

BELGIUM

Federal law

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 Belgium in its notification to the European Commission. This table indicates briefly which REACH articles are covered in the federal 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	BELGIUM
Article	
5	X
6(1)	X
6(2)	
6(3)	X
7(1)	X
7(2)	X
7(3)	X
7(5)	X
8(1 and 2)	X(except 2)
9(2)	X
9(4)	X
9(6)	X
10	
11(1 and 3)	X(except 2)
12(1)	
12(2)	X
13(1-5)	X(except 2,5)
14(1)	X
14(6)	X
14(7)	X
17(1 and 2)	X(except2)
18(1 to 3)	X(except 2,3)
19(1 and 2)	X(except 2)
20(2)	
21(1)	
21(2)	
21(3)	
22(1)	X
22(2)	X
22(4)	X
24(2)	X
25(1)	X
25(2)	X
26(1)	X
26(3)	X
27(1 to 3)	
27(4)	
27(6)	
28(1)	
28(6)	
29(3)	
30(1)	X
30(2)	X
30(3 to 4)	X
30(6)	
31(1)	X
31(2-9)	X(except 4,6)

Country	BELGIUM
Article	
32(1)	X
32(2-3)	X
33(1 and 2)	X
34	X
35	
36(1)	X
36(2)	X
37(2)	X
37(3)	X
37(4)	X
37(5)	X
37(6)	X
37(7)	X
38(1)	X
38(2)	
38(3)	X
38(4)	X
39(1 to 2)	X
40(4)	X
41(4)	X
46(2)	X
49(a)	X
50(2-3)	X
50(4)	X
53(1) to (3)	X(except 1)
53(4)	
55	X
56(1)	X
56(2)	X
60(8)	
60(10)	X
61(1)	X
61(3)	X
62 (4 and 5)	
63(3)	
65	
66(1)	X
67(1)	X
105	X
113(1) and (3)	X

2. Types of offences related to REACH in Belgium

This section gathers information on the REACH offences (administrative and/or criminal ones) pointed by the federal law in Belgium. 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	<i>Major offences:</i> - Failure to register before the placing on the market of substances, in preparation, articles. (Article 5) - Failure of the producer or importer to supply appropriate instructions to the recipient of the article (Article 7(3))	<i>Major offences:</i> - Failure to register before the placing on the market of substances, in preparation, articles. (Article 5) - Failure of the producer or importer to supply appropriate instructions to the recipient of the article (Article 7(3))

