


Czechia's Draft Penalty Rules for violations of the EU Methane Regulation

How the draft penalty rules submitted by the Minister for Environment on 11 November 2025 compare with EU requirements and with good practice in other Member States

A decorative graphic on the left side of the page consists of several overlapping geometric shapes: a large grey triangle pointing right, a smaller grey triangle pointing left, and a blue triangle pointing right, all set against a white background.

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Contents

Introduction.....	1
1 Short overview on the EU-MER penalty provisions	2
2 Analysis of Czechia's draft law.....	6
2.1 Timeliness	7
2.2 Empowering Competent Authorities	7
2.3 Coverage of infringements, criteria for fines	9
2.4 Minimum and maximum fine levels	9
2.5 Conclusions	11

Introduction

Article 33 of the EU Methane Emissions Regulation (EU-MER)¹ sets out robust principles regarding penalties for non-compliance. However, as the EU has only limited competence in matters of justice, these principles must be implemented through national legislation adopted by each Member State.

This paper analyses the penalty provisions in the draft law submitted on 11 November by Czechia's Minister for the Environment to the Prime Minister.

Chapter 1 provides an overview on the EU-MER's penalty framework, which forms a basis for the subsequent analysis. Chapter 2:

- briefly assesses Czechia's draft law legislative statute in view of the political developments following the general election of 3-4 October;
- examines its compliance with the EU-MER requirements outlined in Chapter 1
- compares the Czech draft with good practice from Denmark and with Italy's draft law

The EU-MER entered into force on 5 August 2024. From that moment, as with any EU regulation, all its provisions became directly applicable in every Member State, and all entities subject to them became legally obliged to comply. However, until a Member State adopts its own penalty rules, it remains uncertain how infringements occurring in its territory, or committed by importers established there, will be sanctioned in practice. Although key aspects, such as the level of fines, remain unclear until national rules are in place, non-compliance is unequivocally unlawful.

This paper, focused on Czechia, is fully aligned with, and in parts identical to, a broader report with an EU-wide approach published by the same author in the same month². An analogous report focusing on Romania's draft law is published under the same I-MER project referenced above in the acknowledgements.

¹ Regulation (EU) 2024/1787 of the European Parliament and of the European Council of 13 June 2024 on methane emissions in the energy sector and amending Regulation (EU) 2019/942. See: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32024R1787>

² Piria, Raffaele: Penalty regimes for violations of the EU Methane Regulation in EU Member States – Debunking the “unmanageable liability” claim. Good practice examples in selected EU Member States. How to avoid an uneven playing field. Ecologic Institute, Berlin, 2024. See: <https://www.ecologic.eu/20270>

1 Short overview on the EU-MER penalty provisions

This chapter provides a short introduction to key features of the EU-MER penalty provisions, forming the basis for the analysis of Czechia's draft law in the following chapter.

Figure 1 provides an overview of the governance and timeline of the EU-MER penalty regime. Like the other charts in this section, it is drawn from a study published by Ecologic Institute in June 2024, which offers a more detailed analysis of all issues discussed in this chapter.

Figure 1: Governance and timeline of the EU-MER penalty regime: an overview³



By 5 August 2025, the Member States were legally required to set their own rules on penalties, which must comply with all the provisions of the EU-MER. The European Commission may initiate infringement procedures against any Member State that fails to meet this obligation.

