



Ecologic Institute
Science and Policy
for a Sustainable World

EU-MER national penalty rules and legal obligations - Romania's case

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Structure

Part I

- **Overview on the EU-MER penalty provisions**
- **Comparing Romania's draft with EU-MER requirements and good practice**

Source



More information can be found in the report published today downloadable at:

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Penalty regime and enforcement: Overview

EU-MER Legal Text

enters into force in August 2024

- Proposed by Commission (2021)
- Adopted by Parliament and Council (2024)
- Enters into force in August 2024
- Art 33 (Penalties) contains detailed principles, but still leaves significant scope of implementation to the EU MS

27 EU MS must set their own rules on penalties

by August 2025

- Must conform to all requirements of the EU-MER (otherwise MS risks infringement procedure)
- Will make use of the scope of implementation left to the MS by the EU-MER and thereby impact on compliance and enforcement
- Rules may be amended, and must be notified to Commission.

Enforcement by the CA directly or, in some MS, via courts

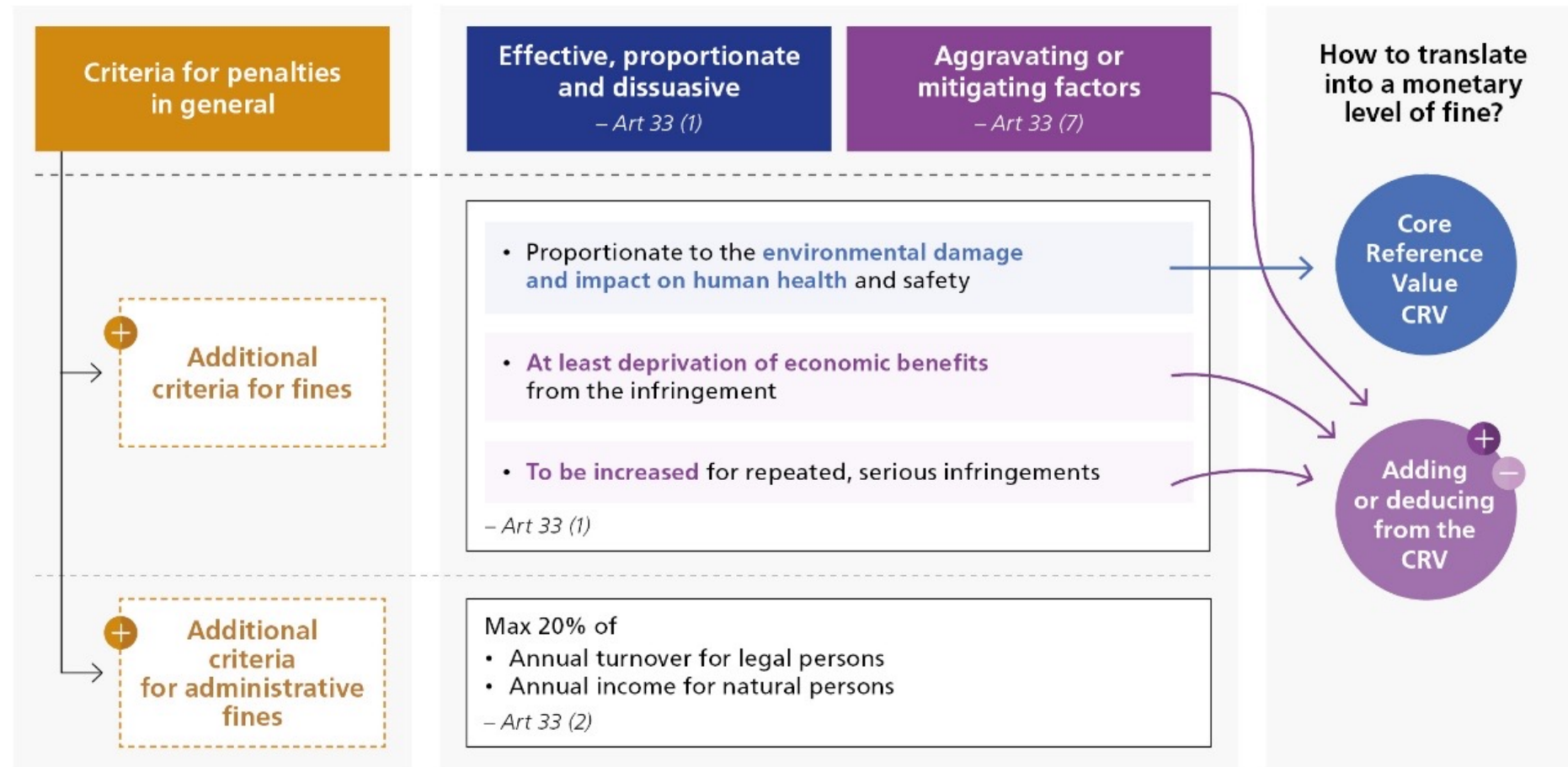
from 2025 onwards

- CA monitor compliance
- For certain infringements, CA must impose administrative penalties (or ask courts to do so)
- CA (and courts) must apply the rules established by their national legislators, which must conform to the EU-MER Text