	<p>-Failure to designate OR (Article 8(2))</p> <p>-Failure to comply with conditions imposed by ECHA regarding the PPOD process. (Article 9(4)and (6))</p> <p>- Failure to comply with the principle of good laboratory practice when carrying ecotoxicological and toxicological tests (Article 13(4))</p> <p>- Failure to complete a CSA and a CSR (Article 14(1))</p> <p>- Failure to apply the appropriate measures to adequately control the risks identified in the CSA (Article 14(6))</p> <p>- Failure to keep available and up to date the CSR(Article 14(7))</p> <p><i>Minor offences:</i></p> <p>- Failure to submit a registration to the Agency (Article 6(3)), Article 7(1), 7(5), 17(1), 18(1), 19(1)</p> <p>- Failure to submit information (Article (7(2), 11(2), 12(2), 13(1), 13(3))</p> <p>- Failure to update its registration and notify when the quantity of a notified substance reaches the next tonnage threshold (Article 22(1), 22(2))</p>	<p>-Failure to designate OR (Article 8(1) and (2))</p> <p>-Failure to comply with conditions imposed by ECHA regarding the PPOD process. (Article 9(4)and (6))</p> <p>-Failure to comply with the principle of good laboratory practice when carrying ecotoxicological and toxicological tests (Article 13(4))</p> <p>- failure to complete a CSA and a CSR (Article 14(1))</p> <p>-failure to apply the appropriate measures to adequately control the risks identified in the CSA (Article 14(6))</p> <p>- failure to keep available and up to date the CSR(Article 14(7))</p> <p><i>Minor offences:</i></p> <p>Failure to submit a registration to the Agency (Article 6(3)), Article 7(1), 7(5), 17(1), 18(1), 19(1)</p> <p>Failure to submit information (Article (7(2), 11(2), 12(2), 13(1), 13(3))</p> <p>Failure to update its registration and notify when the quantity of a notified substance reaches the next tonnage threshold (Article 22(1), 22(2))</p>
Offences related to authorisation and restrictions requirements	<p><i>Major offence</i></p> <p>- Failure to analyse the availability of alternatives and consider their risks, and the technical and economic feasibility of substitution when applying for an authorisation. (Article 55)</p> <p>- Placing on the market of a substance included in Annex XIV (Article 56(1))</p> <p>-Failure by downstream users to use a substance in accordance with the conditions of an authorisation granted to an actor up his supply chain for that use (Article 56(2))</p> <p>- Failure to ensure that the exposure is reduced to as low a level as is technically and practically possible. (Article 60(10))</p> <p>- Failure to include the authorisation number on the label before the substance or preparation is placed on the market for an authorised use</p> <p>- Failure to comply with the conditions of the restrictions in an authorisation. (Article 65)</p> <p><i>Minor offence</i></p> <p>- Failure to update the information of the original application as necessary (Article 63(2))</p> <p>- Failure to notify ECHA within three months of the first supply (Article 66(1))</p>	<p><i>Major offence</i></p> <p>-failure to analyse the availability of alternatives and consider their risks, and the technical and economic feasibility of substitution when applying for an authorisation. (Article 55)</p> <p>- placing on the market of a substance included in Annex XIV (Article 56(1))</p> <p>-failure by downstream users to use a substance in accordance with the conditions of an authorisation granted to an actor up his supply chain for that use (Article 56(2))</p> <p>- failure to ensure that the exposure is reduced to as low a level as is technically and practically possible. (Article 60(10))</p> <p>-failure to include the authorisation number on the label before the substance or preparation is placed on the market for an authorised use</p> <p>-failure to comply with the conditions of the restrictions in an authorisation. (Article 65)</p> <p><i>Minor offence</i></p> <p>- failure to update the information of the original application as necessary (Article 63(2))</p> <p>-failure to notify ECHA within three months of the first supply (Article 66(1))</p>
Offences related to the supply chain requirements	<p><i>Major offences</i></p> <p>Failure to provide SDS and relevant information in the SDS (Article 31(1)to(3))</p> <p>Failure to update SDS or information (Article 31(9), 32(3), 34)</p> <p>Failure to provide relevant information for downstream users that do not have to provide SDS (Article 32(1))</p> <p><i>Minor offences</i></p> <p>Failure to provide SDS in the language of the Member State concerned.(Article 31(5))</p> <p>Failure to provide SDS and information free of charge either electronically or on paper (Article 31(8), 32(2))</p> <p>Failure to provide available information (Article 36(1))</p>	<p><i>Major offences</i></p> <p>Failure to provide SDS and relevant information in the SDS (Article 31(1)to(3))</p> <p>Failure to up-date SDS or information (Article 31(9), 32(3), 34)</p> <p>Failure to provide relevant information for downstream users that do not have to provide SDS (Article 32(1))</p> <p><i>Minor offences</i></p> <p>Failure to provide SDS in the language of the Member State concerned.(Article 31(5))</p> <p>Failure to provide SDS and information free of charge either electronically or on paper (Article 31(8), 32(2))</p> <p>Failure to provide available information (Article 36(1))</p>
Offences related to the	<p><i>Major offences</i></p> <p>Failure to prepare a CSR in accordance with Annex</p>	<p><i>Major offences</i></p> <p>Failure to prepare a CSR in accordance with Annex</p>

