



Brussels, 3.3.2025
COM(2025) 63 final

REPORT FROM THE COMMISSION

on the implementation of Article 4 of Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011

1. CONTEXT

1.1. Implementation report

This report provides an overview of the implementation of Article 4 of Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (hereinafter: Regulation (EU) 2019/1020). Such a report is required according to Article 42(3)¹ of Regulation (EU) 2019/1020. The report should in particular evaluate the scope of that Article, its effects and its costs and benefits.

1.2. The Market Surveillance Regulation (EU) 2019/1020

The framework for EU market surveillance of products covered by certain Union harmonisation legislation is provided for in Regulation (EU) 2019/1020. That Regulation became applicable on 16 July 2021. Member States' market surveillance authorities (MSAs) are required to ensure that the legislation is fully complied with.

Regulation (EU) 2019/1020 covers products that are subject to Union harmonisation legislation concerning manufactured products other than food, feed, medicinal products for human and veterinary use, living plants and animals, products of human origin and products of plants and animals relating directly to their future reproduction. Regulation (EU) 2019/1020 is also strongly linked to the General Product Safety Regulation (GPSR)², since some GPSR provisions will apply to the products covered by Regulation (EU) 2019/1020, and *vice versa*. The GPSR will become applicable on 13 December 2024.

1.3. Article 4 of Regulation (EU) 2019/1020

To ensure the compliance of products on the Union market, Article 4 of Regulation (EU) 2019/1020, requires that, for some products, there must be an **economic operator** established in the Union **responsible** for certain specific tasks as defined in Article 4(3) of the Regulation. In this report, the term "responsible economic operator" refers to the economic operator responsible for the tasks defined in Article 4.

Four types of operators can act as the economic operator referred to in Article 4: a manufacturer established in the EU, an importer (where the manufacturer is not established in the EU), an authorised representative who has a written mandate from the manufacturer designating the authorised representative to perform the tasks set out in Article 4(3) on the manufacturer's behalf, or a fulfilment service provider³ established in the EU, where there is no manufacturer,

¹ As provided for in that Article, this report was due by 16 July 2023. Due to data limitations and the fact that that publication at that date would have meant to work with findings covering only one year, it was considered appropriate to publish the report at this point in time.

² Regulation (EU) 2023/988 of the European parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC, OJ L.135 of 23.5.2023, p.1-51.

³ Defined in Article 3(11) of the Regulation as 'any natural or legal person offering, in the course of commercial activity, at least two of the following services: warehousing, packaging, addressing and dispatching, without having ownership of the products involved, excluding postal services as defined in point 1 of Article 2 of Directive 97/67/EC of the European Parliament and of the Council, parcel delivery services as defined in point 2 of Article 2 of Regulation (EU) 2018/644 of the European Parliament and of the Council, and any other postal services or freight transport services'.

importer or authorised representative established in the EU. In this way MSAs have someone to whom they can address requests, including requests for information regarding products' compliance with Union harmonisation legislation, and who can co-operate with MSAs in making sure that immediate corrective action is taken to remedy instances of non-compliance. Article 4 is applicable since 16 July 2021. On 23 March 2021, the Commission published Guidance on its practical application for responsible economic operators and MSAs.⁴

The initial Commission proposal⁵ regarding the scope of Article 4 included all harmonised products envisaged in Annex 1, and only excluded cosmetic products, medical devices, and energy-related products⁶, as the requirement for a responsible person in the EU already existed for these categories of product. As discussions developed with the co-legislators, changes were made so that Article 4 only covers 18 of the Regulations and Directives⁷ to which Regulation (EU) 2019/1020 applies. That limitation followed a risk-based analysis of where the need for a responsible economic operator acting as a liaison point with the MSAs could be identified.⁸ It considered the potential risks, number of cases of non-compliance, as well as whether products are mainly traded through physical (rather than online) supply chains.⁹

1.4. Methodology and sources of information for this report

In accordance with Article 42(3) of Regulation (EU) 2019/1020, this report has a specific focus on the application of Article 4. It is not a full evaluation.¹⁰ It is based on data and information for the years 2021 (since 16 July 2021, when Regulation (EU) 2019/1020 became applicable), 2022 and 2023, thus gathered only 2 or 3 years after Regulation (EU) 2019/1020 became applicable.