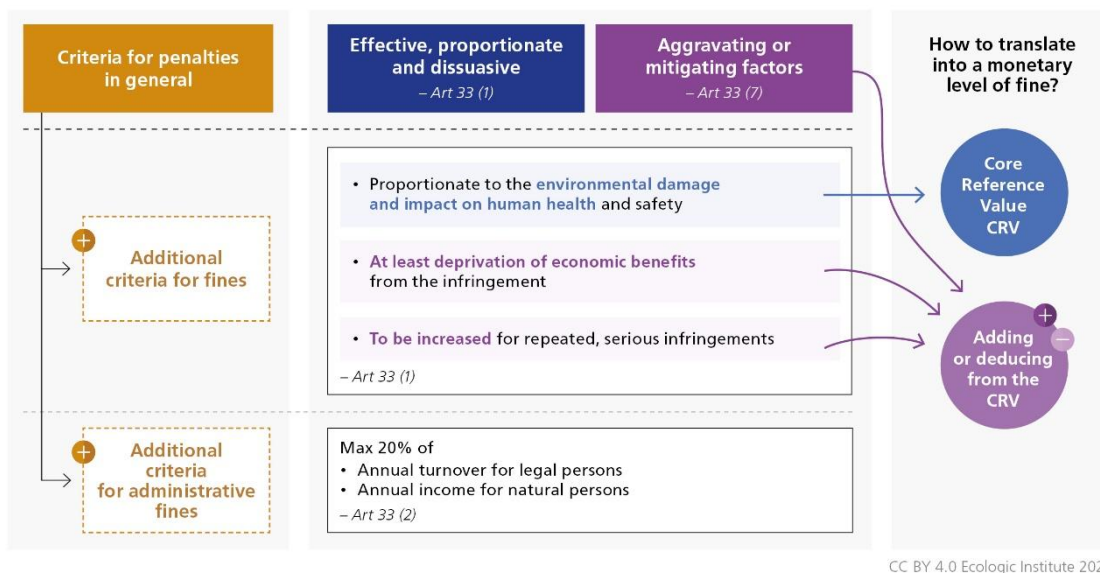
As illustrated in Figure 2, Article 33(1) establishes criteria that apply to all types of penalties imposed for infringements of the EU-MER: they must be “*effective, proportionate and dissuasive*”. In addition, they must be “*proportionate to the environmental damage and impact on human safety and health*”, set at a level that “*at least deprives those responsible of the economic benefits derived from the infringement in an effective way*”, and must “*gradually increase for repeated serious infringements*”. Furthermore, the penalty regimes must include “*periodic penalty payments to compel operators (...) or importers to put an end to an infringement, comply with a decision ordering remedial actions or corrective measures, provide information or submit to an inspection*”. Each of these requirements is mandatory, not optional: if a Member State adopts penalty rules that do not comply with all of them, those rules are in breach of EU law.

Chapter 3 of Art 33(2) requires Member States to ensure that their competent authorities (CAs), when sanctioning infringements of a specified set of EU-MER provisions, have the power to “*adopt a decision requiring the person to bring the infringement to an end; order the confiscation of the profits gained or losses avoided due to the infringements insofar as they can be determined; issue public warnings or notices; adopt a decision imposing periodic penalty payments; adopt a decision imposing administrative fines*”, provided that these measures do

³ Piria, Raffaele, Stephan Sina and Lina-Marie Dück: Implementing the EU Methane Regulation, Working paper N° 3. Penalties and selected legal issues. Ecologic Institute, Berlin, 2024. Available at: <https://www.ecologic.eu/node/19720>

not endanger the security of energy supply. These requirements are likewise mandatory: if a Member State's competent authority responsible for imposing sanctions has not been effectively granted each of these powers, that Member State is in breach of EU law.

Figure 2: Criteria for the level of penalties in the EU-MER



The EU-MER sets out a series of principles for determining the level of penalties, while granting Member States and their competent authorities a degree of discretion in how these principles are applied.

Art 33(3) allows Member States whose legal systems do not provide for administrative fines - meaning fines directly imposed by administrative authorities without a court decision - to establish an equivalent regime based on courts decisions. This exception applies to only a few Member States; among those examined in this paper, it concerns only Denmark.

Only for administrative fines does Article 33(2) establish a maximum ceiling of 20% of the annual turnover of legal persons, or 20% of the annual income of natural persons, in the preceding year. This ceiling restricts the discretion of Member State legislators and their competent authorities when applying the other principles set out in the EU-MER. If Member States were to allow, or their CAs were to impose administrative fines exceeding these ceilings, they would be in breach of EU law. The report mentioned in footnote 1 debunks the claim that this ceiling creates an “unmanageable liability” for EU fossil fuel importers and their suppliers.

Art 33(4) stipulates that the CAs must “*cooperate closely to ensure that their powers are exercised, and that the administrative penalties and administrative measures they impose are designed and applied, in an effective and consistent way across the Union*”. This requirement entails giving competent authorities a clear mandate for cross-border cooperation and equipping them with the resources needed to do so.

