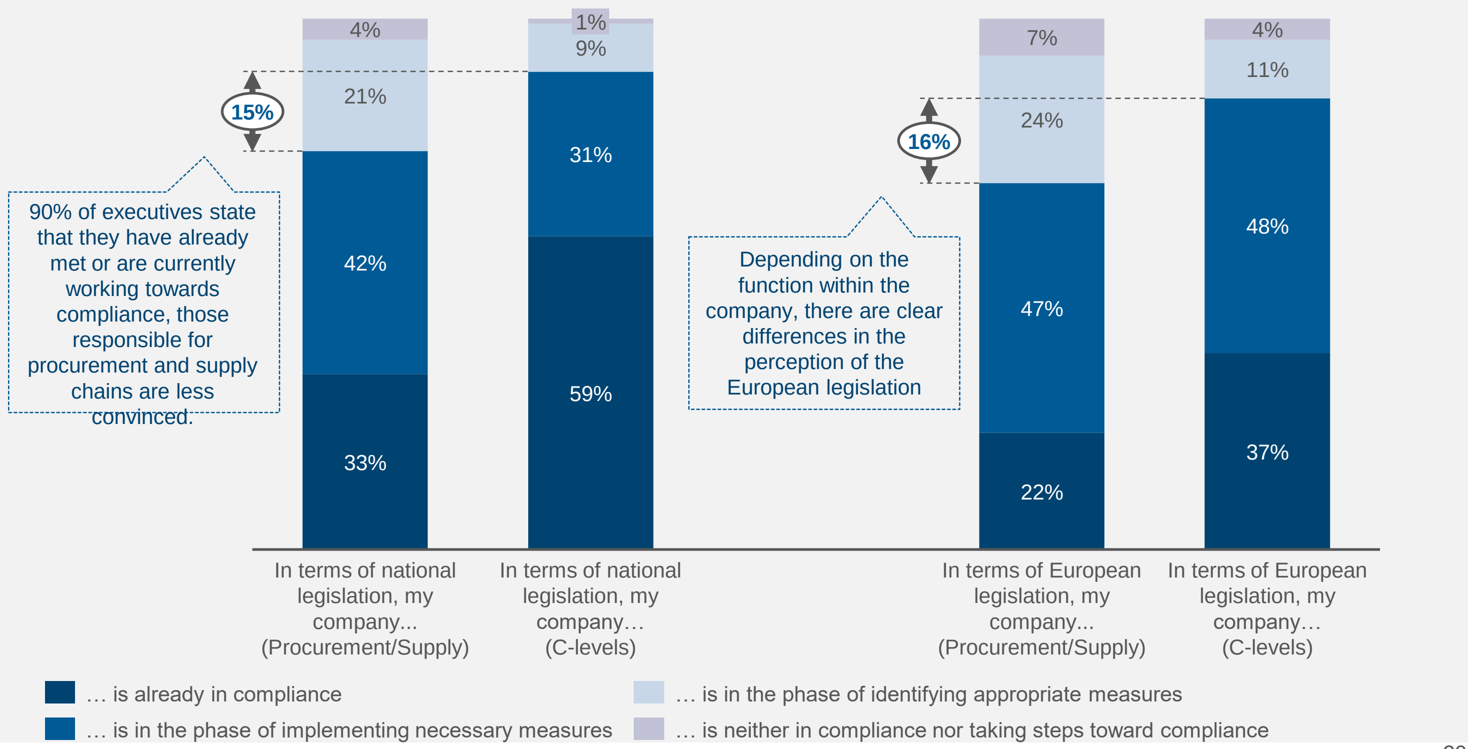
Perception of companies' preparation for regulations

Which statement do you feel most appropriately describes your company's current level of compliance?



Perception of preparation depending on position

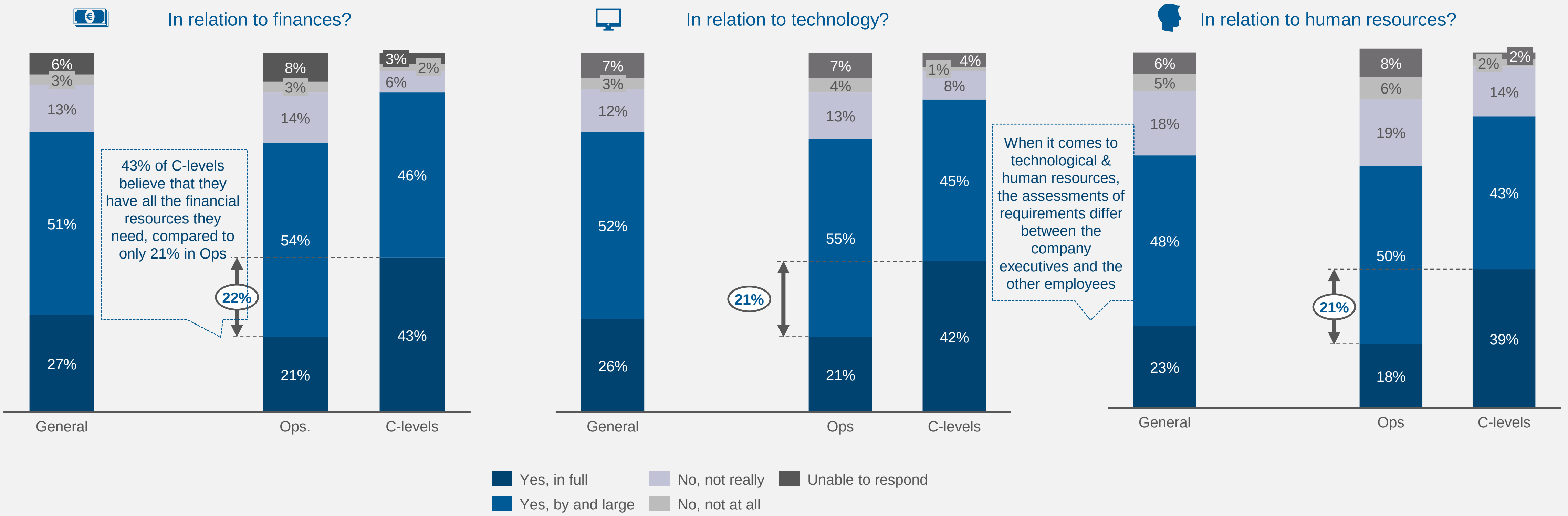
Which statement do you feel most appropriately describes your company's current level of compliance?



