

SWEDEN

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 Sweden 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	SWEDEN
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)	*
10	X
11(1 and 3)	*
12(1)	*
12(2)	X
13(1-5)	*
14(1)	*
14(6)	X
14(7)	*
17(1 and 2)	X
18(1 to 3)	X
19(1 and 2)	X
21(1)	*
21(2)	*
21(3)	*
22(1)	X
22(2)	X
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)	X
32(2-3)	X
33(1 and 2)	X
34	X
35	X
36(1)	X
36(2)	X
37(2)	*
37(3)	*
37(4)	X
37(5)	X

Country	SWEDEN
Article	
37(6)	X
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)	*
50(2-3)	*
50(4)	*
53(1) to (3)	*
53(4)	*
55	*
56(1)	X
56(2)	X
60(8)	*
60(10)	X
61(1)	*
61(3)	*
62 (4 and 5)	X
63(3)	*
65	*
66(1)	X
67(1)	X

* Sweden considers that the *administrative measures* provided under the Environmental Code (and the Health and safety legislation in the case of Article 35) shall be considered as penalties in the sense of Article 126 of REACH for the purpose of this study.

2. Types of offences related to REACH in Sweden

This section gathers information on the REACH offences (administrative and/or criminal ones) pointed by the law in Sweden. 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>All provisions of REACH are subject to administrative measures</i>	To, with the intention or by negligence: <ul style="list-style-type: none"> • Manufacture or import a substance, as such or in a preparation, without submitting a registration (article 5 and 6) • Produce or import an article without submitting a registration (article 5 and 7.1, 7.5)) • Breache an obligation to leave or update information according to article 12.2 or 22 in the regulation • Leave incorrect information in a registration or a document supplementing a registration, if this regards a registration or supplement to a registration as referred to in article 6, 7.1, 7.5, 20.2 third paragraph, 22.1 and 22.2, 40.4 or

		<p>41.4 in the Regulation</p> <p>Subject to corporate fine: a) the crime has entailed a gross disregard for the special obligations associated with the business activities or is otherwise of a serious kind, and b) the legal person has not done what could reasonably be required of him for prevention of the crime.</p> <p>- Failure to, with the intention or by gross negligence, to apply the appropriate risk reduction measures (article 14(6)).</p>
Offences related to authorisation and restrictions requirements	<p><i>All provisions of REACH are subject to administrative measures</i></p>	<p><i>Unpermitted environmental activity</i> is when someone with the intention or by negligence</p> <ul style="list-style-type: none"> Starts or pursues a business/activity without obtaining a permission in accordance with article 56 REACH, or, Breaks a condition attached to a permit taken pursuant to the Regulation. <p><i>Obstruction of environmental control</i> is when someone with the intention or by negligence</p> <ul style="list-style-type: none"> Provides the authorities incorrect information that from an environmental or health protection aspect has significance for the enforcement or investigation by the authorities, if the information is given in an application, registration or other paper that should be submitted to a authority according to article 62 or 46 the Regulation or <p>Subject to corporate fine: a) the crime has entailed a gross disregard for the special obligations associated with the business activities or is otherwise of a serious kind, and b) the legal person has not done what could reasonably be required of him for prevention of the crime.</p>
Offences related to the supply chain requirements	<p>Failure of supplying a safety data sheet in Swedish. <i>All provisions of REACH are subject to administrative measures</i></p>	<p><i>Insufficient environmental information</i> occurs when someone with the intention or by negligence regarding chemical products breaches a provision in the Regulation by</p> <ul style="list-style-type: none"> not providing the receiver of a substance or a preparation with the safety data sheet (article 31). Leave incorrect or insufficient information in the safety data sheet, or Not providing a receiver or consumer information regarding names of substances included in an article (article 33) <p>-Failure to, with the intention or by negligence comply with a provision on information or documentation according to article 32, 34 or 36 in the Regulation.</p> <p>Subject to corporate fine: a) the crime has entailed a gross disregard for the special obligations associated with the business activities or is otherwise of a serious kind, and b) the legal person has not done what could reasonably be required of him for prevention of the crime.</p>
Offences related to the downstream user requirements	<p><i>All provisions of REACH are subject to administrative measures</i></p>	<p>- Failure to, with the intention or by negligence, comply with the provisions relating to the duty to perform a chemical safety assessment (article 37.4 and 39.1) and provide ECHA with the required information (article 38,39.2 and 66.1)</p>