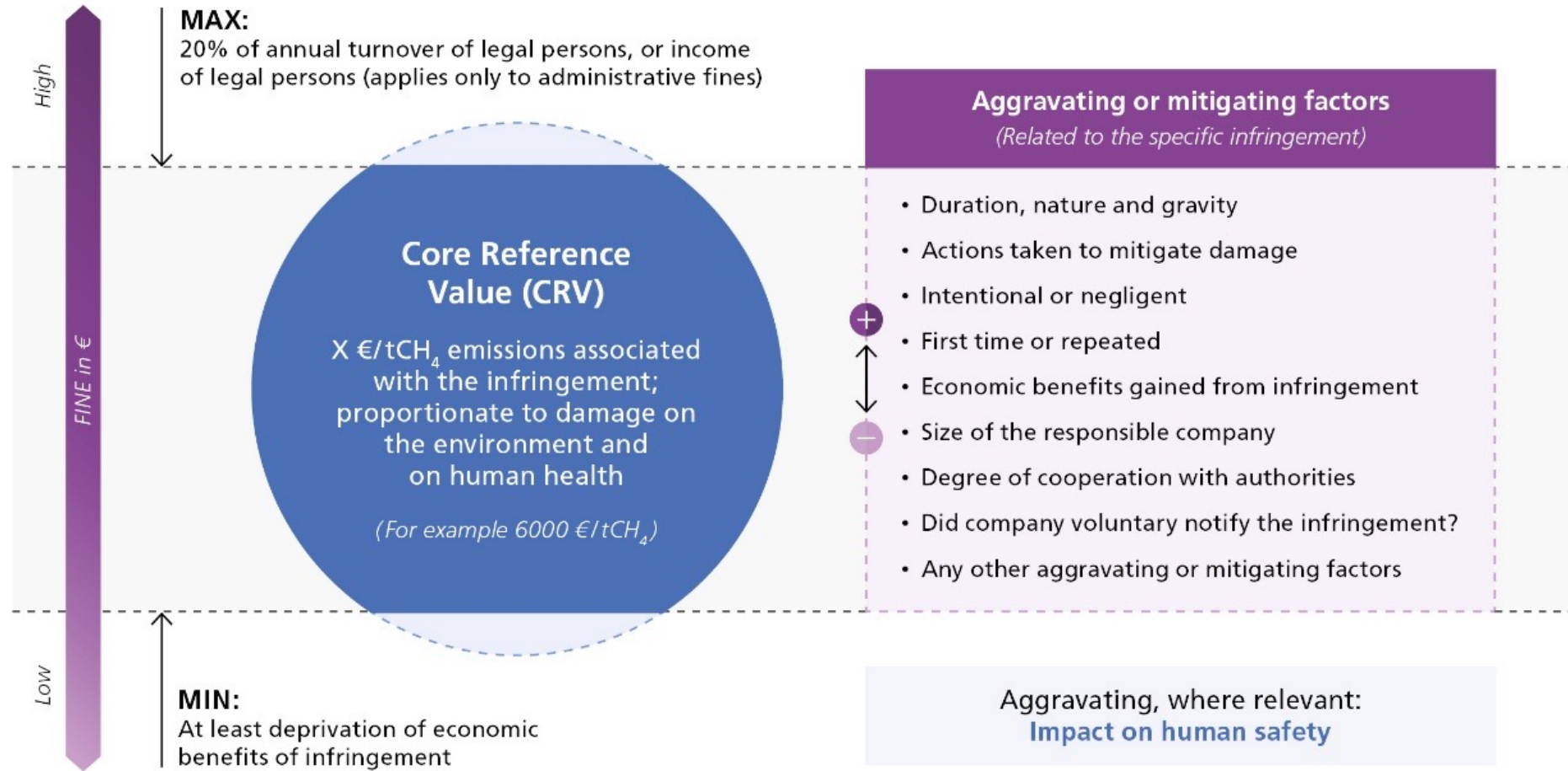
EU-wide cooperation

- Commission to set up network of CA to cooperate, among others, on compliance
- This will stimulate exchange of best practice, among others on penalties
- However, the MS remain free to set their own penalty rules as long as they fulfil the EU-MER requirements

Criteria for the level of penalties in the EU Methane Regulation



Translating EU-MER criteria into monetary fines





Structure

- Overview on the EU-MER penalty provisions
- Comparing Romania's draft with EU-MER requirements and good practice

Analysis of three (draft) laws

- ▶ **Denmark:** Law 1453/2024 and Executive Order 312/2025, both **in force**.
- ▶ **Italy:** **Draft** law adopted by the Cabinet in June 2025.
- ▶ **Romania:** **Draft** emergency ordinance published by the government in July 2025.