downstream user requirements	<p>XII for any use outside either the conditions described in an exposure scenario or a use and exposure category in a SDS (Article 37(4))</p> <p>Failure to identify and apply appropriate measures to adequately control risks (Article 37(5), Article 37(6),</p> <p>Failure to keep chemical safety report up to date and available. Article 37(7)</p> <p>Failure to report or to update information to ECHA (Article 38(1)(3)(4))</p> <p>Failure to comply with the requirements of Article 37 at the latest 12 months after receiving a registration number (Article 39(1))</p> <p>Failure to comply with the requirements of Article 38 at the latest six months after receiving a registration number (Article 39(2))</p> <p><i>No minor offences</i></p>	<p>XII for any use outside either the conditions described in an exposure scenario or a use and exposure category in a SDS (Article 37(4))</p> <p>Failure to identify and apply appropriate measures to adequately control risks (Article 37(5), Article 37(6),</p> <p>Failure to keep chemical safety report up to date and available. Article 37(7)</p> <p>Failure to report or to update information to ECHA (Article 38(1)(3)(4))</p> <p>Failure to comply with the requirements of Article 37 at the latest 12 months after receiving a registration number (Article 39(1))</p> <p>Failure to comply with the requirements of Article 38 at the latest six months after receiving a registration number (Article 39(2))</p> <p><i>No minor offences</i></p>
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3. Sanctions applicable to legal persons in Belgium

This table mentions whether or not Belgium applies administrative or/and criminal sanctions to natural and legal persons when REACH provisions, belonging to the federal competence, are infringed.

	Sanctions applicable to natural and legal persons	Criteria	Sanctions applicable to other groups
Belgium	Y	Identical to natural persons	N

4. REACH related administrative and criminal penalties in Belgium

This section gathers information regarding administrative and/or criminal penalties applicable for the infringement of the articles of REACH that belong to the competence of the federal level in Belgium. 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	<p><i>Major offences:</i></p> <p>An administrative fine from 440 to 1 100 000 Euros</p> <p><i>Minor offences</i></p> <p>An administrative fine of 143 to 33 000 Euros</p> <p>Complementary sanction:</p> <ul style="list-style-type: none"> - Temporary seizure of the products if they consider they are not in conformity with the REACH Regulation - Destruction of these products for health care and 	<p><i>Major offences:</i></p> <ul style="list-style-type: none"> - Up to 3 years prison - Fine from 880 to 22 000 000 Euros <p><i>In case the person commits a major offence and is conscious of the impact of this infringement on public health and on the environment:</i></p> <ul style="list-style-type: none"> - Up to 8 years prison - Fine up to 55 000 000 Euros <p><i>Minor offences</i></p> <ul style="list-style-type: none"> - Up to 1 year prison - Fine from 286 to 660 000 Euros

