

POLAND

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 Poland 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	POLAND
Article	
5	X
6(1)	X
6(2)	X
6(3)	X
7(1)	X
7(2)	
7(3)	
7(5)	X
8(1 and 2)	
9(2)	
9(6)	X
10	
11(1 and 3)	
12(1)	
12(2)	X
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)	
21(1)	X
21(2)	X
21(3)	X
22(1)	X
22(2)	X
24(2)	
25(1)	X
26(1)	
27(1 to 3)	
27(4)	
27(6)	
28(1)	
28(6)	
29(3)	X
30(2)	
30(6)	X
31(1)	X
31(2-9)	X ^(31.3-9)
32(1)	X
32(2-3)	X
33(1 and 2)	X
34	X
35	X
36(1)	X
36(2)	X
37(2)	X
37(3)	
37(4)	X
37(5)	X

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

2. Types of offences related to REACH in Poland

This section gathers information on the REACH offences (administrative and/or criminal ones) pointed by the law in Poland. 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"> - Manufacture or placing on the market of a chemical substance on its own, in a preparation or in an article without its registration, where this is required, in accordance with the relevant provisions of Title II of REACH, and in breach of the dates set out in Article 21 of this Regulation; - Failure to submit to ECHA information on changes in the annual or total quantities manufactured or imported which result in a change in the tonnage band referred to in Article 22(1) and in Article 12(2) of REACH. 	<p><i>Criminal offences include:</i></p> <ul style="list-style-type: none"> - Failure, in breach of the provision of Article 9(6), to comply with the conditions imposed by the Agency in accordance with Article 9(4) of this Regulation. - Failure to comply with the administrative decision regarding manufacture, placing on the market (in case of lack of registration or the required update) or failure to withdraw such substance, preparation or product from the market. <p><i>Petty offence include:</i></p> <ul style="list-style-type: none"> - Failure, in breach of the provisions of Article 22 (1), (2) and (4), to put the required new information into the registration documents or - Failure to submit the additional registration documents to the Agency, or - Failure to update the registration documents as required (art. 46 (1))

		- Failure to submit the required by the Agency information – art. 40(3).
Offences related to authorisation and restrictions requirements	- Placing on the market of chemical substances, chemical preparations or articles in breach of the prohibition or restriction set out in the provisions of Annex XVII to Regulation No 1907/2006 or in breach of the conditions set out in these provisions.	<p><i>Criminal offences</i> include:</p> <ul style="list-style-type: none"> - the manufacture, placing on the market or use of a substance for which Annex XVII to this Regulation sets out a restriction, or doing this in breach of the conditions set out in this Annex, on its own, in a preparation or in an article (Article 67); - in breach of Article 56(1)–(6) of Regulation No 1907/2006 or in breach of the conditions of the authorisation, the placing on the market or use of a substance listed in Annex XIV to this Regulation, on its own, in a preparation or in an article. <p><i>Petty offences</i> include:</p> <ul style="list-style-type: none"> - Failure to place the required registration number on the label of a substance or preparation before they are placed on the market (Article 65); - in breach of the provision of Article 66(1) of Regulation No 1907/2006 and at a date set out therein, failure to notify the Agency of the use of the substance referred to in Article 56(2) of this Regulation.
Offences related to the supply chain requirements	N/A	<p><i>Petty offences</i> include:</p> <ul style="list-style-type: none"> - failure to prepare, provide or supply the required safety data sheet (Article 31(1) and (3)–(8)); - the preparation, provision or supply of an outdated safety data sheet (Article 31(9)); - failure to communicate the required information or failure to update the information as required (Article 32); - failure to provide the recipient of the article with the required information (Article 33(1)); - failure to provide the consumer with the required information on his request (Article 33(2)); - failure to communicate the required information to a downstream user or distributor (Article 34); - failure to keep or make available the information required from him to carry out his duties under the provisions of this Regulation (Article 36).
Offences related to the downstream user requirements	N/A	<p>It is a <i>criminal offence</i> to fail to identify, apply and where suitable recommend appropriate measures to adequately control risks (Article 37(5)).</p> <p><i>Petty offences</i> include:</p> <ul style="list-style-type: none"> - failure to prepare or update the required chemical safety report (Article 37(4) and (7)); - failure to report the required information to the Agency or to update this information (Article 38); - failure to report the required information to a downstream user or distributor (Article 37 (2)).

3. Sanctions applicable to legal persons in Poland

This table mentions whether or not Poland 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
Poland	Y	Specific to legal persons	Y (organisation without legal personality to which separate regulations confer legal capacity)