This report is based mainly on information from an *Evaluation Study on the implementation of Article 4 of Regulation (EU) 2019/1020 on Market Surveillance and compliance of products*, compiled by Deloitte Consulting for the European Commission from August 2023 to July 2024. In addition to desk research, that study presented findings from targeted consultations in the form of surveys and interviews. Unless otherwise stated, when this report makes reference to survey results or results from “the consultant/the study”, it should be read as references to that study. The surveys were undertaken on the EU Survey platform targeting MSAs¹¹ and customs authorities, as well as manufacturers, importers, authorised representatives, fulfilment service providers, and consumer representatives. With the exception of MSAs, the consultant could only reach a low response rate among the stakeholders:

⁴ OJ C 100 23.3.2021, p. 1-15. [eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC0323\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC0323(01))

⁵ COM 2017(795)

⁶ The respective Regulations (Reg. (EU) 1223/2009 (Art. 4), Reg. (EU) 2017/745 (Art. 15, 16), Reg. (EU) 2017/746 (Art. 15, 16) and Reg. (EU) 2017/1369 (Art. 6)) already provided for a responsible person in the EU for these product categories.

⁷ Please see Annex for a list of the relevant pieces of legislation.

⁸ Recital 21 of Reg. 2019/1020.

⁹ Recital 22 of Reg. 2019/1020.

¹⁰ A full evaluation in the meaning of the Better Regulation Guidelines of the European Commission: https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation/better-regulation-guidelines-and-toolbox_en

¹¹ In total, there are around 1000 MSAs in the EU.

Target group	Number of responses to the survey
MSAs	118 ¹²
Customs authorities	10
Manufacturers	60
Importers	2
Authorised representatives	0
Fulfilment service providers	1
Consumer representatives	1

The consultant also undertook interviews to address the data gaps identified and to gather information for case studies:

Target group	Number of interviews conducted
Economic operators	3
MSAs	10
Customs authorities	2
Experts	1
Consumer representative organisations	3

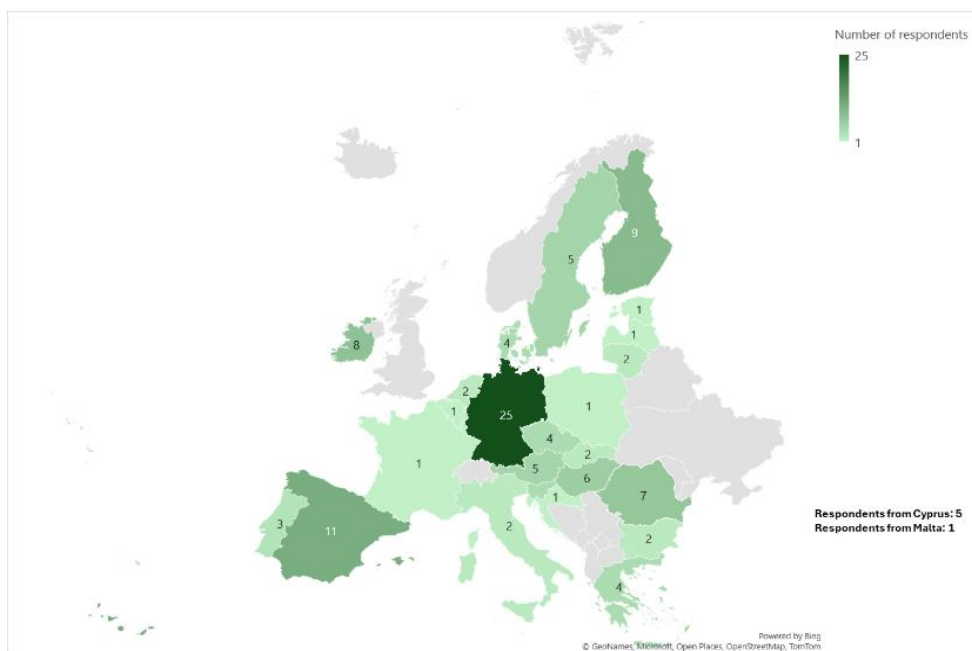
At least one MSA responded from each Member State, but the distribution of responses is uneven. Germany accounted for 25 out of 118 responses. Other notable respondents included Spain with 11 MSAs responding and Finland with 9. In contrast, several Member States, including France, Poland, Belgium, and Malta, only had one response. It should be noted that the number of MSAs varies significantly between Member States, as it depends on their domestic organisation and administrative structure.

Due to the very low response rate from economic operators, the consultant contracted IPSOS¹³ to collect survey responses from manufacturers producing products covered by Article 4 in

¹² 10 of these MSAs focus on products not covered by Article 4 and have not checked products covered by Article 4. Consequently, they could not share their experiences regarding the implementation of Article 4.

¹³ IPSOS is a multinational market research firm, based in France.

Germany and France respectively. IPSOS provided 25 responses from German and 25 responses from French manufacturers respectively, which are included in the first table above.