	<p>environmental imperative reasons</p>	<p>Complementary criminal sanctions</p> <ul style="list-style-type: none"> -Publication of the judgment at the cost of the condemned person -Closure of the establishment 4 weeks to 1 year in case of repeated offence -Temporary prohibition to practice specific professional tasks for 1 to 10 years in case of repeated offence - In order to protect health care and the environment the judge can: <ul style="list-style-type: none"> • Prohibition of import/export of the product, substance, article subject to infringement • Withdrawal from the market • Destruction of the substance product • Withdrawal of illegal material benefits <p>In case of repeated offence, the judge can take the following direct measures:</p> <ul style="list-style-type: none"> -Designation a special legal administrator -Declaration of incapacity to exercise specific professional activities -Cessation of production -Prohibition to use the premises where the infringement was committed
<p>Penalties related to infringement of authorisation requirements</p>	<p><i>Major offences:</i></p> <p>An administrative fine from 440 to 1100 000 Euros</p> <p><i>Minor offences:</i></p> <p>An administrative fine from 143 to 33 000 Euros</p> <p>Complementary sanction:</p> <ul style="list-style-type: none"> - Temporary seizure of the products if they consider they are not in conformity with the REACH Regulation - Destruction of these products for health care and environmental imperative reasons 	<p><i>Major offences:</i></p> <ul style="list-style-type: none"> -Up to 3 years prison - Fine from 880 to 22 000 000 Euros <p><i>In case the person commits a major offence and is conscious of the impact of this infringement on public health and on the environment:</i></p> <ul style="list-style-type: none"> - Up to 8 years prison - Fine up to 55 000 000 Euros <p><i>Minor offences</i></p> <ul style="list-style-type: none"> - Up to 1 year prison - Fine from 286 to 660 000 Euros <p>Complementary criminal sanctions</p> <ul style="list-style-type: none"> -Publication of the judgment at the cost of the condemned person -Closure of the establishment 4 weeks to 1 year in case of repeated offence -Temporary prohibition to practice specific professional tasks for 1 to 10 years in case of repeated offence - In order to protect health care and the environment the judge can: <ul style="list-style-type: none"> • Prohibition of import/export of the product, substance, article subject to infringement • Withdrawal from the market • Destruction of the substance product • Withdrawal of illegal material benefits <p>In case of repeated offence, the judge can take the following direct measures:</p> <ul style="list-style-type: none"> -Designation a special legal administrator -Declaration of incapacity to exercise specific professional activities -Cessation of production -Prohibition to use the premises where the infringement was committed
<p>Penalties related to infringement of the supply chain requirements</p>	<p><i>Major offences:</i></p> <p>An administrative fine from 440 to 1100 000 Euros</p> <p><i>Minor offences</i></p>	<p><i>Major offences:</i></p> <ul style="list-style-type: none"> -Up to 3 years prison - Fine from 880 to 22 000 000 Euros <p><i>In case the person commits a major offence and is conscious of the impact of this infringement on</i></p>

	<p>An administrative fine of 143 to 33 000 Euros</p> <p>Complementary sanction:</p> <p>The competent authorities can temporarily seize the products if they consider they are not in conformity with the REACH Regulation</p> <p>These products can be destructed for health care and environmental imperative reasons</p>	<p><i>public health and on the environment:</i></p> <ul style="list-style-type: none"> - Up to 8 years prison - Fine up to 55 000 000 Euros <p><i>Minor offences</i></p> <ul style="list-style-type: none"> - Up to 1 year prison - Fine from 286 to 660 000 Euros <p>Complementary criminal sanctions</p> <ul style="list-style-type: none"> -Publication of the judgment at the cost of the condemned person -Closure of the establishment 4 weeks to 1 year in case of repeated offence -Temporary prohibition to practice specific professional tasks for 1 to 10 years in case of repeated offence - In order to protect health care and the environment the judge can: <ul style="list-style-type: none"> • Prohibition of import/export of the product, substance, article subject to infringement • Withdrawal from the market • Destruction of the substance product • Withdrawal of illegal material benefits <p>In case of repeated offence, the judge can take the following direct measures:</p> <ul style="list-style-type: none"> -Designation a special legal administrator -Declaration of incapacity to exercise specific professional activities -Cessation of production -Prohibition to use the premises where the infringement was committed
<p>Penalties related to infringement of the downstream users requirements</p>	<p><i>Major offences:</i></p> <p>An administrative fine from 440 to 1 100 000 Euros</p> <p>Complementary sanctions:</p> <p>The competent authorities can temporarily seize the products if they consider they are not in conformity with the REACH Regulation</p> <p>These products can be destructed for health care and environmental imperative reasons</p>	<p><i>Major offences:</i></p> <ul style="list-style-type: none"> -Up to 3 years prison - Fine from 880 to 22 000 000 Euros <p><i>In case the person commits a major offence and is conscious of the impact of this infringement on public health and on the environment:</i></p> <ul style="list-style-type: none"> - Up to 8 years prison - Fine up to 55 000 000 Euros <p>Complementary criminal sanctions</p> <ul style="list-style-type: none"> -Publication of the judgment at the cost of the condemned person -Closure of the establishment 4 weeks to 1 year in case of repeated offence -Temporary prohibition to practice specific professional tasks for 1 to 10 years in case of repeated offence - In order to protect health care and the environment the judge can: <ul style="list-style-type: none"> • Prohibition of import/export of the product, substance, article subject to infringement • Withdrawal from the market • Destruction of the substance product • Withdrawal of illegal material benefits <p>In case of repeated offence, the judge can take the following direct measures:</p> <ul style="list-style-type: none"> -Designation a special legal administrator -Declaration of incapacity to exercise specific professional activities -Cessation of production -Prohibition to use the premises where the infringement was committed

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

The environmental legislation – and its enforcement - is a shared competence between the federal level and the regional level, depending on the obligations at stake. The distribution of the competences among these authorities is dealt with in the Belgian Constitution and in a Special law on the State Reform.

