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

How the draft penalty rules proposed by the Romanian government on 22 July 2025 compare with EU requirements and with good practice in other Member States

Raffaele Piria (Ecologic Institute)

Ramiro de la Vega (Ecologic Institute)

Reviewed by Corina Murafa (Bucharest University of Economic Studies)

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Environmental Defense Fund

Ecologic Institute

Contact

Raffaele Piria
Senior Fellow
Ecologic Institute
Pfalzburger Straße 43/44
10717 Berlin

E-Mail: raffaele.piria@ecologic.eu

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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 signed by the prime minister and published on 22 July on the website of the Ministry for Energy.[2]

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

- briefly assesses Romania's draft law legislative status:
- examines its compliance with the EU-MER requirements outlined in Chapter 1
- compares Romania's 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 Romania, 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 month[3]. An analogous report focusing on Czechia'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] See: https://energie.gov.ro/proiectul-de-ordonanta-de-urgenta-pentru-stabilirea-masurilor-necesare-de-punere-in-aplicare-a-regulamentului-ue-2024-1787-privind-reducerea-emisiilor-de-metan-in-sectorul-energetic-si-de-modificare/

[3] 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. Open issues. Ecologic Institute, Berlin, 2024. Available at: 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 Romania's draft law in the following chapters.

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 overview[4]

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.

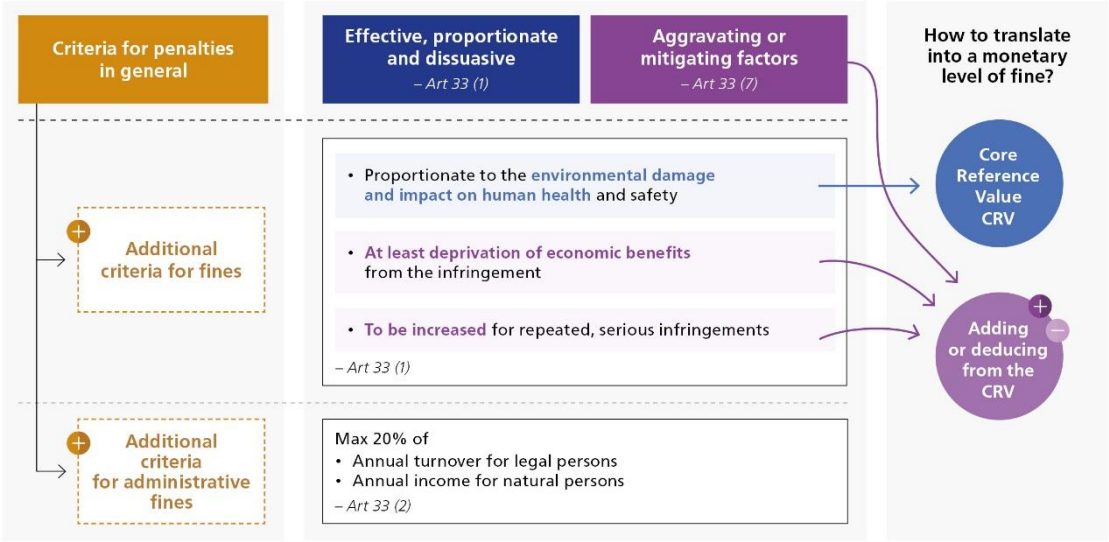
As illustrated in Figure 2, Article 33(1) establishes criteria that apply to all types of penalties imposed for infringements of the EU-MER: they must be "*effective, proportionate and dissuasive*". In addition, they must be "*proportionate to the environmental damage and impact on human safety and health*", 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

[4] 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 States 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 directly 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*". Although not explicitly stated, 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. Where a Member State's implementing legislation generically refers to all infringements covered by Art 33(5), the assessment in Chapter 2 considers this requirement fulfilled. In Romania's draft, however, the draft law contains explicit lists of punishable infringements, linked to specific minimum and maximum fines for breaches of particular EU-MER provisions. In this context, the omission of a type of infringement from this list creates a