Regarding **customs authorities**, responses were received from 10 Member States: Belgium, Cyprus, Denmark, Finland, France, Ireland, Latvia, Romania, Slovakia, and Sweden. Among these, 2 authorities (Ireland and Sweden) agreed to participate in an interview.

In addition to the study mentioned above, this report also takes into account findings gathered in two separate projects:

- a) A joint action initiated by a Working Group in the EUPCN¹⁴, which gathered evidence from MSAs to assess the compliance of products sold online with the formal requirements of Article 4(1).
- b) A joint action JAHARP2021-10¹⁵ focusing on the role of fulfilment service providers in Article 4 ("*Support on Article 4 of Regulation (EU) 2019/1020*").

As follows from the information above, there are some **limitations to the input used for the analysis in this report**. Considering that the report comes relatively soon after Regulation (EU) 2019/1020 became applicable and that it takes time for MSAs and other stakeholders to adapt to the new provisions, there is only limited data and practical experience. Most concrete data gathered by the consultant is from 2022. In addition, whereas the consultant, as explained above, aimed at covering several categories of stakeholders, the response rate could be considered satisfactory only for MSAs.

¹⁴ EU Product Compliance Network, established under Reg. 2019/1020 in order to structure the co-ordination and co-operation between EU MSAs.

¹⁵ JAHARP - **J**oint **M**arket **S**urveillance **A**ction on **H**ARmonised **P**roducts 2021 Omnibus - is a portfolio of projects co-funded by the EU. The projects aim at supporting the application of the new Market Surveillance Regulation (EU) 2019/1020 through the development of common approaches and good practices.

2. IMPLEMENTATION OF ARTICLE 4

2.1. Implementation measures

2.1.1. *Have MSAs carried out checks on implementation of Article 4?*

The MSAs have undertaken checks of Article 4 compliance (normally checking that responsible economic operator is indicated on the product), either as separate measures or, more often, in connection with checks of compliance with other provisions of Union harmonisation legislation. According to the study, **85% (92 out of 108) of the MSAs have conducted compliance checks for Article 4** since Regulation (EU) 2019/1020 became applicable¹⁶. Within these 85%, 20% (18 out of 92) indicated that they had done checks with a primary focus on assessing compliance with Article 4.¹⁷

In case of products entering the EU from third countries, **Article 4 information is not directly provided or made available to customs authorities in customs declarations or in any other manner** (please also see section 3 on customs reform proposal). To verify compliance with Article 4, customs authorities and other authorities designated for the controls on products entering the EU market¹⁸ have therefore no other choice than undertaking a physical control of the product, either randomly or as part of other controls. Due to this lack of information, customs have no relevant risk information for risk management and are thus not able to identify risks of non-compliance with Article 4. This is a significant impediment of the current Article 4, which basically prevents any effective enforcement at EU external borders whereas this was clearly a core objective thereof. Still, most customs authorities (7 out of 10) report performing controls on Article 4 compliance.¹⁹ Since most customs authorities that answered the survey have not taken specific steps to ensure Article 4 controls²⁰, it would seem that, as for MSA checks, Article 4 customs controls are mostly done in connection with other controls.

2.1.2. *Has Article 4 been complied with?*

Article 4 checks by MSAs are **often done in connection with other checks**. During the specific Article 4 checks²¹, the responsible economic operator was not indicated in 7% of the cases. In 5% of the checks, the contact details of a responsible economic operator established in the EU were given but when MSAs contacted that economic operator, it turned out that the information was not correct (the economic operator was not reachable or declined responsibility).²²

Based on the responses of MSAs, responsible economic operators usually provide postal addresses (84% of MSAs reported this) and electronic addresses (69%) or telephone numbers (40%).²³ More than half of the MSAs stated that non-compliance with Article 4 was higher regarding products sold **online** than offline (significantly higher 35%, or somewhat higher 16%).

¹⁶ Deloitte 5.1.2.A.1, p. 55.

¹⁷ Deloitte 5.1.2.A.1, p. 55.

¹⁸ Art. 25(1) Regulation (EU) 2019/1020

¹⁹ Deloitte 5.1.2.A.2, p. 59.

²⁰ Deloitte 5.1.3.A.2 p. 66.

²¹ The MSAs who participated in the survey reported 29 745 such checks in 2022.

²² Deloitte 5.1.2.A.1, p. 56.

²³ Deloitte 5.1.2.A.1, p. 56.