Companies believe they have the necessary tools to comply with regulations: C-level participants are more confident than Ops[1]

Evaluation of internal resources for compliance

Does your company have the necessary resources to ensure professional supply chain management in compliance with the new EU regulations...



[1] Ops: Other employees of the company

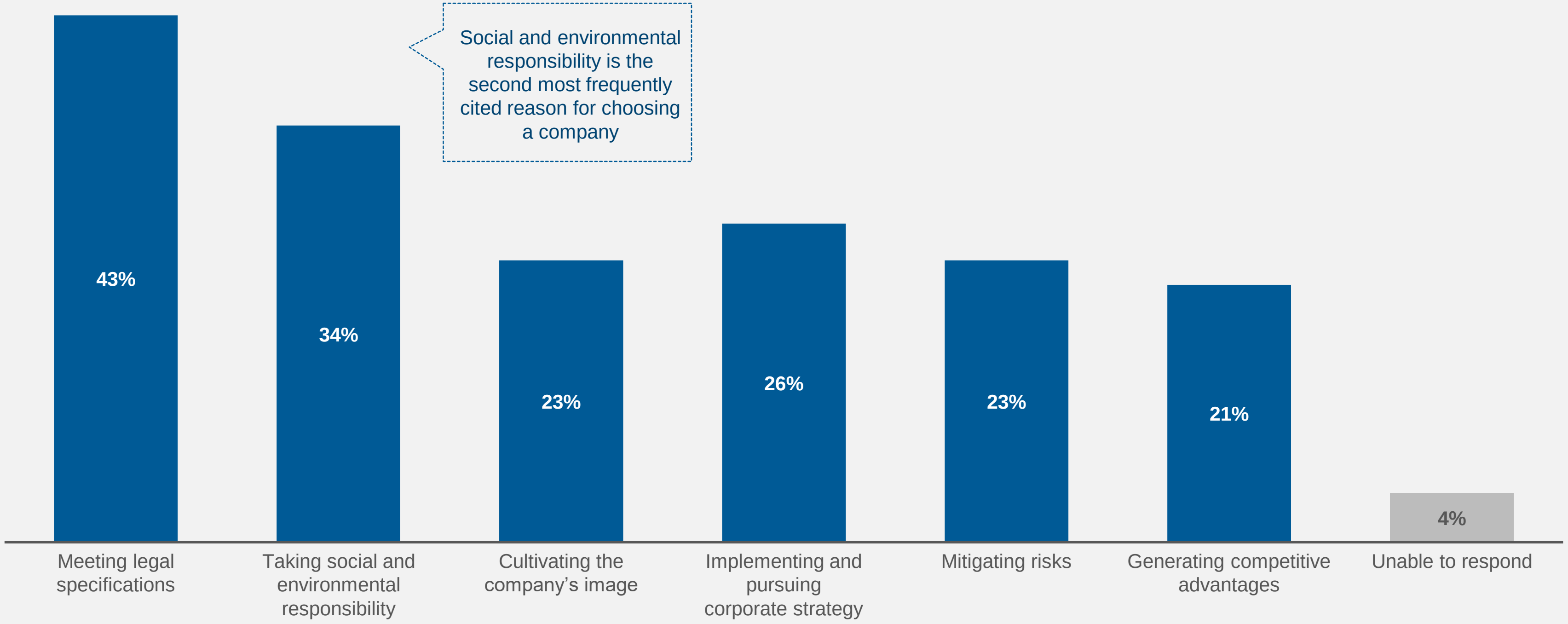
Meeting legal specifications and taking social & environmental responsibility are the main sources of motivation for driving measures forward

Reasons for driving the measures forward

What is the main rationale behind these measures? (2 answers max)

The most frequently cited reason (with 43% of respondents) is meeting legal specifications. It is the law that is prompting companies to act

