

FRANCE

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

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

2. Types of offences related to REACH in France

This section gathers information on the REACH offences (administrative and/or criminal ones) pointed by the law in France. 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	Infringements of all REACH obligations, except for these considered as criminal offences (next column)	-to provide knowingly and intentionally inexact information or to conceal information so that the relevant substances or preparations or manufactured products or equipments containing that substance have less stringent prescriptions than the one they would have had. (Article 7(2) Article 7(4), Article 10, Article 12(1) Article 17, Article 18) -for the producer or importer to produce or import without pre-registration a substance or a substance contained in a preparation or in an article with failure to observe title II of EC Regulation 1907/2006 . (mainly Article 5) - to obtain or endeavour to obtain the issuance of a registration number by false statement, or by any other fraudulent act. (Article 20)
Offences related to	Infringements of all REACH obligations, except for these considered as criminal offences (next column)	-to produce, import or use without the corresponding authorisation a substance or a

authorisation and restrictions requirements		preparation or an article with failure to observe title VIII of EC Regulation 1907/2006. - Not to respect the restrictions measures enacted in Title VIII of EC Regulation 1907/2006. Thus failure to comply with article 67(1) of Regulation 1907/2006/EC
Offences related to the supply chain requirements	Infringements of all REACH obligations, except for these considered as criminal offences (next column)	- not to provide to the recipient of a substance or preparation a safety data sheet and its annexes established and updated pursuant to the requirement under article 31 of EC Regulation 1907/2006.
Offences related to the downstream user requirements	Infringements of all REACH obligations, except for these considered as criminal offences (next column).	Failure to comply with the following obligation: - for a down stream user not to communicate to the European Agency information on chemical products provided by Article 38 of EC Regulation 1907/2006.

3. Sanctions applicable to legal persons in France

This table mentions whether or not France 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
France	Y	Fine multiplied by 5.	N

4. REACH related administrative and criminal penalties in France

This section gathers information regarding administrative and/or criminal penalties applicable for the infringement of REACH in France. 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"> • A maximum fine of 15000 EUR and daily periodic penalty payments of 1500 EUR. • The producer or importer shall deposit to a public accounting officer an amount of money for the establishment of data, tests and studies to be realised in order to register a substance. • The administration can direct producers that manufactured substances, preparations, or article with disregard to Title II, VII and VIII of (EC) Regulation 1907/2006 to ensure their disposal according to the French legislation 	<ul style="list-style-type: none"> • Two years of imprisonment and a fine of 75000 EUR • Complementary fines for natural persons <ul style="list-style-type: none"> -confiscation of the substance, preparation, or article - prohibition to practice the profession through which the offence was committed. - the temporary or final closure of the activity. -the publication of the decision of the Criminal Court. -when the substances are confiscated, the Criminal Court can order the destruction of it or preparations at the cost of the condemned person. • Legal persons penalty fines <ul style="list-style-type: none"> -A maximum fine of 375 000 EUR for legal persons

		<p>infringing REACH obligations dealing on registration.</p> <ul style="list-style-type: none"> -Prohibition to exercise directly or indirectly one or more professional or social activities through which the offence was committed. - The placing under judicial supervision during five years. - the definitive closure or a five year closure of the department of the company where the offences were committed. - exclusion of public procurement contract definitively or for five years. -prohibition to offer financial title to the public or to sell financial titles in regulated market - the confiscation of the substance, preparation, or article. - the publication of the decision of the Criminal Court.
<p>Penalties related to infringement of authorisation requirements</p>	<ul style="list-style-type: none"> • A maximum fine of 15000 EUR and daily periodic penalty payments of 1500 EUR. • The administration can order producers to dispose (by means provided by the French legislation) substances, preparations, or article manufactured with disregard to Title II, VII and VIII of (EC) Regulation 1907/2006 	<ul style="list-style-type: none"> • Two years of imprisonment and a fine of 75000 EUR • Complementary fines for natural persons <ul style="list-style-type: none"> -confiscation of the substance, preparation, or article - prohibition to practice the profession through which the offence was committed. - the temporary or final closure of the activity. -the publication of the decision of the Criminal Court. -when the substances are confiscated, the Criminal Court can order the destruction of it or preparations at the cost of the condemned person. • Legal persons penalty fines <ul style="list-style-type: none"> -A maximum fine of 375 000 EUR for legal persons infringing REACH obligations dealing with authorisation. -Prohibition to exercise directly or indirectly one or more professional or social activities through which the offence was committed. - The placing under judicial supervision during five years. - the definitive closure or a five year closure of the department of the company where the offences were committed. - exclusion of public procurement contract definitively or for five years. -prohibition to offer financial title to the public or to sell financial titles in regulated market - the confiscation of the substance, preparation, or article. - the publication of the decision of the Criminal Court.
<p>Penalties related to infringement of the supply chain requirements</p>	<ul style="list-style-type: none"> • A maximum fine of 15000 EUR and daily periodic penalty payments of 1500 EUR. 	<ul style="list-style-type: none"> • Three months of imprisonment and a fine of 20 000 EUR • Complementary fines for natural persons <ul style="list-style-type: none"> -confiscation of the substance, preparation, or article - prohibition to practice the profession through which the offence was committed. - the temporary or final closure of the activity. -the publication of the decision of the Criminal Court. -when the substances are confiscated, the Criminal Court can order the destruction of it or preparations at the cost of the condemned person. • Legal persons penalty fines <ul style="list-style-type: none"> -100 000 EUR for legal persons infringing REACH