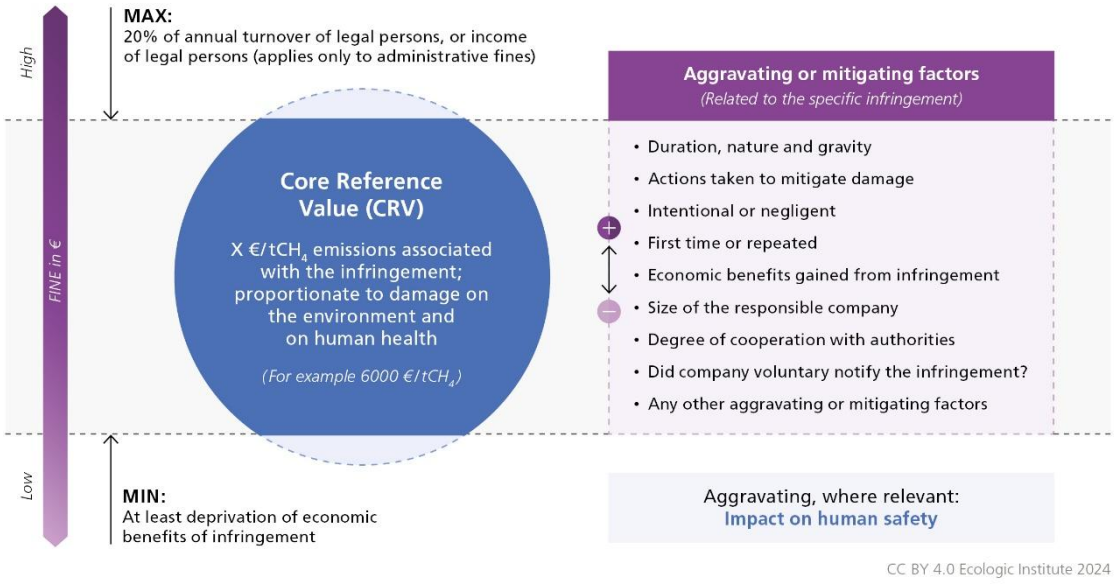
legal situation in which the conduct remains unequivocally unlawful but may not be readily sanctionable in Romania. Where this omission is identified, Chapter 2 assigns a negative assessment.

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 begin 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 (CH_4) emissions directly or indirectly associated with the infringement. To convert these emissions into a monetary penalty, a "core reference value" (CRV), expressed in €/tCH_4, is either explicitly or implicitly required. The paper from which this figure is drawn proposes a CRV of 6,000 €/tCH_4, 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 1962[5] 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.

[5] See Art 15(2) of Regulation N° 17, First Regulation implementing Articles 85 arid 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 Romania's draft law

This chapter analyses the penalty provisions in the draft emergency ordinance signed by the Prime Minister Bolojan and published on the website of the Ministry for Energy on 22 July 2025.[6]

In the draft, the Romanian government motivates the choice of the instrument emergency ordinance pursuant to Article 115 of the Romanian constitution as following: " (…) Whereas the adoption of the proposed measures through ordinary legislative procedures is objectively not possible during the parliamentary recess, and delaying the regulation would lead to the triggering of the infringement mechanism on Romania; considering the fact that these proposed measures aim at the public interest, in the field of environmental protection and public health, and constitute an emergency situation whose regulation cannot be postponed, (…)".

Assessing whether the Romanian Constitution's requirement of an "extraordinary situation" for adopting an emergency ordinance was met falls outside the scope of this paper. It is nevertheless relevant that the EU Methane Emissions Regulation (EU-MER) was definitively adopted by the Council of the European Union in June 2024 with Romania's affirmative vote, and entered into force on 5 August 2024. The Government issued the emergency ordinance one year later, allowing only ten days for public consultation, which closed on 1 August.

As of completion of the research for this report (30 November), the consultation outcomes had not been published and the draft had not progressed to subsequent stages of the legislative process.