Implementation facts gathered in an MSA joint action under EUPCN

Concrete experience of Article 4 compliance has been gathered through a joint action initiated by a Working Group in the EUPCN. The objective of this joint action was to **assess the compliance of products sold online with the formal requirements of Article 4(1)** (i.e. presence of responsible economic operator in the EU). To achieve this, it aimed at the broadest view possible of products offered online to Union consumers by economic operators from third countries. MSAs from 11 Member States participated. They were recommended to inspect the online offers for approximately 10 different products. The action took place from July to December 2023. In total, **215 online offers were analysed**. It covered 37% of the product sectors relevant for Article 4.

As a first step, a request for information on the manufacturer and the responsible economic operator in the Union referred to in Article 4(1) of Regulation (EU) 2019/1020 was sent out to the economic operators (normally the manufacturer) not established in the Union. An **answer with indication of a responsible economic operator in the EU was received in 43%** of the cases. As a second step, a request for information was sent out to the responsible economic operators indicated, in order to verify if that entity actually existed and acknowledged his responsibility. The responsible **economic operator was confirmed in only 34% of the requests sent out in the second step**, so around two thirds of the indications of economic operators turned out to be incorrect or could not be verified as they did not reply. This means that the joint action showed a **low level of compliance with Article 4(1)** for products sold online compared with the result indicated earlier in this section, which covers other sales channels. Overall, only 14% (31 out of 215) of the online offers from third countries could be considered compliant with Article 4.

In conclusion, while there has been some level of compliance with Article 4, there are still significant challenges, particularly in the realm of e-commerce (which to a large extent is the supply channel that Article 4 aims at addressing) and for the identification and verification of responsible economic operators. When Article 4 checks are done in connection with checks of other compliance issues, the picture seems quite different than when checks focused on Article 4 are done for products offered online from third countries.

2.1.3. Has Article 4 had effects on overall compliance?

As concerns the effects of Article 4 on overall compliance (i.e. compliance with harmonisation legislation), there are no clear such effects over the short time period in which Article 4 has been in application. **Half of the responding MSAs (50%, 54 out of 108) did not experience any change in the overall levels of compliance and safety among the products** subject to Article 4 compared to other products. Another 37% (40 out of 108) of the MSAs had no opinion, which may indicate that no major change has been noted.²⁴

²⁴ Deloitte 5.2.A.1, p. 88.

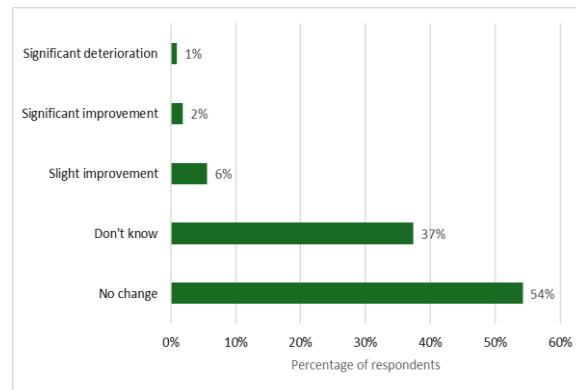


Fig 1: Change in compliance and safety among products covered by Article 4

On average, the MSAs that responded to the consultant's survey found non-compliant products (general non-compliance) in around 10% of their checks (11% in 2019 and 9% in 2022). The highest incidence of non-compliant products was related to products covered by Article 4 (12% in 2019 and in 2022 as well)²⁵, reinforcing the picture that Article 4 does not seem to have an immediate effect on general compliance.

As to products sold **online**, most of the MSAs (38%, 41 MSAs) that could express an opinion have **not experienced any change** after 2021 in the frequency of general non-compliance for products covered by Article 4. 15% of the MSAs responded that the frequency of non-compliance for products covered by Article 4 and sold online changed: 6% said that it had decreased somewhat, but 6% indicated that it is significantly higher and 4% said that it is somewhat higher.

The experience of MSAs seems to show that when they reach out to responsible economic operators in cases where the relevant products show a possible non-compliance, those economic operators responded in most cases or always (72% of the responding MSAs reported this). In case of a response, they responded within the time requested by the MSA in 75% of the cases and they also collaborated with the MSAs in 73% of cases.²⁶ In general, nearly half (47%) of the responding MSAs could not state whether the application of Article 4 had an impact on cooperation with economic operators. 28% of the MSAs stated that the cooperation with economic operators has not improved, while 21% indicated that it slightly improved. Only 4% of the MSAs experienced significant improvement in cooperation with economic operators.²⁷

2.1.4. Practical issues in Article 4 implementation

Almost half (44%, 48 MSAs) of the respondent MSAs did not find the **interpretation of their tasks regarding Article 4** difficult, while 21% experienced difficulties (only 2% found the interpretation very difficult).²⁸ Among customs authorities, 4 out of 10 of the respondents did not find that interpreting their tasks concerning Article 4 had been challenging, while 30%

²⁵ Deloitte 5.1.2.A.1, Table 6, p. 58.