A cooperation agreement is currently prepared in order to precise the cooperation of each entity. At the federal level eg., the law mentions that the Federal Public Service for Public Health, Security of the Food Chain and Environment is competent to monitor the enforcement of the REACH obligations.

The sanctions apply in case of infringement of the articles of the REACH Regulation that are regulated at the federal level, meaning that the level of sanctions is uniform throughout the country. However, all the environmental consequences in terms of use and production on air, water, soil and human health consequences of the infringement of REACH are dealt with at the regional level.

REACH provisions subject to sanctions are expressly designated in the federal law. This approach is meant to help the administration and the judiciary identifying infringements of the REACH regulation. The federal law makes a distinction between serious infringements and minor infringements. The degree of seriousness of the infringement is assessed taking into account the consequences on the environment and on human health of a breach of a specific provision of REACH. For example, minor infringements are mainly infringements of ‘an administrative obligation’ with a minor impact on human health and the environment.

The infringement procedure is not the same for ‘minor REACH infringements’ and ‘serious REACH infringements’. In case of less serious infringements, the civil servant designated to this aim by the King, issues an administrative fine to the offender, while for a serious infringement the competent authority sends a report in writing to the public prosecutor who decides whether or not to pursue the proceedings. A minor infringement can also trigger criminal proceedings in case the offender does not comply with the administrative sanction (e.g., does not pay a fine).

Prior to the imposition of a sanction, a warning or a letter of formal notice is addressed to the person who is acting in contradiction with the obligations of REACH in order to inform him that he acts against the law and to invite him to correct the situation. Such warning procedure does not apply in case of recidivism or when a specific deadline imposed by REACH or by an ECHA decision has not been respected.

Flanders Region

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

This table indicates briefly which REACH articles are covered in the Flanders region.

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

Country	FLANDERS*
Article	
35	
36(1)	X
36(2)	X
37(2)	
37(3)	
37(4)	X
37(5)	X
37(6)	X
37(7)	X
38(1)	X
38(2)	
38(3)	X
38(4)	X
39(1 to 2)	X
40(4)	X
41(4)	X
46(2)	X
49(a)	X
50(2-3)	X
50(4)	X
53(1) to (3)	
53(4)	
55	
56(1)	X
56(2)	X
60(8)	
60(10)	X
61(1)	X
61(3)	X
62 (4 and 5)	
63(3)	X
65	
66(1)	X
67(1)	X
105	X
113(1) and (3)	X

2. Types of offences related to REACH in Flanders

This section gathers information on the REACH offences (administrative and/or criminal ones) pointed by the Flanders region. 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	<ul style="list-style-type: none"> - Failure by a registrant to submit information required after compliance check of registrations by ECHA to the Agency (Article 41(4)) - Also possible in the other cases for which the Region is competent if the judicial authorities decide not to prosecute 	Infringements of all REACH obligations for which the Region is competent, except for these considered only as administrative offences
Offences related to authorisation and	<ul style="list-style-type: none"> - <i>Authorisation</i>: Failure to update the information of the original application as necessary (Article 63(3)) - Also possible in the other cases for which the 	Infringements of all REACH obligations for which the Region is competent, except for these considered only as administrative offences

restrictions requirements	Region is competent if the judicial authorities decide not to prosecute	
Offences related to the supply chain requirements	- Failure to provide available information (Articles 36(1), 36(2)) - also possible in the other cases for which the Region is competent if the judicial authorities decide not to prosecute	Infringements of all REACH obligations for which the Region is competent, except for these considered only as administrative offences
Offences related to the downstream user requirements	- Possible in the cases for which the Region is competent if the judicial authorities decide not to prosecute	Infringements of all REACH obligations for which the Region is competent

3. Sanctions applicable to legal persons in Flanders

This table mentions whether or not Flanders applies administrative or/and criminal sanctions to natural and legal persons when REACH provisions, belonging to the federal competence, are infringed.