Art 33(5) sets out a detailed, mandatory minimum list of infringements that must be subject to penalties.

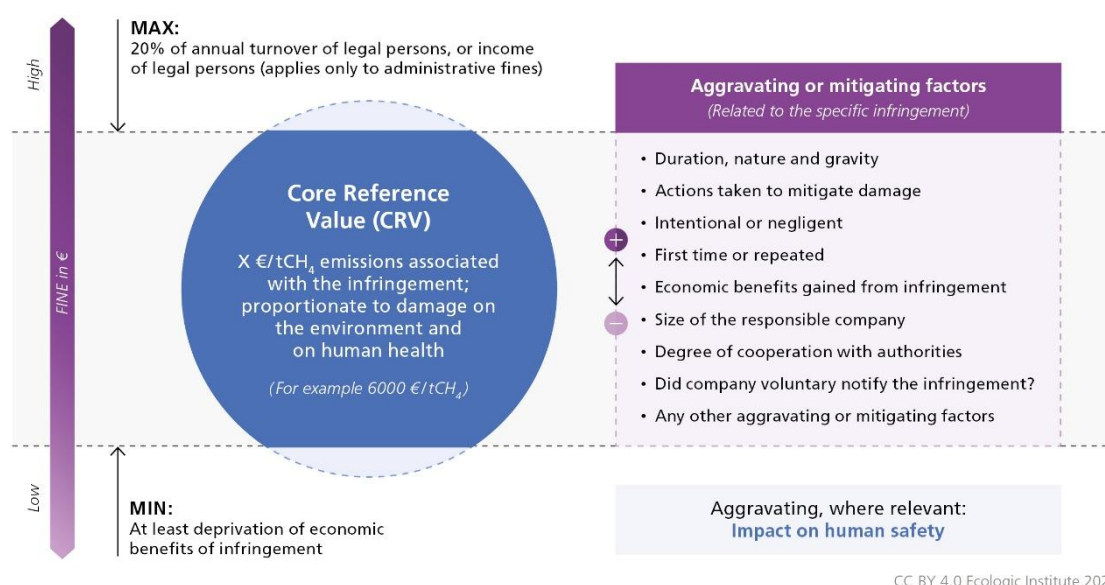
Article 33(6) requires Member States to consider reducing or waiving penalties where operators are unable to comply because of exceptional delays in obtaining permits or other administrative authorisations, or due to the unavailability of venting or flaring equipment. As this reduction or

waiver is ultimately discretionary (“consider”) and applies only in a limited set of situations, it is not examined in Chapter 2.

Article 33(7) sets out a series of criteria that Member States must take into account when imposing penalties. Chapter 2 examines whether the national implementing legislation explicitly refers to these criteria. Where this is not the case, the criteria remain in force, as they form part of a directly applicable EU Regulation, but their practical application in practice may be uncertain or weakened.

Figure 3 illustrates how the complex provisions of Art 33 can be coherently translated into monetary fines. The figure is explained briefly in the following paragraph. A more detailed discussion is available in the source publication, cited above in the footnote at the beginning of this chapter.

Figure 3: Translating the criteria into monetary fines



At the centre of the figure is the fundamental principle set out in Art 33(1) EU-MER: penalties must be proportionate to the damage caused to the environment and to human health. This is operationalised as the quantity of methane (CH₄) emissions directly or indirectly associated with the infringement. To convert these emissions into a monetary penalty, a “core reference value” (CRV), expressed in €/tCH₄, is either explicitly or implicitly required. The paper from which this figure is drawn proposes a CRV of 6,000 €/tCH₄, following an assessment of several possible anchor points.

When determining the level of a fine for a specific infringement, the competent authorities or courts in the Member States must then adjust the CRV by taking into account the relevant aggravating and mitigating factors. The EU-MER also requires penalties to be proportionate to the damage to human safety. As EU-MER infringements affecting human safety are expected to occur only in exceptional cases, this aspect is treated as an additional aggravating factor where applicable.