²⁶ 5.1.2.A.1, p. 56.

²⁷ Deloitte 5.1.3.A.1, p. 64.

²⁸ Deloitte 5.1.4.A.1, p. 71.

found it somewhat challenging.²⁹ Furthermore, only 3%³⁰ of all respondent MSAs had sought assistance from the EU Commission services regarding Article 4.

When asked to identify the type of responsible economic operator for which compliance with Article 4 poses a particular challenge, 37% of MSAs identified importers, 35% of MSAs cited fulfilment service providers, 17% mentioned authorised representatives, and 11% noted manufacturers.³¹ However, as concerns legal interpretation issues, many MSAs indicated that they experienced some challenges regarding the **fulfilment service provider** and their tasks, in interpreting terms as 'addressing' and 'dispatching'.³² The consultation of MSAs and others revealed some further practical issues, such as where the responsible economic operator's contact details should be indicated.

2.2. Costs and benefits

2.2.1. Benefits

The expected benefits of Article 4 include not only the facilitation of corrective actions and enforceability of MSA decisions, but also a more level playing field between EU and third country producers through deterrence in the form of increased risks and consequences for third country producers bringing non-compliant products to the EU market. As indicated in section 2.1.3, Article 4 does not yet seem to have had a deterrent effect in terms of decreased occurrence of non-compliant products. According to multiple MSAs, responsible economic operators, especially fulfilment service providers, are very difficult to identify when they are not mentioned on or with the product, and even when they are identified, it is challenging to contact them. In most cases, extra efforts made by MSAs to identify and contact responsible economic operators do not bring any result. In the survey, 4 out of the 10 customs authorities who replied saw no changes regarding the number of non-compliant products at the border since the introduction of Article 4. Another 40% of customs authorities do not know whether there has been any change, with the remaining 20% saying there has actually been an increased non-compliance in the relevant products since the implementation of Article 4.³³

2.2.2. Costs

While checking contact details of responsible economic operators can require some time³⁴, **65% (70 out of 108) of MSAs did not, according to the consultant's survey, experience any changes in the cost of market surveillance since Article 4** became applicable. Around 10% (11 out of 108) stated that their costs of market surveillance increased slightly since Article 4 became applicable. For another 3% (3 out of 108) these costs increased significantly. In the few MSAs that reported cost increases due to incorporating the requirements of Article 4 into the regular checks, the reasons were related to the use of new technical tools or to the hiring of additional staff. It was very rare that MSAs made additional budget available in order to ensure compliance with Article 4.³⁵ Among **customs authorities**, any **costs related to Article 4 seem to be limited**, with 4 out of the 10 who replied indicating that verification of

²⁹ Deloitte 5.1.4.A.2, p. 74.

³⁰ Deloitte 5.1.4.A.1, p. 71.

³¹ Deloitte 5.1.5.A.1, p. 80.

³² Deloitte 5.1.4.A.1, p. 72.

³³ Deloitte, 5.2.A.2, p. 93.

³⁴ The average time needed to perform a check on harmonised products currently covered by Article 4 increased between 2019 and 2022, with Article 4 compliance checks incorporated into the general checks.

³⁵ 1 MSA reported doing this in the Deloitte study (section 5.2.A.1, p. 90).

the contact details of responsible economic operators had not brought additional costs (while 20% responded that it had brought some costs).³⁶ For economic operators, the nature of the Article 4 tasks mean that for compliant products the costs (mainly indication of responsible economic operator) of Article 4 compliance are marginal, though the very few survey responses received show that some economic operators (manufacturers) estimate Article 4 costs at levels around 1-1.5%³⁷ of the overall costs of being compliant with EU regulations³⁸. The consultant points out that such interpretation issues can lead to overestimation of Article 4 costs.³⁹

2.3. Scope of Article 4

The scope of Article 4 is limited in terms of product categories, range of responsible economic operators and tasks. A notable share (up to 53 %; different from one type of scope to another) of the surveyed stakeholder respondents chose to answer "don't know" when assessing the scope of Article 4, possibly indicating a certain lack of engagement concerning the appropriateness of the scope of Article 4 regarding product categories covered, type of responsible economic operators and the tasks of responsible economic operators.

2.3.1. Scope of Article 4 - product categories

As explained in section 1.3, the scope of Article 4 is limited in terms of product categories.