	Sanctions applicable to natural and legal persons	Criteria	Sanctions applicable to other groups
Flanders	Y	Identical to natural persons	N

4. REACH related administrative and criminal penalties in Flanders

This section gathers information regarding administrative and/or criminal penalties applicable for the infringement of the articles of REACH that belong to the competence of the federal level in Flanders. 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;

The sanctions below concern only the articles of REACH for which the Region is competent:

	Administrative penalties	Criminal penalties
Penalties related to infringement of registration requirements	- A fine up to 50 000 Euros for the articles exclusively sanctioned by the administration (Article 41(4)) or - A fine up to 250 000 Euros in case the administrative sanction is used as an alternative to the criminal sanction. - Closure of the establishment - Interruption of activities - Withdrawal or modification of permits	- Imprisonment of 1 month to 2 years, - A fine of 100 to 250 000 Euros, or one of those sanctions (to be multiplied with 5,5 to obtain the sums that are due in reality).
Penalties related to infringement of authorisation requirements	- A fine up to 50 000 Euros for the articles exclusively sanctioned by the administration (Article 63(3)) or - A fine up to 250 000 Euros in case the administrative sanction is used as an alternative to the criminal sanction. - Closure of the establishment - Interruption of activities	- Imprisonment of 1 month to 2 years, - A fine of 100 to 250 000 Euros, or one of those sanctions (to be multiplied with 5,5 to obtain the sums that are due in reality).

	- Withdrawal or modification of permits	
Penalties related to infringement of the supply chain requirements	<ul style="list-style-type: none"> - A fine up to 50 000 Euros for the articles exclusively sanctioned by the administration (36(1), 36(2)) or - A fine up to 250 000 Euros in case the administrative sanction is used as an alternative to the criminal sanction. - Closure of the establishment - Interruption of activities - Withdrawal or modification of permits 	<ul style="list-style-type: none"> - Imprisonment of 1 month to 2 years, - A fine of 100 to 250 000 Euros, or one of those sanctions (to be multiplied with 5,5 to obtain the sums that are due in reality).
Penalties related to infringement of the downstream users requirements	<ul style="list-style-type: none"> - A fine up to 250 000 Euros in case the administrative sanction is used as an alternative to the criminal sanction. - Closure of the establishment - Interruption of activities - Withdrawal or modification of permits 	<ul style="list-style-type: none"> - Imprisonment of 1 month to 2 years, - A fine of 100 to 250 000 Euros, or one of those sanctions (to be multiplied with 5,5 to obtain the sums that are due in reality).

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

Environmental policy is to a very large extent an exclusive competence of the regions in Belgium. The region of Flanders is thus competent for enforcing important parts of the REACH Regulation that have a strong environmental component.

The sanctions of article 16.6.1., par. 1 of Title XVI¹ of the Decree of 5 April 1995 setting general provisions with regard to environmental policy² are applicable to all REACH obligations for which Flanders has competence³. According to Title XVI, infringements of articles of REACH that imply competences of the Flemish Region are sanctioned with imprisonment of one month to two years, and a fine of 100 to 250 000 Euros, or one of those sanctions. The fines have to be multiplied with 5,5 to obtain the sums that are due in reality, resulting in fines from 550 to 1 375 000 Euros. If the judicial authorities decide not to prosecute, the administrative authorities can still apply administrative sanctions. In this case, these alternative administrative sanctions can lead to a fine of up to 250.000 Euros.

