



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate F – Outreach, Research & Geographical Indications
The Director

Brussels
AGRI.F.3

Subject: Reply to questions concerning Regulation (EU) 2024/1143 and Regulation (EU) 2022/2065

Dear Madam or Sir,

Thank you for your email registered under our reference Ares(2024)5551059 of 31 July 2024, in which you raised detailed questions concerning the implementation of Regulation (EU) 2024/1143 ⁽¹⁾, in particular in relation to the roles of competent authorities under Regulation (EU) 2017/625 ⁽²⁾ (Official Controls Regulation (OCR)) and the enforcement of provisions under Regulation (EU) 2022/2065 ⁽³⁾ (Digital Services Act (DSA)).

We sincerely apologise for the considerable delay in our reply. The handling of your request was unfortunately affected by an administrative deviation, as it was not attributed correctly in the initial stage. Although additional coordination across several Commission services, including on aspects relating to the Digital Services Act, was also needed, this should not have led to such a long delay. We deeply regret that this has resulted in such a late response and appreciate your understanding. We nevertheless consider it important to provide a comprehensive reply to your questions. Please find below responses addressing the key points raised.

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- (¹) Regulation (EU) 2024/1143 of the European Parliament and of the Council of 11 April 2024 on geographical indications for wine, spirit drinks and agricultural products, as well as traditional specialities guaranteed and optional quality terms for agricultural products, amending Regulations (EU) No 1308/2013, (EU) 2019/787 and (EU) 2019/1753 and repealing Regulation (EU) No 1151/2012; *OJ L*, 2024/1143, 23.4.2024, ELI: <http://data.europa.eu/eli/reg/2024/1143/oj>
 - (²) Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation); *OJ L* 95, 7.4.2017, ELI: <http://data.europa.eu/eli/reg/2017/625/oj>
 - (³) 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 (Digital Services Act); *OJ L* 277, 27.10.2022, ELI: <http://data.europa.eu/eli/reg/2022/2065/oj>

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1. Firstly, you asked several questions about Regulation (EU) 2024/1143.

1.1 Can we, as a competent authority under the OCR, enforce Article 43(2) of Regulation (EU) 2024/1143?

In accordance with Article 43(2) of Regulation (EU) 2024/1143, the relevant national judicial or administrative authorities of the Member States may, in accordance with Article 9 of Regulation (EU) 2022/2065, issue an order to act against illegal content. Neither Regulation (EU) 2024/1143 nor Regulation (EU) 2022/2065 specify which are those authorities. Enforcement of protection of geographical indications is the competence of Member States. Therefore, the specific procedures and competent authorities are determined by each Member State.

An order to act against illegal content can be issued by different authorities – e.g., courts, regulatory bodies or government agencies that oversee specific areas of law enforcement, consumer protection authorities, etc. Competent authorities designated under the OCR can thus be among the authorities enforcing Article 43(2) of Regulation (EU) 2024/1143 if they are given such mandate under the laws of the Member States.

1.2 If yes – under which other circumstances can a competent authority under the OCR enforce the rules of the DSA – including Articles 9 and 10 in the DSA in cases involving non-compliances in the agri-food chain?

From the perspective of geographical indications, competent authorities, if given such mandate, can enforce DSA provisions in cases where online platforms or intermediary services are involved in providing information related to the advertising, promotion and sale of agri-food products that contravenes GI protection and thus shall be considered illegal content, as stipulated in Article 43(1) of Regulation (EU) 2024/1143. Article 43 only refers to Article 9 of Regulation (EU) 2022/2065 regarding orders to act against illegal content.

1.3 If the OCR authorities cannot be seen as competent authorities in relation to the DSA – who should enforce e-commerce related non-compliances in the agri-food chain?

Under the system of geographical indications, in accordance with Article 42(1) of Regulation (EU) 2024/1143, Member States shall designate one or more competent authorities responsible for verification of, and enforcement actions on, the use of GI after the product designated by a GI has been placed on the market, which includes operations such as storage, transit, distribution or offering for sale, including in electronic commerce. In accordance with Article 38(3) of Regulation (EU) 2024/1143, these competent authorities shall comply with the requirements laid down in the OCR.