More than half (53%, 57 out of 108) of MSA respondents stated that they **did not know whether the scope of products covered is appropriate**. The vast majority of the MSAs that responded "Don't know" actually have experience in checking compliance with Article 4, but they are unsure about the effects of expanding its scope. **22% of MSAs** (24 out of 108) responded that the **scope of Article 4 was appropriate** in terms of the products covered. While concrete experience brought forward by MSAs does not seem to indicate that this limited scope poses problems for market surveillance, **25% of MSAs** (27 out of 108) indicated that the **scope of products should be extended**.⁴⁰ With respect to concrete possibilities for extension of the scope, the options brought forward (by at most 5-10% of MSAs for each option) ranged from suggesting that individual product categories be added to suggesting that the scope be widened to all products.

While the current scope of Article 4 does not present significant obstacles according to **customs authorities**, there is recognition of potential efficiency gains through its extension to cover all harmonised products. Extending Article 4 to all harmonised products would simplify customs controls and enhance the efficiency and effectiveness of customs risk profiling and risk analysis.⁴¹ It would also align with the approach of the GPSR.

Both **economic operators** and **consumer representative organisations** expressed mixed views on the product categories covered by Article 4. They did not offer suggestions regarding the inclusion of new product categories.

³⁶ Deloitte 5.2.A.4, p. 101.

³⁷ Deloitte 5.2.A.3, p. 96.

³⁸ The costs related to making sure the product is compliant and accompanied by documentation such as declaration of conformity should normally not be seen as Article 4 costs.

³⁹ Deloitte 5.2.B, p. 104.

⁴⁰ Deloitte 5.3.A.1, p.108. The suggestions for additions usually seem to reflect the sectors covered by the responding MSAs.

⁴¹ Deloitte 5.3.A.2, p. 113.

2.3.2. Scope of Article 4 - types of responsible economic operators

As outlined in section 1.3, there are four types of actors that can function as the responsible economic operator referred to in Article 4. MSAs have **mixed views about this aspect of the scope of Article 4**. The largest group (38%, 41 out of 108) of MSA respondents expressed uncertainty about whether additional actors, beyond the four categories of responsible economic operators listed in Article 4(2), should be added.⁴² An important share (37%) of MSAs stated that the current scope of responsible economic operators was appropriate and that no additional actors should be considered. Still, 25% of MSA respondents indicated that the scope of Article 4 should be expanded to encompass more types of economic operators.⁴³ 13% of the MSAs (14 out of 108) highlighted the particular role of providers of online marketplaces. They are not economic operators, but some MSAs expressed a wish for them to have a role in the market surveillance process. Of 25 MSAs who made concrete suggestions on a role for more actors under Article 4, 14 (56% of respondents) highlighted providers of online marketplaces.⁴⁴ In this context, several MSA respondents emphasized the possibility for providers of online marketplaces to verify the responsible economic operators before listing products and publishing offers.⁴⁵ As concerns other stakeholders than MSAs, the majority of economic operators, and all consumer organisations that participated in the consultation, agreed with this approach on expansion of tasks (e.g. verifying that products are marked in accordance with Art. 4) to providers of online marketplaces.

2.3.3. Scope of Article 4 - tasks to be performed by the responsible economic operators

The existing tasks of the responsible economic operator outlined in Article 4 include: i) verifying and keeping the documentation of products, ii) co-operating with MSAs by providing information and documentation during compliance checks, and iii) co-operating with MSAs in case of product recall. **Half of the MSA respondents** found that these tasks contribute to **improving the effectiveness** of their market surveillance.

29% of MSAs (31 out of 108) indicated that the scope of Article 4 was appropriate and that no additional tasks and responsibilities were necessary. Meanwhile, 54% of MSA respondents stated they were uncertain whether additional tasks and responsibilities should be assumed by responsible economic operators under Article 4.⁴⁶

Of the MSAs who could express an opinion, 38% find that **additional tasks** should be introduced for responsible economic operators. Suggestions included e.g. holding responsible economic operators accountable for product compliance; empowering responsible economic operators to take corrective actions such as publishing safety warnings, withdrawing products from the market, and recalling products from end-users and verifying the accuracy of compliance information (rather than merely confirming its presence). One out of the three consumer representative organisations interviewed, also stated that product safety should be a task of responsible economic operators.⁴⁷

⁴² Deloitte 5.3.A.1, p. 109.

⁴³ Deloitte 5.3.A.1, p. 109.

⁴⁴ Deloitte 5.3.A.1, p. 110

⁴⁵ Please also see section 3 of this report.

⁴⁶ Deloitte 5.3.A.1 p. 111.

⁴⁷ Deloitte 5.3.A.4, p. 113.