Some infringements of REACH, expressly defined in another part of the Flemish regulation, namely the Order of the Flemish Government of 30 April 2009 on Enforcement⁴, are exclusively subject to administrative sanctions. The articles concerned are Articles 36(1), 36(2), 41(4), 46(2) and 63(3) of the REACH Regulation. Infringement of these articles can lead to an administrative fine of up to 50 000 Euros under the Decree of 5 April 1995. Not specific for REACH but in general (and also applicable when REACH is concerned) the Flemish inspectorate also has the possibility to close down factories or to stop certain activities. The inspectorate also has the possibility to modify or withdraw the environmental permit.

¹ Title XVI "Surveillance, Enforcement and Safeguard measures" introduced by the Decree of 21 December 2007

² *Decreet van 5 april 1995 houdende algemene bepalingen inzake milieu beleid en tot wijziging van diverse andere besluiten*- as modified by the Belgian State Journal 29 February 2008 (Modified by Decree of April 30, 2009 BSJ, 25-06-2009; and the Decree of 12 December 2008, BSJ 04-02-2009)

³ The link between the Decree and REACH was made by means of the Order of the Flemish Government of 12 December 2008 on Enforcement.

⁴ Modifying the Order of December 2008, implementing Title XVI of the Decree of April 5, 1995, holding general provisions with regard to environmental policy (Belgian State Journal, June 25, 2009) *Besluit van 30 april 2009 tot wijziging van het besluit van vlaamse Regering van 12 december 2008 tot uitvoering van titel XVI van het decreet van 5 april 1995 houdende algemene bepalingen inzake milieu beleid en tot wijziging van diverse andere besluiten*

The Brussels Region

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

This table indicates briefly which REACH articles are covered in the Brussels region.

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

Country	Brussels Region
Article	
37(6)	X
37(7)	X
38(1)	X
38(2)	
38(3)	X
38(4)	X
39(1 to 2)	X
40(4)	X
41(4)	X
46(2)	X
49(a)	X
50(2-3)	X
50(4)	X
53(1) to (3)	
53(4)	
55	
56(1)	X
56(2)	X
60(8)	
60(10)	X
61(1)	X
61(3)	X
62 (4 and 5)	
63(3)	X
65	
66(1)	X
67(1)	X
105	
113(1) and (3)	

2. Types of offences related to REACH in the Brussels region

This section gathers information on the REACH offences (administrative and/or criminal ones) pointed by the Brussels region. 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	Infringement of registration requirements related to manufacturing for which the Region is competent (Articles 5, 6(1), 6(3), 7(1), 7(2))	Infringement of registration requirements related to manufacturing for which the Region is competent (Articles 5, 6(1), 6(3), 7(1), 7(2))
Offences related to authorisation and restrictions requirements	Infringement of all authorisation and restriction requirements under REACH for which the Region is competent. This does not cover Articles 55, 60(8),62(4)(5), 65	Infringement of all authorisation and restriction requirements under REACH for which the Region is competent. This does not cover Articles 55, 60(8),62(4)(5), 65
Offences related to the supply chain requirements	Failure to keep available information under Article 36 of REACH	Failure to keep available information under Article 36 of REACH
Offences related to the	Infringement to all downstream users requirements for which the Region is competent. This does not	Infringement to all downstream users requirements for which the Region is competent. This does not

downstream user requirements	cover Articles 38(2), 37(2).	cover Articles 38(2), 37(2).
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3. Sanctions applicable to legal persons in the Brussels region

This table mentions whether or not the Brussels regions applies administrative or/and criminal sanctions to natural and legal persons when REACH provisions, belonging to the federal competence, are infringed.

