

RAISING COMPLIANCE OF PRODUCTS SOLD ONLINE FROM OUTSIDE OF THE EU

JAHARP2021-10: IMPLEMENTING ARTICLE 4 OF THE MARKET SURVEILLANCE REGULATION (EU) 2019/1020

THE PROJECT

JAHARP2021-10 is an EU-funded Joint Action between five market surveillance authorities (MSAs) from Belgium, France, Portugal and Bulgaria (2) and coordinated by [PROSAFE](#). It started in June 2022 and has now fully achieved its objectives. The Action has helped both MSAs and economic operators to efficiently implement Article 4 of Regulation (EU) 2019/1020. The project focused on a novel aspect: compliance of Fulfilment Service Providers (FSP), who are involved in the distribution of products sold online from suppliers outside of the EU.

ABOUT ARTICLE 4

Article 4 of (EU) 2019/1020 concerns product compliance under 18 designated regulations (toys, construction products, machinery, low voltage equipment, personal protective equipment and more). For a product to be placed on the Single Market there must be a responsible economic operator (EO) in the EU. Furthermore, it defines four types of EOs: manufacturer, importer, authorised representative and FSP, who store, package and dispatch products to EU consumers. Article 4 sets out the obligations of those EOs under EU product law, regarding tracking conformity of products, cooperation with authorities and marking products on their packaging.

KEY FINDINGS

During 2023, the project team interviewed a dozen market surveillance inspectors, representatives of the biggest EU e-commerce companies, and the EU industry associations to understand, on one hand, the success, and on the other, the challenges with the implementation of Article 4, and to gather advice on how to increase compliance. The project findings revealed that awareness and understanding of Article 4 is highly variable amongst EOs and sometimes even absent, although major players and relevant industry associations are aware. All EO interactions raised significant and far-reaching questions about understanding of requirements: confusion on who is responsible for what and how rules can be fairly implemented. Evidence of efforts to deflect responsibilities were identified and mitigating actions are included in the Guides.



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GOOD PRACTICE GUIDANCE

The accumulated knowledge on how to raise compliance was compressed into two **Good Practice Guides** - one for MSA inspectors, and one for FSP and e-commerce companies (e-shops or electronic marketplaces). The project team also used the insights gained to help officials from DG GROW who are leading the Commission's regulatory review of Article 4 of (EU) 2019/1020.

RECOMMENDATIONS

The MSAs formulated a structured set of recommendations on how to address the challenges discovered and prepared a collection of proposals on how to deal with attempts to avoid or evade responsibilities, good practice for carrying out inspections (with examples) and effective communication with EOs.

Other recommendations developed for the MSAs included: planning campaigns, working with Customs Authorities, simplifying the identification of the responsible person (supplier) via packaging and websites, allocating suitable responsibilities for marketplaces (a gap in current routes to compliance and safety), expanding the scope of products covered and clarifying the appointment process and identification of Authorised Representatives.

The good practice for FSPs and e-commerce companies focused on the need to know who is responsible, the obligations for EOs based outside of the EU and ensuring obligations are addressed. It expanded on appointment of authorised representatives, the marking of products and information on websites.

DISSEMINATION OF RESULTS

The Guide for MSAs is being promoted through participant MSAs, several relevant ADCOs and the EU Product Compliance Network (EU PCN) of representatives from authorities of each EU Member State. Ecommerce Europe, the main industry association, is also promoting the guide for EOs to its 170 members in 32 European countries, through its regular communication routes and will feature at a meeting of its regulatory committee planned for October 2024.

FINAL CONFERENCE

Participants and stakeholders met on 29 May 2024 to discuss findings and how results are being implemented. Representatives from 5 MSAs, the European Commission DG GROW and EISMEA, AdCo Chairs, and industry associations reviewed the project results and the Good Practice Guidance developed to support MSAs and EOs to comply with the obligations. The consensus of experts taking part was that implementation of Article 4 was difficult and the good practice collated in the Guides is invaluable to raise awareness and understanding of what is needed to improve compliance rates.

MAIN OUTPUTS



GUIDE FOR MSA



GUIDE FOR EO



COLLECTION OF
RECOMMENDATIONS



QUESTIONNAIRES
FOR MSA AND EO

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