		Subject to corporate fine: a) the crime has entailed a gross disregard for the special obligations associated with the business activities or is otherwise of a serious kind, and b) the legal person has not done what could reasonably be required of him for prevention of the crime.
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3. Sanctions applicable to legal persons in Sweden

This table mentions whether or not Sweden 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
Sweden	Y	Administrative fines applies to legal persons, Criminal sanctions applies as a main rule to natural persons. However, a legal person can under the following conditions be subject to a corporate fine. a) the crime has entailed a gross disregard for the special obligations associated with the business activities or is otherwise of a serious kind, and b) the legal person has not done what could reasonably be required of him for prevention of the crime.	Y Criminal sanctions applies as a main rule to natural persons.

4. REACH related administrative and criminal penalties in Sweden

This section gathers information regarding administrative and/or criminal penalties applicable for the infringement of REACH in Sweden. 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	<i>Administrative measure (injunctions with or without a fine)</i>	- Up to 2 years imprisonment or - a fine based on the perpetrator daily income - a corporate fine from 5 000 SEK (480 EUR) to 10 000 000 SEK (960 157 EUR)- From six months to 6 years prison in case of gross negligence leading to an offence against the obligation to register or to provide accurate information in a registration).

Penalties related to infringement of authorisation requirements	<i>Administrative measure (injunctions with or without a fine)</i>	- Up to 2 years imprisonment, or - a fine based on the perpetrator daily income - a corporate fine from 5 000 SEK (480 EUR) to 10 000 000 SEK (960 157 EUR)
Penalties related to infringement of the supply chain requirements	- Environmental sanction fees of 5 000 SEK (480 EUR) for not providing safety data sheet in Swedish. <i>Administrative measure (injunctions with or without a fine)</i>	- Up to 2 years imprisonment (except for breach of articles 32, 34 and 36) or - a fine based on the perpetrator daily income - a corporate fine from 5 000 SEK (480 EUR) to 10 000 000 SEK (960 157 EUR)
Penalties related to infringement of the downstream users requirements	<i>Administrative measure (injunctions with or without a fine)</i>	- Up to 2 years imprisonment, or - a fine based on the perpetrator daily income - a corporate fine from 5 000 SEK (480 EUR) to 10 000 000 SEK (960 157 EUR)

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

In Sweden, the Environmental Code (SFS 1998:808) establishes the sanctions for most environmental laws (including the law implementing REACH). Chapter 29 lays out the criminal penalties and Chapter 30 the environmental sanction fees, while Chapter 26 provides general applicable rules for administrative measures. The environmental sanction fees are also regulated by the Regulation on Environmental sanction fees (SFS 1998:950).

According to, the Regulation on Environmental sanction fees, a violation of article 31.5 of the REACH-Regulation leads to an environmental sanction fee of 5000 SEK (488 EUR). There are also criminal sanctions for the core provisions of REACH, such as failure to register, to provide accurate safety data sheets, to use or put substances on the market without a permit and to use or put substances on the market which are prohibited. An infringement of those core provision needs to be intentional or made by negligence by the perpetrator for a criminal sanction to apply. Criminal sanctions involve fines or imprisonment of up to two years (or six in case of gross negligence). The fines are proportional to the perpetrators daily income. When the seriousness of the offence is considered, special attention shall be paid to whether it concerned large quantities, or caused or might have caused damage on a large scale or of a dangerous nature or has continued for a long period of time.

In addition, for a crime committed in the exercise of business activities, a legal person may, at the instance of a public prosecutor, be ordered to pay a corporate fine if the crime has entailed a gross disregard for the special obligations associated with the business activities or is otherwise of a serious kind, and the legal person has not done what could reasonably be required of him for prevention of the crime.

In practice all provisions of REACH can be enforced by the use of administrative measures. This system is equivalent to a “catch all provision”. The administrative measures do not necessarily mean that the addressee will have to pay a fine. The enforcement authorities can use issue injunctions with or without a fine. However, they cannot impose a set fine. The administrative measures used by the enforcement authorities have a coercive effect more than a punitive effect. If the infringing company does not comply with the demands in an injunction with a set fine, the enforcement authority must file a complaint to a court of law which looks at the case and decides whether the addressee is in breach of any rule and if so, if the set fine is proportional.

The supervision on REACH compliance in Sweden is regulated in Chapter 26 of the Environmental Code. The responsible authorities for REACH are the Swedish Chemicals Agency (Kemikalieinspektionen) and the municipalities.