Finally, the EU-MER sets principles on minimum and maximum penalty levels, which limit the discretion available to national legislators and competent authorities when applying the other principles and criteria. On minimum levels, beyond the general requirement that penalties be dissuasive, Art 33(1) provides that fines must at least remove any economic benefit derived

from the infringement. On maximum levels, Art 33(2) states that administrative fines, i.e. fines imposed by administrative authorities rather than courts, must not exceed 20 % of a legal person's annual turnover in the previous year, or a natural person's annual income.

Notably, turnover-based maximum fines are well established in EU law. The principle was introduced in the competition rules of the former European Communities as early as 1962⁴ and remains central to EU antitrust enforcement, where fines may not exceed 10% of an undertaking's annual turnover.

Several more recent EU instruments follow the same approach with maxima defined as shares of global annual turnover, including the General Data Protection Regulation, the Digital Services Act, the Artificial Intelligence Act, and the Digital Markets Act. The latter sets maximum fines of up to 20% for repeated infringements, the same ceiling as under the EU-MER.

⁴ See Art 15(2) of Regulation N° 17, First Regulation implementing Articles 85 and 86 of the Treaty, Official Journal of the European Communities 204/62 of 21 February 1962.
See: <https://eur-lex.europa.eu/eli/reg/1962/17/oj/eng>

2 Analysis of Czechia's draft law

This chapter analyses the penalty provisions in the draft law submitted on 11 November by Czechia's Minister for the Environment to the Prime Minister.⁵

The analysis has two aims. First, it assesses the draft law's compliance with the EU-MER requirements outlined in the previous chapter. Second, it compares Czechia's draft law with Denmark's⁶ corresponding law (December 2024) and Executive Order (March 2025), both of which are in force, and with Italy's draft law adopted by the Italian Cabinet on 30 June 2025⁷.

At the time the research for this report was completed, (20 November), Czechia's draft law analysed here had just been submitted by the outgoing Minister for Environment to the outgoing Prime Minister. Following the parliamentary elections of 3-4 October, President Petr Pavel, invited election winner, billionaire Andrej Babiš, to form a new government. Babiš's party ANO signed a coalition agreement with the anti-EU SPD and the climate change sceptics Motorists party on 3 November. The Motorists leader, Petr Macinka, recently stated that "green blood" will flow in the Ministry for Environment once his party takes power. The new government has not yet been appointed, due to concerns raised by the President on how Babiš intends to avoid a conflict of interest between his private business interests and his potential role of Prime Minister.⁸

In this context, it appears doubtful whether the outgoing government will adopt the draft law in the remaining time, and unlikely that the new Parliament will pass it without amendments. Nevertheless, the draft remains the only available basis for assessing Czechia's prospective compliance with the EU-MER penalty provisions. It is therefore analysed here in its current form.

Disclaimer: The following information reflects a preliminary analysis of legal acts partly based on DeepL© translations of legal texts from various countries. Every effort has been made to ensure accuracy and precision; however, the authors cannot accept legal responsibility for any potential inaccuracies in these comparisons.

⁵ Návrh ZÁKON ze dne ... 2025 o některých pravidlech pro snižování emisí metanu v odvětví energetiky. See: <https://www.odok.gov.cz/portal/veklep/material/KORNDGPEDBGW/>

⁶ Danish Law (LOV) nr 1453 of 10 December 2024, see: <https://www.retsinformation.dk/eli/ta/2024/1453> and Danish Executive Order nr 312 of 26 March 2025 <https://www.retsinformation.dk/eli/ta/2025/312>. Both the law and the executive order are in force.

⁷ At the time of writing, Italy's draft law is not yet officially published. Publication is expected once the text is formally transmitted to one of two parliamentary chambers. However, a leaked version was published in July by a specialised news portal. See: <https://www.qualenergia.it/wp-content/uploads/2025/07/Legge-Delega-CCS-Metano-Emissioni.pdf>

⁸ See <https://www.euronews.com/2025/11/03/czech-election-winner-andrej-babis-signs-coalition-deal-with-right-wing-parties> and <https://apnews.com/article/czech-babis-new-government-0e9391bfbe8a9319a4a25e6cde9b136a> and https://www.idnes.cz/volby/petr-macinka-motoriste-politika-volby-filip-turek-ods.A241208_183414_domaci_stud

2.1 Timeliness

Art 33(1) of the EU-MER requires Member States to adopt and notify the European Commission of their penalty rules by 5 August 2025. Czechia has largely missed this deadline and is unlikely to meet it in the near term.