In an article published under the News section on Ministry of Energy's website[7], State Secretary Bușoi reported that, while representing the Ministry of Energy at the EU Energy Council on 22 October 2025, he restated Romania's position as set out in an informal joint document submitted with six other Member States to the June Energy Council. He argued that, although Romania remains fully committed to decarbonisation targets, including those on methane emissions, the EU-MER implementation entails significant administrative and financial burdens and may, in some cases, even produce unintended and counterproductive effects.

State Secretary Bușoi reiterated this message on 28 October 2025, stating that "we are also lobbying for the simplification of legislation on methane emissions, which places a very high pressure and additional cost on oil and gas companies in Romania."[8]

Accordingly, while no official public information is available on the next steps for adopting the draft emergency ordinance, these statements indicate a material risk of further delay in transposing and implementing the EU-MER in Romania.

The following 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 Romania's draft law with Denmark's[9] corresponding law (December 2024) and Executive Order (March 2025), both

[6] See: https://energie.gov.ro/proiectul-de-ordonanta-de-urgenta-pentru-stabilirea-masurilor-necesare-de-punere-in-aplicare-a-regulamentului-ue-2024-1787-privind-reducerea-emisiilor-de-metan-in-sectorul-energetic-si-de-modificare/

[7] See: https://energie.gov.ro/cristian-busoi-secretar-de-stat-a-reprezentat-ministerul-energiei-la-consiliul-ministrilor-energiei-din-ue/

[8] See: https://agerpres.ro/economic/2025/10/28/obligatiile-de-stocare-din-net-zero-industry-act-pentru-romania-nu-se-justifica-economic-secretar-de--1497784

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

of which are in force, and with Italy's draft law adopted by the Italian Cabinet on 30 June 2025 [10].

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

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. Romania has largely missed this deadline.

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

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

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.

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 Romanian 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.

Due to their delay, Romania and Italy are plainly in breach of Art 33(1) EU-MER. The European Commission is therefore entitled to launch infringement procedures against them, and against any other Member States whose penalty rules are not yet in force, including Germany.

In these Member States, there is currently no legal certainty as to the penalties applicable to infringements. While this gap persists, companies that comply with the Regulation in these and other jurisdictions may suffer a competitive disadvantage compared with non-compliant competitors. This situation is clearly unsatisfactory.

[10] 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

It should nevertheless be recalled that, as with any EU regulation, Article 288 of the Treaty on the Functioning of the European Union (TFEU) provides that the EU-MER is "binding in its entirety and directly applicable in all Member States." Accordingly, from its entry into force in August 2024, all entities within its scope have been legally required to comply with all its provisions. However, until a Member State adopts its own penalty rules, it remains uncertain how infringements occurring in its territory, or by importers established there, will be sanctioned in practice. Although essential parameters, such as the level of fines, cannot be confirmed until national rules are in place, non-compliance is unequivocally unlawful.

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)

CAs 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 payments	No	Yes	Yes
(e) adopt a decision imposing administrative fines	Yes	Yes	Yes

By contrast, Romania's draft law does not empower Romania's CAs to:

- order the confiscation of profits gained, or losses avoided, through infringements;
- issue public warnings or notices, other than inspection reports;
- adopt decisions imposing periodic penalty payments.

It also fails to clearly empower the CAs to adopt decisions requiring the responsible legal or natural person to bring the infringement to an end, although our analysis cannot exclude that this power is conferred to CAs through other existing legal acts.

Therefore, if adopted in its current form, Romania's draft law would be in material breach of Art 33(5) EU-MER. In this respect also, the European Commission would be entitled to launch an infringement procedure.

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 Romania, 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 2024[11]. 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 entitities paying the fee. It will be interesting to observe how this model functions in practice.

In Romania'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.

2.3 Coverage of all infringements

Art 33(5) sets out a minimum list of infringements that must be subject to penalties. Table 3 provides an overview on whether the examined Member States's (draft) laws cover all these infringements.