Social and environmental responsibility is the second most frequently cited reason for choosing a company



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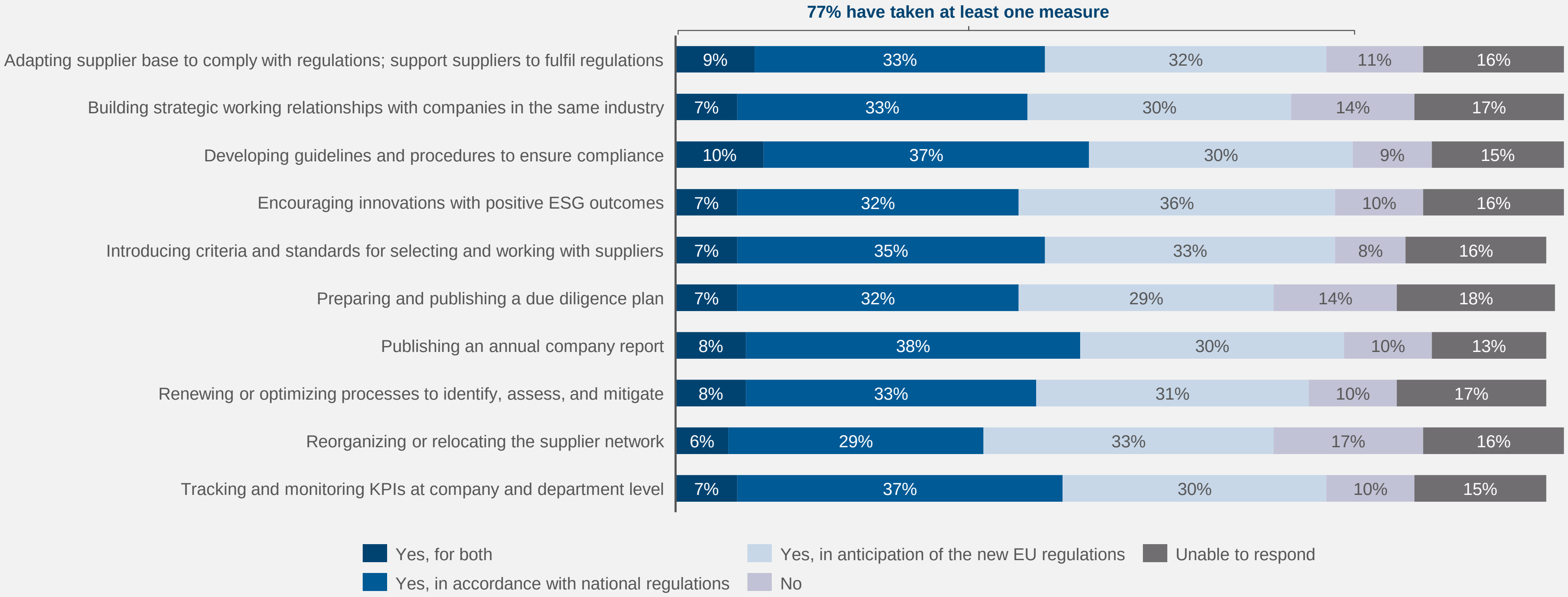
Numerous measures are already in place or planned by respondents to comply with national and European legislation

Compliance measures

From your point of view, which of the following measures have been considered or already implemented to achieve compliance on a national and European level?

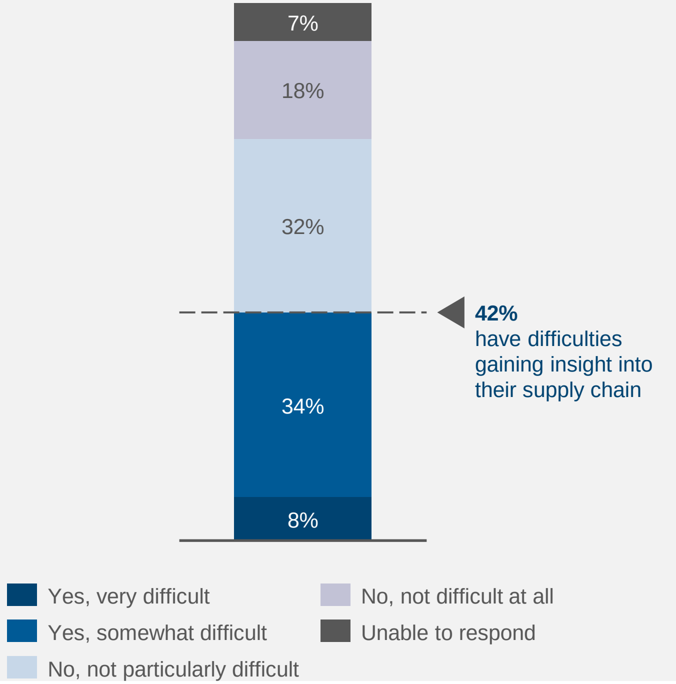


The proportion of respondents who do not know whether the following measures have been implemented indicates a lack of visibility and internal communication