Denmark national penalty rules entered into force in due time.

Italy also missed the 5 August deadline. At the time of writing, the Italian draft is not yet in force, but it is at a markedly more advanced stage than the Czech draft. Because the draft law adopted by the Italian government on 30 June includes provisions beyond the EU-MER with budgetary implications, it had to undergo a review by the State General Accounting Department. This review is now complete. The draft law is expected to be formally transmitted to Parliament imminently, where the government holds a solid majority.

Table 1: Timeliness of adoption of the Member States' penalty rules

Timeliness	CZE	DNK	ITA
in force on 5 Aug 2025	No	Yes	No
in force now (30 Nov 2025)	No	Yes	No
Draft adopted by government	No	Yes	Yes
State of advancement	Limited progress	In force	Progressing

Note: In these and the following tables, green fields indicate full compliance, yellow partial compliance or progress orange a lower level of compliance or progress and red fields no or lowest compliance.

This implies that in Czechia and Italy - as well as in several other Member States not examined here, including Germany - there is currently no legal certainty regarding the penalties applicable to infringements. While this gap persists, companies that comply with the Regulation in these and other countries may face a competitive disadvantage relative to non-compliant competitors. This is clearly unsatisfactory.

Czechia and Italy are in breach of Art 33(1) EU-MER. The European Commission is entitled to initiate an infringement procedure against these and any other Member States whose penalty rules are not in force.

2.2 Empowering Competent Authorities

Pursuant to Art. 33(2) of the EU-MER, the Member States must ensure that the competent authorities (CAs) are empowered to impose at least the administrative penalties and administrative measures listed in the left column of Table 2 for infringements of specified EU-MER provisions, provided that such penalties do not endanger the security of energy supply.

On the positive side, all (draft) legal acts examined explicitly empower the CAs to impose administrative fines. Although not shown in the table, each also includes the required derogation where the security of energy supply is endangered. Denmark's law and Italy's draft law meet all other criteria, demonstrating that best practice can be implemented without difficulty.

Table 2: Empowering CAs to impose a series of penalties and measures as of Art 33(2)

CA's empowerment as of §33(2) EU-MER	CZE	DNK	ITA
(a) adopt a decision requiring the person to bring the infringement to an end	Yes	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	Yes	Yes	Yes
(d) adopt a decision imposing periodic penalty payments	Limited	Yes	Yes
(e) adopt a decision imposing administrative fines	Yes	Yes	Yes

By contrast, Czechia's draft law does not empower the Czech CAs to order the confiscation of profits gained, or losses avoided, through infringements. Moreover, while it grants the CAs the power to impose periodic penalty payments, §12(2) caps the total amount at CZK 5,000,000 (around EUR 200,000).

Although this ceiling may be dissuasive for some infringements, it may not be for others. In practice, a company could opt not to implement its EU-MER obligations, knowing that its maximum exposure is limited to EUR 200,000. Examples illustrating the insufficiency of this cap are discussed below in the section on maximum penalty levels. More fundamentally, any fixed upper limit is inconsistent with the logic of periodic penalty payments, which are intended to accrue until compliance is achieved.

Another crucial aspect of CA empowerment, although only indirectly related to sanctions, is the **ability of CAs to effectively access sites and records for inspection purposes**. Denmark's law and Italy's draft law explicitly empower CAs to request and obtain support from police forces when needed to carry out inspections. An equivalent provision is not found in the (draft) legal act of Czechia, though it cannot be excluded that such powers are granted to the CA under their general national legislation.

Finally, a crucial issue is **whether the CAs are provided with the resources** – skilled staff, equipment, funding – needed to fulfil their enforcement tasks. This aspect is examined in detail in a paper published by Ecologic Institute in June 2024⁹. In this respect, the Danish law represents best practice: the costs incurred by the public administration to implement the EU-MER will be covered by a fee paid by every company subject to EU-MER obligations in Denmark. This approach applies the polluter-pays principle and ensures that CAs can be equipped with the necessary resources to perform the work required as a result of the activities of the entities paying the fee. It will be interesting to observe how this model functions in practice.