4. REACH related administrative and criminal penalties in Poland

This section gathers information regarding administrative and/or criminal penalties applicable for the infringement of REACH in Poland. 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>- An order by way of an administrative decision to:</p> <ul style="list-style-type: none"> - stop the manufacture or placing on the market of this substance, preparation or article, or, where necessary, - to withdraw this substance, preparation or article from the market. 	<p>Where the administrative decision sideline is violated:</p> <ul style="list-style-type: none"> - Fine (from 100 PLN to PLN 720 000 PLN (from 24 EUR to 171 428 EUR), - Restricted freedom or - Imprisonment for up to 2 years. <p>For a criminal offence of a legal person:</p> <ul style="list-style-type: none"> - the penalty of a fine from 1 000 to 20 000 000 PLN (from 239 EUR to 4 761 904, 50 EUR); however, not higher than 10% of the revenue gained in the financial year in which the forbidden act was committed to create the basis for the liability of the collective entity. - Forfeiture of : <ol style="list-style-type: none"> 1) the objects which originate at least indirectly from a forbidden act or which served or were intended to serve to commit the forbidden act; 2) the property benefit which originates at least indirectly from a forbidden act; 3) the value equivalent to that of the objects or property benefit which originate at least indirectly from a forbidden act. <p>The following may also be ruled:</p> <ol style="list-style-type: none"> 1) the prohibition of the promotion or publicity of the activities carried out, the articles manufactured or sold, the services rendered or contributions provided; 2) the prohibition of the use of grants, subsidies or other forms of financial support with public resources; 3) the prohibition of the use of assistance from international organisations to which the Republic of Poland is a Party; 4) the prohibition of the seeking of public orders; 5) the prohibition of the conduct of a specific primary or secondary activity; 6) the public announcement of the ruling. <p>In turn, the penalty for a petty offence is a fine (up to 5 000 PLN – up to 1 190 EUR).</p>

<p>Penalties related to infringement of authorisation requirements</p>	<p>- An order by way of an administrative decision to: - stop the manufacture or placing on the market of this substance, preparation or article, or, where necessary, - to withdraw this substance, preparation or article from the market.</p>	<p>Where the administrative decision sideline is violated: - Fine (from 100 PLN to PLN 720 000 PLN (from 24 EUR to 171 428 EUR), - Restricted freedom or - Imprisonment for up to 2 years.</p> <p>For a criminal offence of a legal person: - the penalty of a fine from 1 000 to 20 000 000 PLN (from 239 EUR to 4 761 904, 50 EUR); however, not higher than 10% of the revenue gained in the financial year in which the forbidden act was committed to create the basis for the liability of the collective entity. - Forfeiture of : 1) the objects which originate at least indirectly from a forbidden act or which served or were intended to serve to commit the forbidden act; 2) the property benefit which originates at least indirectly from a forbidden act; 3) the value equivalent to that of the objects or property benefit which originate at least indirectly from a forbidden act.</p> <p>The following may also be ruled: 1) the prohibition of the promotion or publicity of the activities carried out, the articles manufactured or sold, the services rendered or contributions provided; 2) the prohibition of the use of grants, subsidies or other forms of financial support with public resources; 3) the prohibition of the use of assistance from international organisations to which the Republic of Poland is a Party; 4) the prohibition of the seeking of public orders; 5) the prohibition of the conduct of a specific primary or secondary activity; 6) the public announcement of the ruling.</p> <p>In turn, the penalty for a petty offence is a fine (up to 5 000 PLN – up to 1 190 EUR).</p>
<p>Penalties related to infringement of the supply chain requirements</p>	<p>N/A</p>	<p>Fine (up to 5,000 PLN – up to 1,190 EUR).</p>
<p>Penalties related to infringement of the downstream users requirements</p>	<p>N/A</p>	<p>For a criminal offence of a legal person: - the penalty of a fine from 1 000 to 20 000 000 PLN (from 239 EUR to 4 761 904, 50 EUR); however, not higher than 10% of the revenue gained in the financial year in which the forbidden act was committed to create the basis for the liability of the collective entity. - Forfeiture of : 1) the objects which originate at least indirectly from a forbidden act or which served or were intended to serve to commit the forbidden act; 2) the property benefit which originates at least indirectly from a forbidden act; 3) the value equivalent to that of the objects or property benefit which originate at least indirectly from a forbidden act.</p> <p>The following may also be ruled: 1) the prohibition of the promotion or publicity of the activities carried out, the articles manufactured or sold, the services rendered or contributions provided;</p>

	<p>2) the prohibition of the use of grants, subsidies or other forms of financial support with public resources;</p> <p>3) the prohibition of the use of assistance from international organisations to which the Republic of Poland is a Party;</p> <p>4) the prohibition of the seeking of public orders;</p> <p>5) the prohibition of the conduct of a specific primary or secondary activity;</p> <p>6) the public announcement of the ruling.</p> <p>In turn, the penalty for a petty offence is a fine (up to 5 000 PLN – up to 1 190 EUR).</p>
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5. Short description of REACH sanctions and related issues in Poland

In Poland, as a rule, the law concerning products is enforced by administrative sanctions rather than criminal ones. In the case of REACH, however, criminal sanctions are far more extensive. The regulations concerning both types of these sanctions entered into force at a relatively late date, i.e. only on 24 February 2009. As a result of this, to date there has been practically no experience related to their application.

As regards administrative sanctions, a number of authorities have been designated to supervise the application of the regulations concerning chemical substances and preparations

- the State Sanitary Inspectorate,
- the Inspectorate for Environmental Protection,
- the State Labour Inspectorate,
- the Trade Inspectorate,
- the State Fire Service,
- Customs authorities.

The State Sanitary Inspectorate plays a major role in the enforcement of the REACH Regulation, as it has been granted special decision-making powers. However, all the other supervision authorities mentioned above have the right, within their field of competence, to issue a post-inspection order where they find that REACH provisions are not complied with. It is however worth mentioning that to date Polish authorities have had little experience in respect of the enforcement of environmental Community legislation. Furthermore, criminal sanctions relating to environmental law have been of secondary significance in Poland until now.