

AUSTRIA

1. Provisions in place in the Member States on REACH penalties

The table below has been compiled on the basis of the information provided in the legislation sent by Austria in its notification to the European Commission. This table indicates briefly which REACH articles are covered in the national legislation.

When there is a star (*) next to the country name, it means that the country applies what is called a “catch-all” provision, meaning that there is a provision in the law indicating that any infringement of the REACH Regulation can be sanctioned under national law.

Country	AUSTRIA*
Article	
5	X
6(1)	X
6(2)	X
6(3)	X
7(1)	X
7(2)	X
7(3)	
7(5)	X
8(1 and 2)	X
9(2)	X
9(6)	X
10	X
11(1 and 3)	X
12(1)	X
12(2)	X
13(1-5)	
14(1)	
14(6)	
14(7)	X
17(1 and 2)	X
18(1 to 3)	X
19(1 and 2)	X
20(2)	
21(1)	X
21(2)	X
21(3)	X
22(1)	X
22(2)	X
24(2)	X
25(1)	
26(1)	X
27(1 to 3)	
27(4)	
27(6)	
28(1)	X
28(6)	X
29(3)	
30(2)	
30(6)	
31(1)	X
31(2-9)	X
32(1)	X
32(2-3)	X
33(1 and 2)	X
34	X
35	X
36(1)	X
36(2)	X
37(2)	
37(3)	X

Country	AUSTRIA*
Article	
37(4)	
37(5)	
37(6)	
37(7)	
38(1)	X
38(2)	X
38(3)	X
38(4)	X
40(4)	X
41(4)	X
46(2)	X
49(a)	X
50(2-3)	
50(4)	X
53(1) to (3)	
53(4)	
55	
56(1)	X
56(2)	X
60(8)	X
60(10)	X
61(1)	X
61(3)	X
62 (4 and 5)	X
63(3)	X
65	X
66(1)	X
67(1)	X

2. Types of offences related to REACH in Austria

This section gathers information on the REACH offences (administrative and/or criminal ones) pointed by the law in Austria. We divided the offences in four groups:

- Offences related to the registration requirements;
- Offences related to authorisation and restrictions requirements;
- Offences related to the supply chain requirements;
- Offences related to the downstream user requirements;

	Administrative offences	Criminal offences
Offences related to the registration requirements	<p><i>Major offences</i></p> <ul style="list-style-type: none"> - Manufacture or marketing of substances without registration - Supply of incomplete/incorrect information related to registration obligations - Serious failure to keep information which has to be included in the registration available <p><i>Minor offences</i></p> <p>Infringements of all other obligations linked to registration (catchall-element)</p>	N/A
Offences related to authorisation and restrictions requirements	<p><i>Major offences</i></p> <ul style="list-style-type: none"> - Manufacture, marketing or use of substances, without authorisation or in non-compliance with authorisation requirements - Supply of incomplete/incorrect information related to authorisation obligations, 	N/A

	- Manufacture, marketing or use of substances, mixtures (preparations) or articles in non-compliance with restrictions laid down in Annex XVII of REACH <i>Minor offences</i> Infringements of all other obligations linked to authorisation and restrictions (catch- all element)	
Offences related to the supply chain requirements	<i>Major offences</i> Infringements of all obligations in the supply chain (title IV REACH)	N/A
Offences related to the downstream user requirements	<i>Major offences</i> - Infringement of all downstream user obligations laid down in § 3 (1) REACH-Durchführungsgesetz <i>Minor offences</i> Infringements of all other obligations of the downstream user, which are not specifically sanctioned (catch- all element) in the law	N/A

3. Sanctions applicable to legal persons in Austria

This table mentions whether or not Austria applies administrative or/and criminal sanctions to legal persons when REACH provisions are infringed and of a specific regime applies for legal persons in comparison to the regime applicable to natural persons.

	Sanctions applicable to legal persons	Criteria	Sanctions applicable to other groups
Austria	Y	Y- Legal persons are liable for the payment of fines which are imposed on the representative of a legal person which has committed an offence	Y (registered partnerships)

4. REACH related administrative and criminal penalties in Austria

This section gathers information regarding administrative and/or criminal penalties applicable for the infringement of REACH in Austria. We divided the penalties in four groups:

- Penalties related to infringement of registration requirements;
- Penalties related to infringement of authorisation requirements;
- Penalties related to infringement of the supply chain requirements;
- Penalties related to infringement of the downstream users requirements;

	Administrative penalties	Criminal penalties
Penalties related to infringement of registration requirements	<ul style="list-style-type: none"> • Infringement of specified registration obligations: Fine from 360 EUR to 19 000 EUR (repeated infringements: up to 38 000 EUR) • Infringement of other registration obligations: fine up to 9 000 EUR (repeated infringements: up to 18 000 EUR) • Confiscation and deprivation of objects 	N/A

Penalties related to infringement of authorisation requirements	<ul style="list-style-type: none"> • Infringement of specified authorisation obligations: Fine from 360 EUR to 19 000 EUR (repeated infringements: up to 38 000 EUR) • Infringement of other authorisation obligations: fine up to 9 000 EUR (repeated infringements: up to 18 000 EUR) • Confiscation and deprivation of objects 	N/A
Penalties related to infringement of the supply chain requirements	<ul style="list-style-type: none"> • Infringements of all obligations within the supply chain: Fine from 360 EUR to 19 000 EUR (repeated infringements: up to 38 000 EUR) • Confiscation and deprivation of objects 	N/A
Penalties related to infringement of the downstream users requirements	<ul style="list-style-type: none"> • Serious Infringement of the information keeping obligations: Fine from 360 EUR to 19 000 EUR (repeated infringements: up to 38 000 EUR) • Infringement of other obligations of downstream users: fine up to 9 000 EUR (repeated infringements: up to 18 000 EUR) • Confiscation and deprivation of objects 	N/A

5. Short description of REACH sanctions and related issues in Austria

On the 18th August 2009 the Law on the Execution of REACH (Bundesgesetz zur Durchführung der REACH Verordnung, REACH-Durchführungsgesetz) came into force (federal law gazette I No. 88/2009), laying down, inter alia, administrative criminal sanctions for REACH infringements, including a “catch-all” provision.

Serious infringements of REACH mentioned in § 3(1) of REACH-Durchführungsgesetz incur higher fines. Within § 3 (1) of REACH-Durchführungsgesetz, the Austrian legislator deemed it unnecessary to mention each Article of REACH, the infringement of which incurs higher fines, since the Articles in themselves contain clear orders and prohibitions.

The Federal Ministry of Agriculture, Forestry, Environment and Water Management is primarily responsible for the enforcement and supervision of REACH. Its minister is authorised to issue instructions to the competent authorities of the nine federal states, each headed by the “Landeshauptmann”, who directs chemical inspectors to carry out supervision by means of on-site controls, sampling, review of books etc. If there is a concrete suspicion of an offence, the chemicals inspectors have to inform the competent authority, “Bezirksverwaltungsbehörde”, which initiates the appropriate legal procedure to sanction the infringement. On average every federal state uses three chemical inspectors. The enforcement measure most often applied to redress an offence is to ask the offender to restore lawful conditions in accordance with § 68 ChemG.

The current payroll expenses are covered and there is a legal obligation to finance the examination of samples. The external costs for supervision have to be reimbursed by the supervised offender, if a sanction has been definitely imposed upon him.