



Action brought on 17 December 2025 – European Commission v Kingdom of Spain

(Case C-841/25)

(C/2026/639)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: P. Pernas Castrillo and J. Szczodrowski, acting as Agents)

Defendant: Kingdom of Spain

Form of order sought

The Commission claims that the Court should:

- declare that, on 16 February 2025, the Kingdom of Spain failed to fulfil its obligations under Articles 51 and 52 of Regulation (EU) 2022/2065; and
- order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

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) ⁽¹⁾ introduces rules under which Member States must grant their Digital Services Coordinator the powers necessary to carry out their tasks under that regulation and to lay down the rules on penalties applicable to any infringement of that regulation.

Member States play a key role in the implementation and supervision of Regulation (EU) 2022/2065. In particular, the Member State in which the intermediary service provider has its main establishment has exclusive competence to supervise and enforce the obligations arising from Regulation (EU) 2022/2065 in respect of that provider, except for the exclusive powers of the Commission to supervise and enforce Chapter III, Section 5, of that Regulation with regard to providers of very large online platforms and of very large online search engines, and for the powers of the Commission, in so far as it has initiated proceedings for the same infringement, to supervise and enforce the other obligations arising from that regulation (i.e. those not covered by Chapter III, Section 5) in relation to such very large providers.

In accordance with Article 51(1) to (3) of Regulation (EU) 2022/2065, Digital Service Coordinators are to have the powers of investigation, enforcement and adoption of the measures listed in that provision in order to perform their tasks in accordance with that regulation. Furthermore, pursuant to Article 51(6) of Regulation (EU) 2022/2065, Member States are required, inter alia, to lay down the specific rules and procedures for the exercise of the powers listed in Article 51(1) to (3) of that regulation.

In accordance with Article 52 of Regulation (EU) 2022/2065, Member States are to lay down the rules on penalties applicable to infringements of that regulation by providers of intermediary services within their competence and are to take all the necessary measures to ensure that they are implemented in accordance with Article 51 of that regulation. Furthermore, in accordance with Article 52(2) of Regulation (EU) 2022/2065, Member States must notify the Commission without delay of the rules laid down and the measures taken, as well as any subsequent amendments. Article 52(3) and (4) of Regulation (EU) 2022/2065 further specifies the conditions that the rules on penalties must meet.

The Commission sent a letter of formal notice to the Kingdom of Spain on 25 July 2024. On 16 December 2024, the Commission sent a reasoned opinion to the Kingdom of Spain. However, to date, the Kingdom of Spain has not taken the necessary measures to fulfil its obligations under Articles 51 and 52 of Regulation (EU) 2022/2065, a fact which the Spanish authorities do not dispute. In accordance with Article 258 TFEU, in so far as the Kingdom of Spain has not complied with the reasoned opinion, the Commission seeks a declaration that the Kingdom of Spain has failed to fulfil its obligations under Articles 51 and 52 of Regulation (EU) 2022/2065 and that it must be ordered to pay the costs.

⁽¹⁾ OJ 2022 L 277, p. 1