72% of respondents confirm that they face at least one difficulty when rolling out the measures

Transparency of interest groups

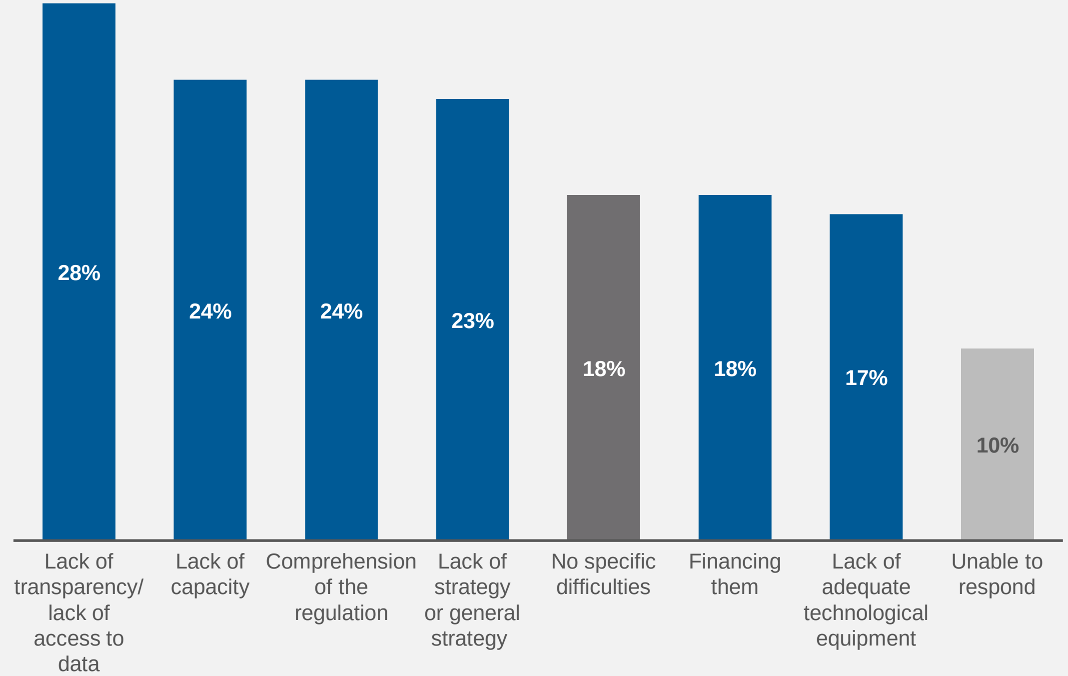
Do your procurement and SCM functions find it difficult to get a complete, transparent overview of the supply chain, particularly in terms of whether suppliers respect human rights and comply with environmental protection regulations?



Challenges with specific measures

Which are the most common challenges facing your company when it comes to implementing the measures? (multiple answers)

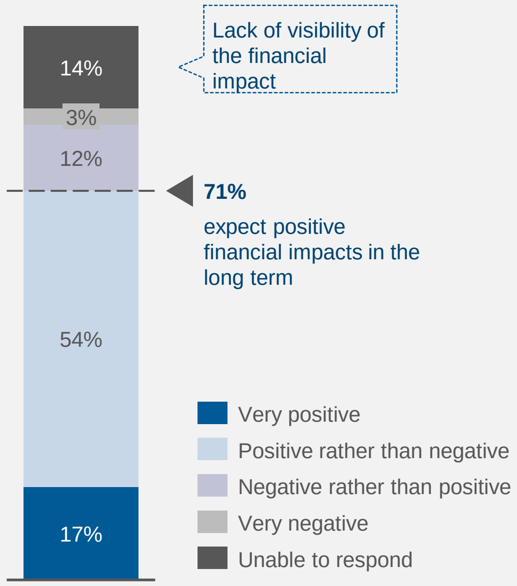
The biggest obstacles for specific measures are the lack of transparency and a lack of capacity. This makes it difficult for companies to identify the levers for an effective strategy



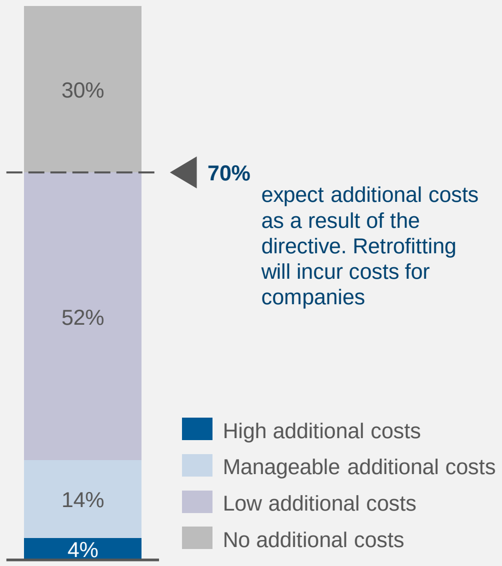
Despite the expected positive long-term effects, 70% of companies expect additional costs and 23% fear a loss of competitiveness

Anticipated financial impact

What financial impact do you expect in the long term? (in relation to ROI)