3. RELATED POLICY DEVELOPMENT

The **GPSR** will have effects on Article 4 in at least three ways:

- a) Economic operators making products covered by Article 4, or by the GPSR, available on the market in distance sales, including online will have to indicate the responsible economic operator when the GPSR becomes applicable on 13 December 2024 (Article 2(1) of the GPSR together with Article 19(a) and (b) of the GPSR). In addition, providers of online marketplaces will be required to design and organise their online interface in a way that enables these traders to provide and display the details of the responsible economic operator (Article 22(9)(a) and (b) of the GPSR) and ensure that the information is displayed or otherwise made easily accessible by consumers on the product listing.
- b) Article 16 of the GPSR will extend the application of Article 4(2) and (3) of Regulation (EU) 2019/1020 to all products not covered by harmonisation legislation.
- c) Article 16 of the GPSR will also add additional regular compliance check tasks for the responsible economic operators concerned in relation to these non-harmonised products. These checks will also include safety checks (checks against the technical documentation).

The **Digital Services Act** (DSA)⁴⁸ provisions on providers of online platforms can contribute to address the issue of non-compliance of products sold on online platforms allowing traders to conclude distance contracts with consumers (i.e. online marketplaces), as it adds specific tasks on them that play a key role in market surveillance. According to Article 30 of the DSA, providers of online platforms may only allow products to be offered to consumers on their platforms if the trader has provided specific information to the platform, including its name, contact details, identification number, payment account details, the trade register and its registration number or equivalent means of identification (where the trader is registered in a trade register or similar public register) as well as a self-certification committing to only offer products or services that comply with the applicable rules of EU law.⁴⁹ Both the trader's details and the self-certification of compliance must be made available to the recipients of the service by the provider of the online platform⁵⁰, who also needs to make best efforts to assess whether the information provided is reliable and complete.

Furthermore, Article 31 DSA imposes an obligation on marketplaces to design their service in a way that allows traders to comply with their existing obligations under for instance consumer protection or market surveillance law, such as identifying the responsible person or the economic operator for each listing. This provision will allow consumers to understand who is responsible for each product they buy.

⁴⁸ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (OJ L 277 of 27.10.2022). The DSA became applicable on 17 February 2024, which means that it could not have effect on the results presented in this report.

⁴⁹ Article 30(1) DSA.

⁵⁰ Article 30(7) DSA

To support MSAs in a context of booming e-commerce⁵¹, the Commission has launched the eSurveillance **WebCrawler**, an application to facilitate the enforcement work of Market Surveillance on products sold online. It identifies product offers of goods notified in Safety Gate, the EU rapid alert system for dangerous non-food products, that are still available online. The system enables automatic detection and generation of automatic takedown requests by the enforcement authorities.

Furthermore, the Commission is developing another WebCrawler to detect non-compliant or dangerous products sold online. This tool crawls **product descriptions and customers' reviews** to detect specific keywords that could indicate non-compliance of products sold on commercial web pages. The pilot phase took place in 2023 and was successful. The second development phase is taking place in 2024 and involves the development of new AI functionalities. The WebCrawler is planned to be in full use in 2025 and will be shared with all interested MSAs.

Finally, to address the lack of relevant information available to customs authorities with respect to product compliance, the Commission included in its **customs reform proposal**⁵² an obligation to provide or make available to customs authorities certain data relevant for product compliance controls at EU external borders, as a new condition for the release for free circulation. The additional data will include the importer, the manufacturer, the product supplier where this is different from the manufacturer, 'the responsible economic operator in the Union pursuant to Article 4 of Regulation (EU) 2019/1020 and Article 16 of Regulation (EU) 2023/988', and the legislation applicable to the product. If the new requirement is kept after co-legislators adopt the proposal, this new information obligation will enable risk management and risk-based controls on the compliance with Article 4, including in the case of e-commerce.

4. CONCLUSIONS

The findings presented in this report indicate that MSAs and customs authorities implement Article 4, though with some challenges and non-compliance issues as described above. Implementation of Article 4 seems to have brought only marginal cost increases for authorities or economic operators. There are, however, no concrete signs yet that its introduction has contributed to improving the overall compliance. It may be argued though that Article 4 non-compliance is likely to signal a risk of general non-compliance, since a product that does not comply with a clear formal rule (such as an information or marking obligation), might also be at risk of more substantial non-compliance⁵³.

With view to e-commerce, results of the report furthermore indicate that non-compliance with Article 4 was higher regarding products sold online than offline. A significant share of responding MSA pointed particularly at the role of providers of online marketplaces. Those are

⁵¹ According to the data available to the Commission (DG TAXUD), in 2023, a total of 2.3 billion items not exceeding EUR 150 were imported into the EU, which is a clear increase compared with previous years. Consumers' behaviour is likely to lead to further dramatic increases of distance sales, also of products that are directly shipped from third countries. These are expected to reach around 4 billion of consignments in 2024, while commercial traditional imports (i.e. sold in brick-and-mortar shops) are approximately 300 million per year.