In Czechia's and Italy draft laws, there is no indication of how the implementation costs will be financed. Given tight public budgets and the peak in implementation activities during the first years following the EU-MER entry into force, insufficient resources for effective enforcement and implementation represent a significant risk in several Member States.

⁹ Piria, Raffaele, Ramiro de la Vega, Leon Martini and Eike Karola Velten: Implementing the EU Methane Regulation, Working paper N° 1. Tasks and resources needed at the national level. Ecologic Institute, Berlin, 2024. Available at: <https://www.ecologic.eu/19718>

2.3 Coverage of infringements, criteria for fines

Czechia's and Italy (draft) laws, as well as Denmark's law in force, fully comply with the minimum list of infringements that must be subject to penalties under Art 33(5) EU-MER. They also all comply with the general criteria for penalties set out in Art 33(1) EU-MER as well as with the aggravating or mitigating factors as of Art 33(7), both of which discussed above in Chapter 1.

2.4 Minimum and maximum fine levels

As discussed in Chapter 1 and illustrated in Figure 3, the EU-MER establishes some important criteria concerning the level of penalties.

Relevant for the **minimum level**, besides the general requirement that penalties be "*effective, proportionate and dissuasive*", Art 33(1) further stipulates that they should be set at a level that "*at least deprives those responsible of the economic benefits derived from the infringement in an effective way*".

In general, the economic benefit of an infringement can be assumed to be at least equal to the avoided cost of compliance; otherwise, most operators would comply on purely economic grounds. Penalties should therefore be set at least at the level of compliance costs. However, because public authorities cannot detect and sanction all infringements, a penalty set exactly at compliance cost would still leave operators with an incentive to breach the rules, given the reasonable expectation that some infringements will go unpunished. Economic theory thus indicates that, to be genuinely effective and dissuasive, fines should be set clearly above the cost of compliance.

Table 3 assesses whether the (draft) legal acts of the Member States examined specify a minimum penalty level, and whether that minimum level is always or mostly dissuasive as required by the EU-MER. The latter is a qualitative judgement, based on the considerations above and briefly justified in the text following the table.

As regards the **maximum level**, the EU-MER, as noted above (Figure 3), caps fines at 20% of the annual turnover of a legal person, or 20% of the annual income of a natural person. National penalty rules allowing for higher maxima would breach the Regulation. Member States may, however, set lower maximum levels, provided these remain compatible with an effective and dissuasive penalty regime.

Table 3: Minimum and maximum level of fines

Level of fines	CZE	DNK	ITA
Minimum level clearly defined	No	Yes	Yes
Minimum level always or mostly dissuasive	Not defined, thus assumed to be 1 koruna	Yes (EUR 10,000)	No (EUR 1,000)
Maximum level explicitly defined	Yes	Yes	Yes
Maximum level dissuasive	Partly (approx. 200,000 to 800,000 EUR)	Yes (20% of turnover)	Yes (10% of turnover)

Czechia's draft law does not define a **minimum penalty level**. While it refers to the general EU-MER principles - implicitly including dissuasiveness and the deprivation of economic benefit - it sets no specific floor. In its absence, the competent authority could, in principle, impose fines as low as 1 Czech koruna. Although such fines would certainly be not dissuasive and therefore plainly conflict with EU-MER requirements, it is doubtful that they could be challenged in practice, if they are allowed by national law. We therefore consider the absence of an explicit minimum level as insufficiently dissuasive.

By contrast, Italy's and Denmark (draft) laws set minimum levels for fines. Denmark is one of the few EU Member States whose legal system does not allow for administrative fines. Infringements of EU-MER provisions will therefore be sanctioned by the courts, which are legally bound to apply all EU-MER provisions. As a result, the Danish enacting law does not explicitly specify minimum or maximum fine levels. However, the explanatory memorandum to the legislative proposal suggests a minimum fine level of DKK 75,000 (approximately EUR 10,000), which will in practice bind Danish courts when setting fines on a case-by-case basis. Italy's draft law sets a uniform minimum fine of €1,000 for any infringement. On a qualitative assessment, we consider the Danish minimum fine level of around EUR 10,000 to be sufficiently dissuasive, whereas Italy's draft law minimum level is not.