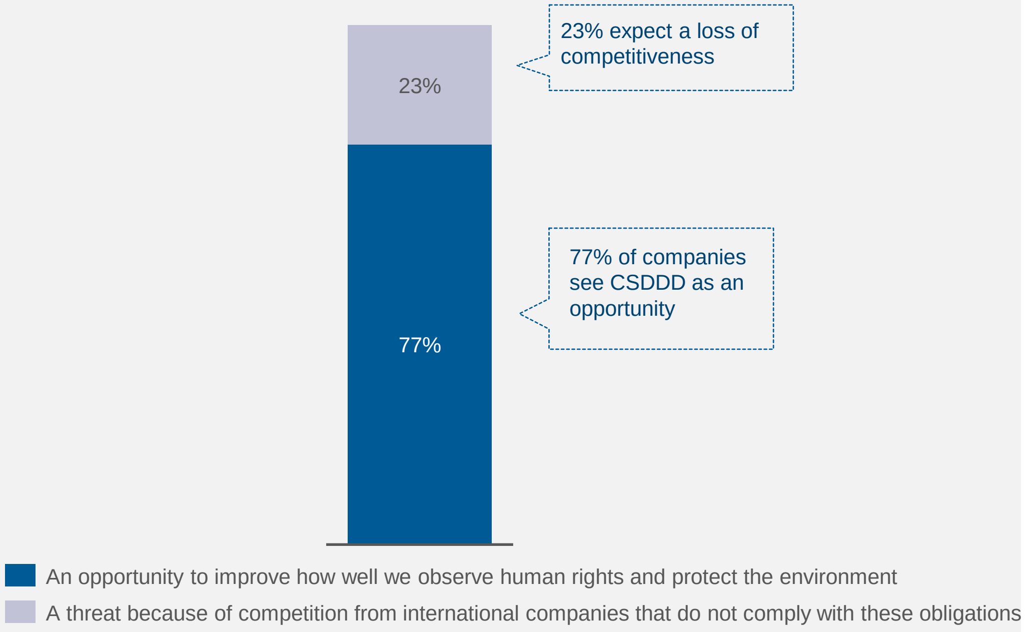


How do you feel compliance with the new EU directive will impact your company in terms of costs?



Impact perception

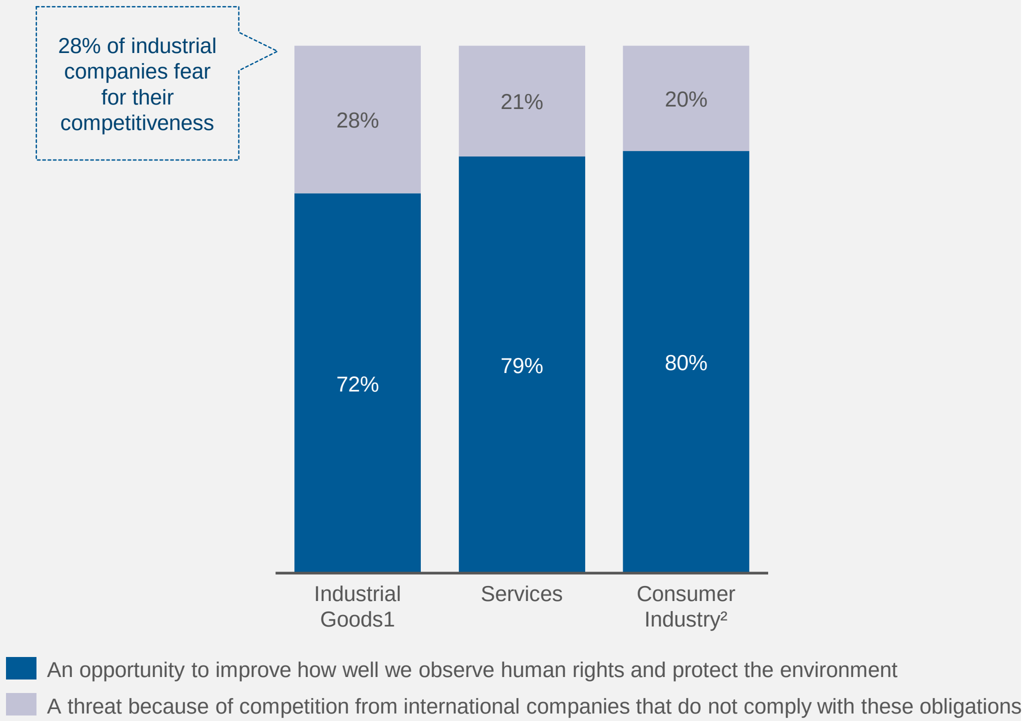
How do you see the new regulations for your company?