		<p>provisions on supply chain.</p> <ul style="list-style-type: none"> -prohibition to exercise directly or indirectly one or more professional or social activities through which the offence was committed. -the placing under judicial supervision during five years. - the definitive closure or a five year closure of the department of the company where the offences were committed. - exclusion of public procurement contract definitively or for five years. -prohibition to offer financial title to the public or to sell financial titles in regulated market - the confiscation of the substance, preparation, or article. - the publication of the decision of the Criminal Court.
<p>Penalties related to infringement of the downstream users requirements</p>	<ul style="list-style-type: none"> • A maximum fine of 15000 EUR and daily periodic penalty payments of 1500 EUR. • The downstream user to deposit to a public accounting for the establishment of data, tests and studies a corresponding sum of money in order to apply for an authorisation or to elaborate a report on the chemical safety as provided under Article 37(4) of (EC)Regulation 1907/2006. This sum of money is given back through the execution of tests and studies or the establishment of data required. 	<ul style="list-style-type: none"> • Two years of imprisonment and a fine of 75000 EUR • Complementary fines for natural persons <ul style="list-style-type: none"> -confiscation of the substance, preparation, or article - prohibition to practice the profession through which the offence was committed. - the temporary or final closure of the activity. -the publication of the decision of the Criminal Court. -when the substances are confiscated, the Criminal Court can order the destruction of it or preparations at the cost of the condemned person. • Legal persons penalty fines <ul style="list-style-type: none"> -A maximum fine of 375 000 EUR for legal persons. -Prohibition to exercise directly or indirectly one or more professional or social activities through which the offence was committed. - The placing under judicial supervision during five years. - the definitive closure or a five year closure of the department of the company where the offences were committed. - exclusion of public procurement contract definitively or for five years. -prohibition to offer financial title to the public or to sell financial titles in regulated market - the confiscation of the substance, preparation, or article. - the publication of the decision of the Criminal Court.

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

In France, inspectors from different competent authorities shall control and assess in their area of competence whether any REACH obligations have been infringed:

- Inspectors of the veterinary services,
- Inspectors of labour law,
- Inspectors of General Directorate for Fair Trading, Consumer Affairs and Fraud Control,
- Customs agents,
- Inspectors of sanitary security and health products,

- Inspectors of classified installations¹

Following this, inspectors send their report to the competent authority. The competent authority, while identifying an infringement to the REACH obligation, shall inform the person concerned. This person has the right to submit comments. The competent authority, if not satisfied with these comments, can give notice to the person concerned.

In France, infringements to environmental laws are mainly addressed at this administrative level. This procedure is considered more flexible and faster than the criminal procedure. Furthermore, specialised administrative authorities are deemed to be more competent to deal with technical matters such as chemical regulations than criminal jurisdictions.

Unlike REACH administrative infringements, REACH criminal infringements are clearly defined in the law (for example, the failure to respect the restrictions measures enacted in Title VIII of EC Regulation 1907/2006). Therefore, it is easier for criminal jurisdictions to determine whether a criminal infringement of the REACH Regulation has occurred than in cases where there is no specific infringements mentioned in the law.

¹ For example, inspectors of classified installations shall do their inspection based on specific guidelines and shall fill tables with the different REACH requirements to be respected. 350 inspections of producers and importers of chemical substances shall be done in 2009. The formation of inspectors of classified installations on the REACH regulation has only started early this year.