Regarding **maximum penalty levels**, Denmark's law is silent. The EU-MER maximum therefore applies: 20% of annual turnover for legal persons, or annual income for natural persons. Italy's draft law sets a uniform maximum of 10% of the annual turnover or income, applying to all infringements without differentiation. In our assessment a 10% turnover cap is sufficiently dissuasive.

By contrast, §13(7) of the Czech draft law sets three absolute **maximum penalty levels** : CZK 5 million, CZK 10 million and CZK 20 million (approximately EUR 200,000, EUR400,000 and EUR 800,000). These maxima may be dissuasive in some cases, but clearly not in others, particularly when combined with the cap on penalties for repeated infringements, which, as noted above, is also set at CZK 5,000.000 (approximately EUR 200,000).

The lowest of the three maxima applies, among other cases, to the following infringements:

- a fossil fuel importer failing to provide the information on methane intensity of the production of crude oil, natural gas and coal as required under Article 29(1) and 29(2) EU-MER;
- an oil and gas sector operator failing to submit the annual report on LDAR (leak detection and repair) surveys completed in the previous year, as required by Article 14(14) EU-MER;
- an oil and gas or coal operator failing to submit a methane emissions report as required by Article 12, Article 18(3), Article 20, or Article 25(6) EU-MER.

If adopted as proposed, the Czech draft law would allow operators and importers to remain persistently in breach of these (and other) EU-MER obligations while facing a maximum fine of only around EUR 200.000. Beyond the impact on methane emissions, the first example could materially distort the internal market, as non-compliant importers registered in Czechia would enjoy an undue competitive advantage over compliant importers, and over non-compliant importers registered in Member States applying turnover-based maxima, such as Denmark and Italy.

There are sound reasons why the EU legislators - including the Czech government and the 85% of Members of the European Parliament who supported the EU-MER - opted for turnover-based maximum fines. Compliance costs for the same obligation can vary substantially with the

size and characteristics of the asset concerned, and with technical and market conditions. Company size also matters: a fine that is onerous for one operator may be negligible, and therefore not dissuasive, for another. By linking maxima to turnover, the EU-MER explicitly accounts for these differences.

2.5 Conclusions

Czechia, like several other Member States, is clearly in breach of Art 33 EU-MER, having failed to adopt penalty rules consistent with to all EU-MER principles by 5 August 2025.

If the draft law submitted in November 2025 by the outgoing Minister for Environment to the Prime Minister were adopted by Parliament as drafted, it would largely comply with EU-MER principles and requirements, with a few important exceptions:

- **Confiscation of profit gained through the infringement:** It does not empower the competent authorities to order the confiscation of profits gained, or losses avoided, as a result of infringements, as required by Article 33(2) EU-MER;
- **Periodic penalty payments:** it empowers the competent authorities to impose periodic penalty payments, as required by Art 33(2), but caps their total amount at approximately EUR 200,000. While this ceiling may be dissuasive for some infringements, it may not be for others, and it is fundamentally inconsistent with the rationale of periodic penalty payments, which are intended to accrue until compliance is achieved.
- **Minimum fine level:** it does not establish a minimum fine level, thereby allowing, in principle, fines as low as one koruna. This falls short of the EU-MER requirement that fines be dissuasive, and contrasts with other Member States, which set minimum levels of up to € 10,000.
- **Maximum fine level :**The absolute maximum levels - ranging from roughly EUR 200,000 to EUR 800,000 - are not sufficiently dissuasive in some cases and therefore breach a core EU-MER principle. They may also confer a competitive advantage on non-compliant importers registered in Czechia over compliant importers and over non-compliant importers registered in other Member States with turnover based fine maxima.

Finally, unlike Danish good practice - where the implementing law provides a mechanism to cover the public administration's costs of implementing the EU-MER by levying a fee on energy sector operators responsible for methane emissions - Czechia's draft law contains no provision to raise funds to ensure that the competent authorities have the necessary resources.

However, declarations of prospective ministers and other figures of the potential government coalition led by election winner Andrej Babiš raise concerns that adoption of Czechia's draft may be further delayed, and its provisions diluted, increasing the extent of Czechia's non-compliance with the EU-MER.