Large companies expect a somewhat greater financial impact than medium-sized companies, and the industrial sector fears for its competitiveness

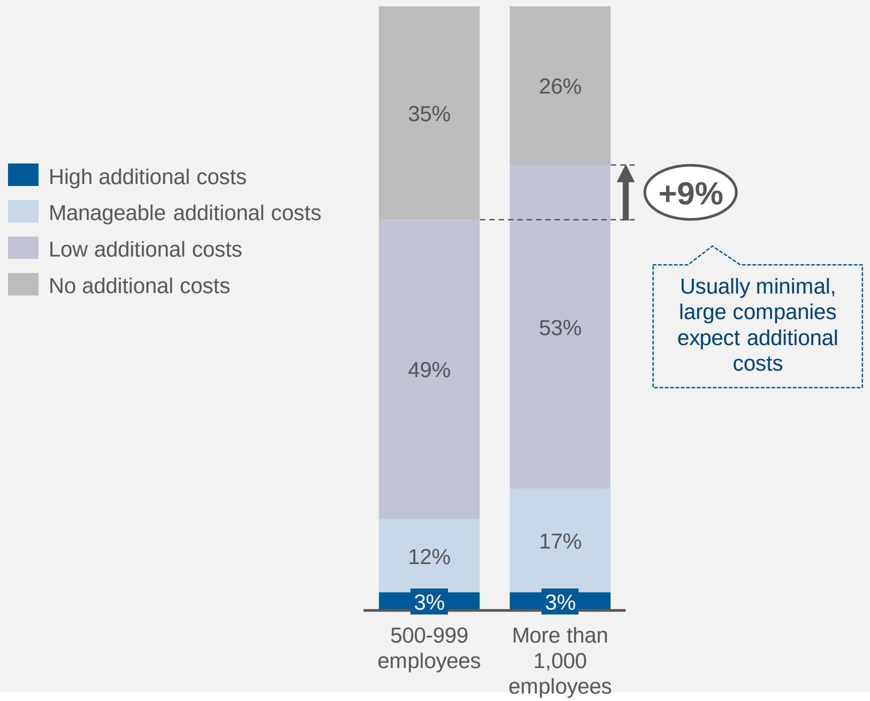
Industry focus

How do you see the new regulations for your company?



Focus on company size

How do you feel compliance with the new EU directive will impact your company in terms of costs?

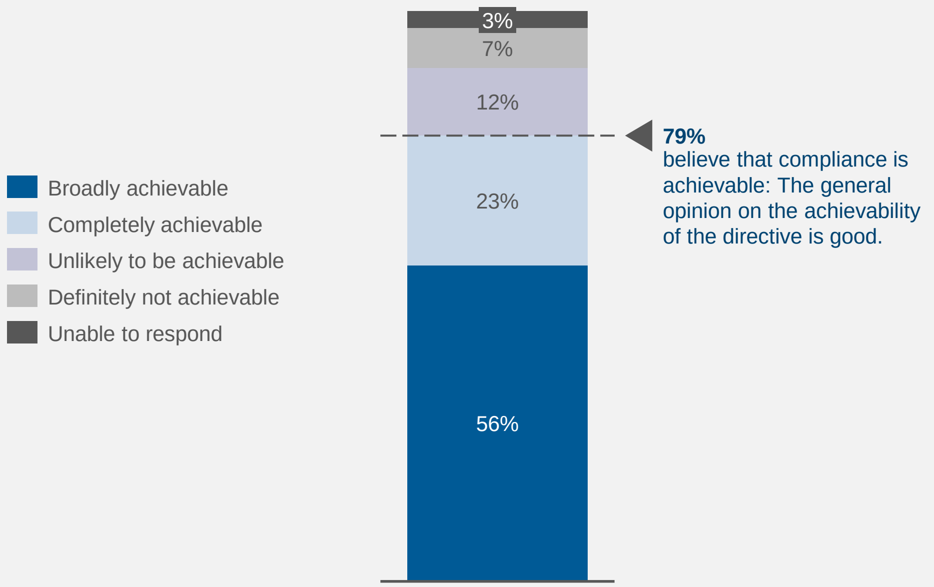


[1] incl. automotive, medtech, pharma
[2] incl. consumer goods, retail, travel & tourism, telecommunications

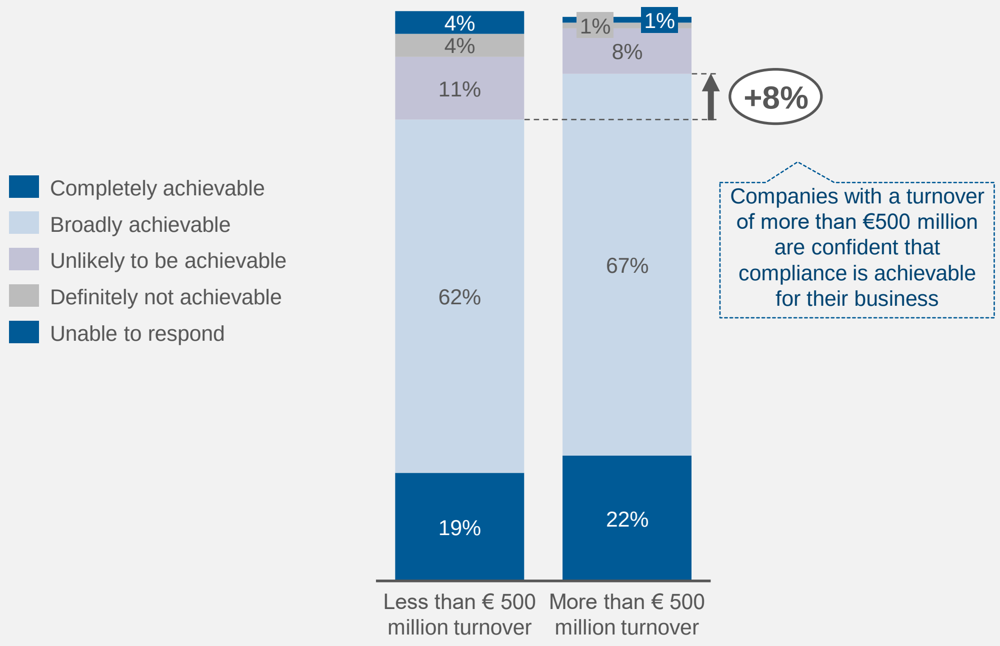
79% of companies are confident that compliance is achievable for their business