In accordance with Article 42(3) of Regulation (EU) 2024/1143, Member States shall take appropriate administrative and judicial steps to prevent or stop the use of names of products or services, including through online interfaces, that are produced, provided or marketed in their territory, or intended for export to third countries, and that contravenes protection of GIs. However, the specific procedures for the enforcement of protection of GIs are determined by the national laws of each Member State.

Therefore, in accordance with these provisions, competent authorities designated by Member States for controls of GIs are also obliged to monitor e-commerce and, in case of violation of GI protection, they shall take appropriate action. Pursuant to Article 49 of Regulation (EU) 2022/2065, Member States shall designate competent authorities for the enforcement of its rules to providers of intermediary services (including online platforms) having their main establishment in their territory. Member States may decide to designate competent authorities for controls of GIs also as competent authorities for the enforcement of the DSA, provided that they fulfil the requirements set out in Article 50 therein. Consequently, if enforcement requires measures under the DSA and competent authorities for controls of GIs are not given mandate for DSA enforcement, they would need to coordinate with the competent DSA authorities.

In addition, the relevant national judicial or administrative authorities, on the basis of the applicable Union law or national law in compliance with Union law, may issue orders to act against illegal content. As regards orders fulfilling the conditions set out in Article 9 of Regulation (EU) 2022/2065, providers of intermediary services shall inform the authority issuing the order, or any other authority specified in the order, of any effect given to the order without undue delay.

2. Secondly, in your email you referred to Recital 55 of Regulation (EU) 2024/1143, which states that: “... *It is necessary to equip the competent national authorities with the tools to react properly to a violation, established under this Regulation, of the protection of a geographical indication, by a registered domain name. Therefore, when exercising their official control tasks, those authorities should be able to take appropriate steps with a view to disabling access from the territory of the Member State concerned to domain names registered in breach of the protection of geographical indications,...*”

In this regard, you posed the following questions:

2.1 How can that be achieved? What instruments are available for the CA to efficiently disable the access? Notice of take down?

Under Article 42(4) of Regulation (EU) 2024/1143, Member States shall take appropriate administrative and judicial steps to disable access to domain names that contravene protection of GIs, from their territory.

This article does not specify what administrative and judicial steps must be taken and by which authority of a Member State. It implies that the Member States must use their national administrative (e.g., competent authorities, regulatory agencies) or/and judicial (courts, legal systems) processes to disable access to domain names from their territory. Provisions of this paragraph leave for Member States to decide on actors and processes on disabling access of domain names from their territory. In practical terms, if the competent authority finds a domain name infringing a GI, it shall take an action in line with national procedures (e.g., bring it to the court). In most cases, the actual act of disabling access to domain names is done by the Internet Service Providers (ISP).

In any case, Article 9 of DSA sets out the requirements that national orders to act against illegal content addressed to online intermediary service providers, including ISPs, issued on the basis of the applicable Union law or national law in compliance with Union law shall fulfil to result in an obligation for the concerned service provider to provide feedback on the effect given to the order.

2.2. Why only focus on disabling access from the territory of the specific MS and not on EU level if an infringement of EU legislation is found?

While the recital and article mention disabling access at the national level, this does not exclude a coordinated approach across Member States. However, each Member State shall act within their own geographical borders.

2.3. How will the EC support the MS in this matter, especially if linked to websites located outside EU?

Enforcement of GI protection is the competence of Member States. The Commission services provide guidance on the implementation of the rules.

If the domain names infringing protection of GIs are located outside the EU, each Member State is obliged to take the appropriate steps only to disable access to domain names from their territory.

Article 42(4) of Regulation (EU) 2024/1143 entails that it should be for a Member State where a GI infringement is found to initiate the action to disable access to domain name from its territory, following the appropriate national procedures. In most cases, disabling of access to domain names is done by the internet service providers (ISP), on order issued by relevant authorities of the Member State. However, the access to the domain name would only be disabled in the Member State(s) which has/have adopted such measure to disable the access. The same domain name would remain accessible in other Member States and outside the European Union as this measure only restricts access rather than removing the domain name.