	Sanctions applicable to natural and legal persons	Criteria	Sanctions applicable to other groups
Brussels regions	Y	Identical to natural persons	N

4. REACH related administrative and criminal penalties in the Brussels region

This section gathers information regarding administrative and/or criminal penalties applicable for the infringement of the articles of REACH that belong to the competence of the Brussels region. 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;

The sanctions below concern only the articles of REACH for which the Region is competent:

	Administrative penalties	Criminal penalties
Penalties related to infringement of registration requirements	An administrative fine from 625 Euros to 62 500 Euros – applicable only if the case was not prosecuted or in absence of decision from the prosecutor within 6 months of notification of the infraction.	- Imprisonment from 8 months to 12 months And/or - A fine of 2.5 Euros to 25 000 Euros This fine is from 25 Euros to 25 000 Euros when it concerns installations classified as I. A (installations which might have an important impact on health and the environment). The fines are doubled when the offense was committed knowingly or for pecuniary reward.
Penalties related to infringement of authorisation/restrictions requirements	An administrative fine from 625 Euros to 62 500 Euros – applicable only if the case was not prosecuted or in absence of decision from the prosecutor within 6 months of notification of the infraction.	- Imprisonment from 8 months to 12 months And/or - A fine of 2.5 Euros to 25 000 Euros This fine is from 25 Euros to 25 000 Euros when it concerns installations classified as I. A (installations which might have an important impact on health and the environment). The fines are doubled when the offense was committed knowingly or for pecuniary reward.
Penalties related to infringement of the supply chain requirements	An administrative fine from 625 Euros to 62 500 Euros – applicable only if the case was not prosecuted or in absence of decision from the prosecutor within 6 months of notification of the infraction.	- Imprisonment from 8 months to 12 months And/or - A fine of 2.5 Euros to 25 000 Euros This fine is from 25 Euros to 25 000 Euros when it concerns installations classified as I. A (installations which might have an important impact on health and the environment). The fines are doubled when the offense was

Penalties related to infringement of the downstream users requirements	An administrative fine from 625 Euros to 62 500 Euros – applicable only if the case was not prosecuted or in absence of decision from the prosecutor within 6 months of notification of the infraction.	committed knowingly or for pecuniary reward. - Imprisonment from 8 months to 12 months And/or - A fine of 2.5 Euros to 25 000 Euros This fine is from 25 Euros to 25 000 Euros when it concerns installations classified as I. A (installations which might have an important impact on health and the environment). The fines are doubled when the offense was committed knowingly or for pecuniary reward.
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5. Short description of REACH sanctions and related issues in the Brussels Region

Environmental policy is to a very large extent an exclusive competence of the regions in Belgium. The Brussels region is thus competent for enforcing important parts of the REACH Regulation.

The provisions of REACH for the enforcement of which the Region is competent are enforced through the Order of June 1997 related to environmental licence⁵. Installations that fall within the scope of this Order and that fall under the REACH Regulation will have to comply with the REACH provisions mentioned above to be granted or renewed an environmental permit.

Infringements to the conditions or restrictions mentioned in the environmental permits can lead to an imprisonment from 8 months to 12 months and/or a fine of 2.50 Euros to 25 000 Euros. The fine applicable ranges from 25 Euros to 25 000 Euros when it concerns installations classified as I.A (installations which might have an important impact on health and the environment), and 2.50 Euros to 12 500 Euros for other types of installations.

Administrative sanctions apply only if the public prosecutor does not decide to pursue criminal proceedings or does not take a decision on the infringement within six months of notification of the infraction. These administrative sanctions are administrative fines from 625 Euros to 62 500 Euros⁶.

As the Brussels sanctions system is currently entirely based on the legislation on environmental permits, the regional authorities cannot control the respect of the REACH obligations for installations or companies that fall outside the scope of the Order of June 1997 related to environmental licence. The regional authorities are presently preparing a proposal for a new Order to address this shortcoming of the system.

⁵ *Ordonnance relative aux permis d'environnement du 5 Juin 1997* as amended by the Order of 26 March 2009

⁶ Order of 25 March 1999 related to the search, finding, prosecution and punishment of environmental infringements (*Ordonnance du 25 mars 1999 relative à la recherche, à la constatation, la poursuite et la répression des infractions en matière d'environnement*)

The Walloon Region

The legislation concerning infringements of the REACH obligations is, at the time of this report, in the procedure for adoption.