Implementing the directive

Complying with the due diligence regulations is a goal that is…



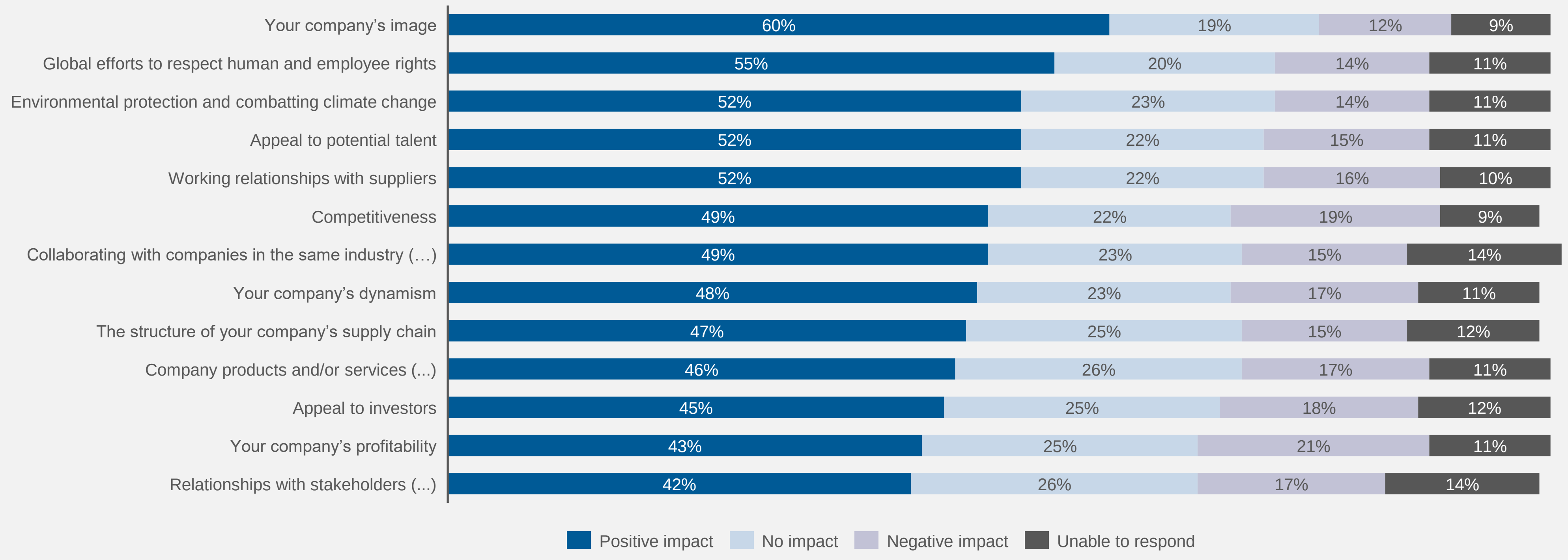
Focus: Turnover



Companies expect regulation to have a positive impact, particularly on the image and attractiveness of the company, and on ESG compliance