Timeliness

Timeliness	ROM	DNK	ITA
in force on 5 Aug 2025	No	Yes	No
in force now (20 Nov 2025)	No	Yes	No
Draft adopted by government	Yes	Yes	Yes
State of advancement	Stalled	In force	Progressing

Empowering competent authorities 1/2

CA's empowerment as of §33(2)	ROM	DNK	ITA
(a) adopt a decision requiring the person to bring the infringement to an end	Unclear	Yes	Yes
(b) order the confiscation of the profits gained or losses avoided due to the infringements	No	Yes	Yes
(c) issue public warnings or notices	No	Yes	Yes
(d) adopt a decision imposing periodic penalty <u>payments</u>	No	Yes	Yes
(e) adopt a decision imposing <u>administrative fines</u>	Yes	Yes	Yes

Empowering competent authorities 2/2

- ▶ Providing the Competent Authorities (CAs) with the resources needed to fulfill their task (skilled staff, equipment, money ...).

Best practice: Denmark's law applies the polluter pays principle: companies covered by the EU-MER pay a fee to cover implementation costs.

- ▶ Ensuring that CAs have effective access to sites and records for inspections.

Best practice: DNK's law, ITA's law explicitly give CAs the right to obtain police assistance. .

Coverage of all infringements as required by EU-MER

All infringements as of §33(5) covered	ROM	DNK	ITA
	No	Yes	Yes

Romania's draft law does not for penalties for infringements of 10 EU-MER provisions that should be subject to penalties according to Art 33(5) EU-MER. Including very serious ones:

- Article 16: requirement for oil and gas sectors operators to notify the CAs of venting events and flaring events.
- Art 12(6): duty to compare source-level quantification with site-level measurement, notify CAs of relevant discrepancies, and carry out reconciliation with specified procedures.
- Art 12(4); Art 12(5); Art 12(7); Art 15(5); Art 15(7); Art 20(3) ...

Minimum and maximum fine levels

Level of fines	ROM	DNK	ITA
Minimum level clearly defined	Yes	Yes	Yes
Minimum level always or mostly dissuasive	Partly (circa € 2,000 to 10,000)	Yes	No (€1,000)
Maximum level explicitly defined	Yes	Yes	Yes
Maximum level dissuasive	No (ca. € 4,000 – 20,000)	Yes	Yes

Minimum levels:

DNK: flat ca. € 10,000.

ROM: ca. € 2,000-10,000

ITA: flat €1,000.

Maximum levels:

DNK: none (judicial decision, probably oriented to max 20% of turnover)

ITA: 10% of turnover / income

ROM: ca. € 4,000 - 20,000

General criteria for fines

General criteria for fines	ROM	DNK	ITA
Proportionate to impact on environment, health & safety	No	Yes	Yes
At least deprivation of economic benefits	No	Yes	Yes
To be increased for repeated, serious infringements	Probably not	Yes	Yes
Explicit consideration of aggravating & mitigating factors	No	Yes	Yes

Aggravating and mitigating factors

Aggravating & mitigating factors as of §33(7)	ROM	DNK	ITA
Duration, nature and gravity - 33(7)a	Probably not	Yes	Yes
Actions taken to mitigate damage - 33(7)b	Probably not	Yes	Yes
Intentional or negligent - 33(7)c	Probably not	Yes	Yes
First time or repeated - 33(7)d	Yes	Yes	Yes
Economic benefits gained from infringement - 33(7)e	Probably not	Yes	Yes
Size of responsible company - 33(7)f	Probably not	Yes	Yes
Degree of cooperation with authorities - 33(7)g)	Probably not	Yes	Yes
Did company timely notify the infringement? - 33(7)h	Probably not	Yes	Yes

Summary on state of play in DNK, ITA, ROM

- DNK** **Best practice** model across all criteria, fulfilling all criteria and with own creative solution to ensure the competent authorities have the necessary funding to do their job thereby applying the polluter pays principle.
- ITA** **Good practice** on most criteria, with **two important exceptions**: delay, and far too low minimum fine level (1.000 €)
- ROM** **Heavy delay**, no clear path to adoption of draft law, **very serious compliance gaps**, numerous infringements not subject to penalties, fine levels not dissuasive and therefore not compliant with EU-MER legal requirements

Thanks! Any more Questions?

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