⁵² Article 88(3)(a) of the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013 (COM/2023/258 final).

⁵³ For example, if a product covered by the Toy Safety Directive does not have a responsible economic operator, as required by Art. 4, it may be justified to check if that product does not also fail to comply with the safety requirements of that Directive.

not economic operators, but some respondents suggested that those should be more considered in the market surveillance process (e.g. it was proposed that providers of online marketplaces could potentially be involved in verifying the indications of responsible economic operators when products are made available on the platform).

It should be noted that Article 4 has only been applied for a relatively short period, and the information gathered to support this report was limited. As more experience is gathered among stakeholders, routines and procedures will be developed which could lead to improved implementation and enforcement. Furthermore, since its adoption, new legislation has been proposed or adopted and entered into application, which – combined with Article 4 – should produce positive results to improve the situation:

- The obligations on providers of online marketplaces under the GPSR and the DSA (mandatory indication of responsible economic operator in online offers) may help address the issue of non-compliance of products sold on online platforms, once the GPSR enters into application, and the DSA shows positive results in terms of online indication of responsible economic operators. On the other hand, the GPSR may make compliance more challenging for economic operators, as it extends the scope of Article 4 and introduces new tasks for the responsible economic operators.
- The customs reform proposes a new obligation to provide or make available to customs certain data, notably the responsible economic operator in the EU pursuant to Article 4. This should improve risk management and product compliance, as the reform enables risk-based controls at EU external borders on products entering the EU market subject to Article 4. Prior to the proposed reform, such information is not provided to customs authorities.

According to Article 42(1) of Regulation (EU) 2019/1020, the Commission shall carry out a full evaluation of Regulation (EU) 2019/1020 by 31 December 2026. That evaluation will also cover Article 4, using more data and practical implementation experience, which should be available by then. The 2026 evaluation will therefore build upon this report, taking into account the application of the GPSR, e-commerce development (in terms of e.g. higher quantities and new business models) etc. Moreover, the Commission is committed to build on the various available tools with a holistic approach to tackle challenges with e-commerce platforms.⁵⁴

⁵⁴ See Political Guidelines of the President for 2024-29, which state that the Commission will tackle "challenges with e-commerce platforms to ensure consumers and businesses benefit from a level playing field based on effective customs, tax and safety controls and sustainability standards.

https://commission.europa.eu/document/download/e6cd4328-673c-4e7a-8683-f63ffb2cf648_en?filename=Political%20Guidelines%202024-2029_EN.pdf

Annex

Article 4 only applies in relation to products that are subject to:

- Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).
- Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive 89/686/EEC (OJ L 81, 31.3.2016, p. 51).
- Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC (OJ L 81, 31.3.2016, p. 99).
- Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors (OJ L 162, 3.7.2000, p. 1).
- Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (OJ L 157, 9.6.2006, p. 24).
- Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys (OJ L 170, 30.6.2009, p. 1).
- Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10).
- Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ L 174, 1.7.2011, p. 88).
- Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (OJ L 178, 28.6.2013, p. 27).
- Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC (OJ L 354, 28.12.2013, p. 90).
- Directive 2014/29/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of simple pressure vessels (OJ L 96, 29.3.2014, p. 45).
- Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (OJ L 96, 29.3.2014, p. 79).

- Directive 2014/31/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of non-automatic weighing instruments (OJ L 96, 29.3.2014, p. 107).
- Directive 2014/32/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments (OJ L 96, 29.3.2014, p. 149).
- Directive 2014/34/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres (OJ L 96, 29.3.2014, p. 309).
- Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (OJ L 96, 29.3.2014, p. 357).
- Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).
- Directive 2014/68/EU of the European Parliament and of the Council of 15 May 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of pressure equipment (OJ L 189, 27.6.2014, p. 164).

Additions to this list have been made after adoption of Reg. 2019/1020. Article 4 also applies to the following regulations:

- Commission Delegated Regulation (EU) 2019/945 of 12 March 2019 on unmanned aircraft systems and on third-country operators of unmanned aircraft systems (*OJ L 152*, 11.6.2019, p. 1);
- Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC (*OJ L 191*, 28.7.2023, p. 1–117);
- Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020 (O.J. L 2024/1252, 3.05.2024).
- In addition, the following Commission proposal includes provisions which, if adopted, would make Article 4 of Regulation 2019/1020 applicable to the products concerned: Commission Proposal for a Regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011 – COM(2022)144.