Anticipated impact on companies

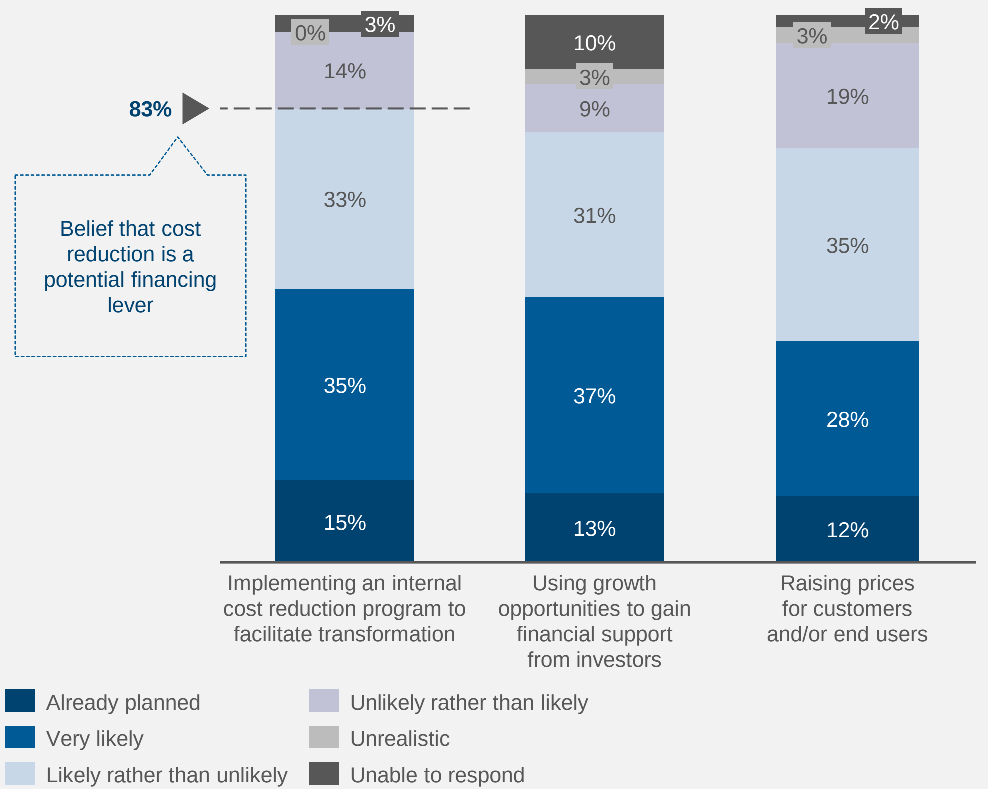
Do you belive that introducing more stringent due diligence into the supply chain will have a positive, negative or no impact at all on the following?



Around 40% of participants considered training and additional resources the main form of support needed to overcome the challenges posed by the EU rules

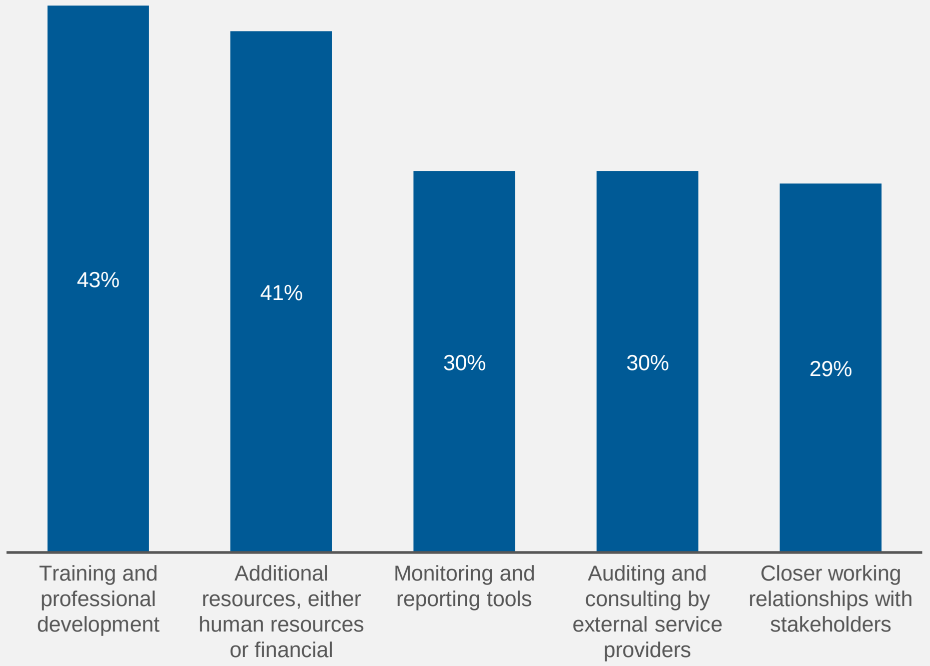
Financing measures to ensure compliance with regulations

Do you believe the following levers can be used to finance and support the implementation of and compliance with the new regulations in your company?



Additional costs

What form of support do your procurement and supply chain management in particular require to overcome the challenges posed by the new EU rules and regulations?



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The CSDDD offers companies the opportunity to gain visibility and control over their supply chain, provided they make strategic changes

Implementing a performance plan

To successfully adapt to the new CSDDD measures, it is crucial for companies to proactively create a cross-functional performance plan that effectively combines cost control, ESG engagement and increased resilience

Proactive initiatives by procurement management

To ensure that they are not disadvantaged by the new measures, procurement departments must act independently, proactively and take the initiative towards their management. This requires updating procurement data, deepening supply chain knowledge, and developing a decision matrix according to the "principle of double materiality[1]

Monitoring supplier data

In anticipation of the CSDDD, companies will have to actively collect supplier data to ensure that they can meet the regulation’s criteria and adapt their strategies accordingly

Compliance with the CSRD

In order to minimize the costs and efforts associated with compliance, it is imperative for companies to ensure that the measures taken under the CSDDD are directly compliant with the requirements of the CSRD

[1]An explanation of the principle please find here: Double materiality: Broadening corporate sustainability reporting to encompass societal and environmental impacts | Cambridge Institute for Sustainability Leadership (CISL)

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