Questions concerning DSA (2022/2065)

3. Thirdly, in your email you also posed questions concerning the rules for platforms under Regulation (EU) 2022/2065 (the DSA). You mentioned that the Commission is primarily responsible for the monitoring and enforcement of the additional obligations applying to very large online platforms (VLOPs) and very large online engines (VLOSEs), such as the measures to mitigate systemic risks and you asked the following questions:

3.1 What are the Commission's specific actions regarding the control and enforcement of VLOPs and VLOSEs?

The Regulation (EU) 2022/2065 (the DSA) confers supervision and enforcement powers on the Commission as the main enforcement authority for designated VLOPs and VLOSEs. In its supervisory efforts the Commission works together with a network of European Digital Services coordinators, competent authorities at the Member State level for the smaller online platforms.

To this day, the Commission's enforcement activities include sending over 125 requests for information covering various enforcement areas such as e.g. illegal content, disinformation, public data access for researchers, and generative AI systems. The Commission has also initiated 14 formal proceedings for potential DSA breaches against several VLOPs, such as e.g. X, TikTok, AliExpress, Temu or Pornhub. These proceedings

address issues such as, e.g. illegal content, minor protection, transparency, data access, etc.

The Commission has recently reached a major milestone in its investigation against AliExpress – a set of commitments to improve AliExpress' systems has been made legally binding. Aliexpress now needs to improve its detection of illegal products; to improve transparency of recommender systems; to ensure proper trader traceability; and to provide researchers with better access to platform data. In addition, the Commission preliminarily found AliExpress in breach of its obligations to assess and mitigate risks related to the dissemination of illegal products under the DSA.

The Commission has also preliminarily found Temu in breach of the obligation under the DSA to properly assess the risks of illegal products being disseminated on its marketplace as consumers are very likely to find non-compliant products on the platform. The Commission will continue its [investigation](#) of Temu in relation to other suspected breaches such as the effectiveness of its mitigation measures, the use of addictive design features, the transparency of its recommendation systems, and its access to data for researchers.

3.2 How are non-compliances related to imports from third countries without EU establishments enforced?

The DSA applies to any provider of online intermediary services offering its services in the EU, regardless of whether it has a formal EU establishment. In order to enforce the DSA on providers of intermediary services which do not have an establishment in the Union but which offer services in the Union, Article 13 of DSA imposes on them the obligation to designate a legal representative in one of the Member States where the provider offers its services and mandate such legal representatives for the purpose of being addressed by the Member States' competent authorities and the Commission on all issues necessary for the receipt of, compliance with and enforcement of decisions issued in relation to the DSA. It is worth mentioning that it shall be possible for the designated legal representative to be held liable for non-compliance with obligations under the DSA, without prejudice to the liability and legal actions that could be initiated against the provider of intermediary services.

4. Lastly, you referred to recital 56 of Regulation (EU) 2024/1143 – *“Intermediary services, in particular online platforms, have become increasingly used for the sales of products, including those designated by geographical indications, and in some cases, they might represent an important space as regards preventing fraud. Information related to the advertising, promotion and sale of goods that contravenes the protection of geographical indications should be considered illegal content under Regulation (EU) 2022/2065. In that regard, this Regulation provides for the identification of such illegal content and for possible measures to be taken by national authorities.”* And in this context, you posed the following question:

4.1 Is the identification of illegal content under the DSA considered a matter of criminal law or commodity law?

The identification of illegal content related to geographical indications may be considered a matter of commodity law when it involves the misleading commercial representation of

products, or a matter of a criminal law when the illegal activity involves fraud or deliberate intention to deceive. However, this will depend on the laws of each Member State.


Article 9 of DSA provides detailed information on what the order against the illegal content shall contain, without prejudice to national civil and criminal procedural law.

Furthermore, we acknowledge receipt of your email of 30 August 2024, addressed to the unit AGRI.F.3 and unit SANTE.G.4, where you raised additional questions to the ones in your email of 31 July 2024.

In this follow-up email, you inquired about the European Commission's approach to development of web scraping and web crawling tools for market surveillance purposes and you asked about possible guidance on these tools that could be incorporated into the OCR Guidance to assist agri-food competent authorities. Development of these tools and guidance does not fall into competence of DG AGRI Geographical indications unit. Controls and enforcement of GIs are the competence of Member States.

The above information is based solely on the facts set out in your emails of 31 July and 30 August 2024, expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

Yours sincerely,

A black rectangular box redacting the signature of Diego CANGA FANO.

Diego CANGA FANO