Table 3: Coverage of all of infringements pursuant to Art 33(5) EU-MER

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

The (draft) laws of Denmark and Italy ensure that all infringements pursuant to Art 33(5) are subject to penalties.

Romania's draft emergency ordinance does not meet this requirement. Article 10 contains 32 sub-paragraphs, each identifying one or more EU-MER provisions and specifying the applicable range of fines. The relevant EU-MER provisions are identified at sub-paragraph level. For instance, Article 10(b) provides that "(i) failure to adopt, in accordance with Article 6(6) of the Regulation, the measures established by the competent authority in the inspection report referred to in Article 6(5) of the Regulation; (ii) failure to submit the revised report referred to in Article 8(4) of the Regulation;" is punishable by a fine of between 15,000 and 30,000 lei.

[11] 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

By relying on an exhaustive list, Romania's draft emergency ordinance may imply that infringements not expressly included are, in practice, not punishable in Romania, even though the underlying conduct remains unequivocally unlawful.

For this reason, it should be noted that Romania's draft emergency ordinance makes no reference to infringements of the following EU-MER provisions:

- Art. 12(4): required content of methane monitoring reports to be submitted by oil and gas operators under Article 12.
- Art 12(5): technical requirements for the measurements and quantifications to be reported by oil and gas operators under Article 12.
- Art 12(6): duty for oil and gas sectors operators to compare source-level quantification with site-level measurement, notify CAs of statistically relevant discrepancies, and carry out reconciliation with specified procedures.
- Art 12(7): obligation for oil and gas sectors operators to indicate any withheld information in reports and justify confidentiality claims.
- Art 15(5): requirement for oil and gas sectors operators to replace methane-venting equipment with non-emitting alternatives compliant with standards set under Article 32 where commercially available.
- Art 15(7): requirement for oil and gas sectors operators to install and use only commercially available zero-emitting pneumatic devices, compressors, atmospheric pressure storage tanks, sampling and measuring devices and dry gas seals, where a site is built, replaced or refurbished.
- Article 16: requirement for oil and gas sectors operators to notify the CAs of venting events and flaring events.
- Art 20(3): requirement for surface coal mine operators to use deposit-specific coal mine methane emission factors, update them quarterly, and follow related technical criteria.
- Art 20(4): technical standards for methane measurement and quantification by coal mines and drainage stations operators.
- Art 20(5): standards for estimating coal post-mining methane emissions using annually updated emission factors.

2.4 General criteria for fines, aggravating and mitigating factors

Table 3 assesses the extent to which the examined Member States' (draft) legal acts 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.

It is important to note that these two paragraphs, like all provisions of Art 33 EU-MER on penalties, are addressed to the Member States. Member States are therefore legally required to adopt national legal acts incorporating these principles into domestic law. If they do not so in due time, the European Commission may initiate an infringement procedure. In such circumstances, these criteria and factors remain legally valid, but competent authorities are not necessarily directly required to apply them.

The general criteria for fines under Article 33(1) and the aggravating and mitigating factors under Article 33(7) are directly incorporated into the Italian act through explicit reference to the EU-MER. The Danish act contains no such explicit reference. However, its explanatory

memorandum sets out these criteria in detail and, according to sources in the Danish Ministry, is de facto legally binding. This approach reflects Denmark's legal framework, which does not allow administrative fines and therefore requires judicial involvement.

By explicitly requiring competent authorities to take these criteria into account when imposing penalties for specific infringements, the (draft) legal acts of these two Member States establish a clear legal position fully consistent with the EU-MER. In these Member States, a penalty imposed without due regard to one or more of these principles could be successfully challenged before a court. A company fined at the maximum level could contest the decision by demonstrating that the competent authority failed to consider relevant mitigating factors, or even simply that not all aggravating factors were present. Conversely, a fine set at the minimum level could be challenged on the basis that not all mitigating factors applied in the case.

Table 4: General criteria for fines, aggravating and mitigating factors

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 & 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

However, Romania's draft emergency ordinance contains no reference to most of these criteria. This creates an ambiguous legal situation. Whether an affected party could successfully challenge a decision on the ground that it failed to consider one or more of these principles, including mitigating factors, is doubtful and cannot be examined within the scope of this paper. However, it is clear that the absence of an explicit reference to these principles and to the

aggravating or mitigating factors undermines legal certainty and is inconsistent with the EU-MER provisions.

2.5 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 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 5 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.

A maximum defined as a fixed monetary amount for a given type of infringement may be more or less dissuasive in some situations, but not in others. Compliance costs for the same EU-MER obligations can vary substantially with the size and characteristics of the asset concerned, or with other technical and market conditions. The size of the infringing company also matters: an amount that is onerous for one operator may be negligible for another. By linking maxima to turnover or income, the EU-MER legislators explicitly accounted for these differences.

Table 5: Minimum and maximum level of fines

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

Romania's draft emergency ordinance defines minimum penalty levels for most, though not all (see above), potential EU-MER infringements. Minimum fines range from RON 10,000 to RON 50,000 (approximately EUR 2,000 - 10,000), and maximum fines from RON 20,000 to RON 100,000 (approximately EUR 4,000 - 20,000). For some infringements, the minimum levels may be sufficiently dissuasive, but clearly not for all. The lowest minimum, around EUR 2,000, applies to a long list of fourteen potential infringements, including serious breaches with potentially significant distorting effect on the functioning of the internal market, such as importers' failure to provide the competent authorities with the information required to ensure compliance with Articles 27 and 28 EU-MER. Taken together with the absence of any reference to the removal of economic benefit, to the principle of dissuasiveness, or to annual turnover, these penalty levels appear to be clearly inconsistent with Art 33 EU-MER.

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. Regarding maximum penalty levels, Denmark's law is silent. Although the EU-MER maximum – 20% of turnover - refers only to administrative fines, Danish courts might use it as a benchmark, thus excluding even higher penalties.

Italy's draft law sets a uniform minimum fine of €1,000 for any infringement and a uniform maximum of 10% of the annual turnover or income of the legal or natural person concerned. These limits apply across all infringements, without differentiation. The draft law refers to the EU-MER articles containing the overall principles, which the competent authorities must therefore apply when imposing sanctions. If adopted, however, this approach would leave the competent authorities with very wide discretion. 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. In our assessment, the maximum is deemed sufficiently dissuasive, but no the flat minimum of €1,000.

2.6 Conclusion

Romania, 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.

Moreover, if the emergency ordinance published in July 2025 were adopted by Parliament as drafted, it would be severely non-compliant with EU-MER principles and requirements, among others:

- **Several serious infringements are not subject to penalties**: the exhaustive list of punishable infringements contained in Article 10 of Romania's draft emergency ordinance fails to cover ten relevant EU-MER provisions which must be subject to penalties according to Art 33(5) EU.MER;
- **Empowerment of Competent authorities**: The draft emergency ordinance fails to confer to the competent authorities the powers required by Art 33(2) EU-MER, among others the power to confiscate profits gained through infringements and the power to impose periodic penalty payments;
- **General criteria for fines**: it does not mention nor explicitly refer to the general criteria for fines (effective, proportionate, and dissuasive) enshrined in Art 33(2) EU-MER;

- **Aggravating and mitigating factors**: it does not mention nor explicitly refer to the aggravating and mitigating factors listed in Art, 33(7) EU-MER; which must be considered by competent authorities when imposing penalties.
- **Minimum fine level**: the minimum fine levels (circa 2,000 to 10,000) are partly below a level that can be seen as sufficiently dissuasive.
- **Maximum fine level** :The maximum fine levels (circa 4,000 to 20,000) are far below a level that can be seen as sufficiently dissuasive. They may confer a competitive advantage on non-compliant importers registered in Romania 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 - Romania’s draft law contains no provision to raise funds to ensure that the competent authorities have the necessary resources.