



European Securities and
Markets Authority

Report

**Administrative and criminal sanctions and other administrative
measures imposed under the Market Abuse Regulation in 2021**





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1 Executive Summary

In 2021, National Competent Authorities (NCAs) reported in total 366 administrative sanctions and measures and 29 criminal sanctions for infringements of Regulation (EU) No 596/2014 on Market Abuse (MAR). The value of the financial penalties imposed for the administrative sanctions reached EUR 54,273,686.97, while the financial penalties in relation to criminal infringements of MAR amounted to EUR 5,340,879.

While the number of administrative sanctions and measures under MAR significantly decreased compared to 2020, the financial penalties significantly increased. With regards to criminal sanctions under MAR, both the number of sanctions and the aggregated value of the imposed sanctions decreased compared to 2020.

Background

Article 33 of MAR provides for the obligation of ESMA to publish an annual report with aggregated information on all penalties and measures imposed by NCAs. This report contains aggregated information on the administrative and criminal sanctions and other administrative measures imposed by NCAs in accordance with Article 30 of MAR from 1 January 2021 to 31 December 2021. The report also contains an overview of the applicable legal framework, including the penalties and measures foreseen.

Next Steps

The information reported to ESMA and included in this report will inform ESMA's ongoing work aimed at fostering supervisory convergence in the application of MAR and contribute to ESMA's goal to develop an EU outcome-focused supervisory and enforcement culture.

Further detailed information on public sanctions and measures issued by NCAs can be found in the ESMA register available on the ESMA website¹.

¹ <https://registers.esma.europa.eu/publication/searchSanction>

2 Background and relevant regulatory framework for reporting on MAR administrative and criminal sanctions and other administrative measures

1. This report is prepared pursuant to Article 33 of MAR. According to that Article, ESMA shall publish an annual report on the administrative sanctions and other administrative measures and on the criminal sanctions imposed.
2. Article 33 also establishes that NCAs must annually provide ESMA with:
 - a) aggregated information regarding all administrative sanctions and other administrative measures imposed by them in accordance with Articles 30, 31 and 32 of MAR;
 - b) anonymised and aggregated data regarding all administrative investigations undertaken pursuant to the above articles;
 - c) anonymised and aggregated data where Member States, in accordance with the second subparagraph of Article 30(1), have laid down criminal sanctions for market abuse conduct for:
 - (i) criminal investigations undertaken pursuant to Articles 30, 31 and 32 of MAR, and
 - (ii) criminal penalties imposed by the judicial authorities for the same Articles.
3. Article 33 of MAR is implemented by Commission Implementing Regulation (EU) 2017/1158², which sets forth the procedures and forms for submitting the information required.
4. According to Article 3 of Commission Implementing Regulation (EU) 2017/1158, NCAs shall provide ESMA with the information referred to in Article 33(1) and (2) of MAR by filling in the form set out in Annex I to the Regulation. That information shall refer to all the sanctions and measures imposed during the previous calendar year. The form shall be completed electronically and be sent to ESMA no later than 31 March of each year.

² OJ L 167, 30.6.2017, p. 22.

3 Information on the sanctions and measures imposed

5. This is the fifth report published by ESMA concerning penalties and measures issued under MAR³.
6. Article 30(2) of MAR provides that NCAs should have the power to impose at least the below administrative sanctions and measures for the infringements described in MAR⁴:
 - a) an order requiring the person responsible for the infringement to cease the conduct and to desist from a repetition of that conduct;
 - b) the disgorgement of the profits gained, or losses avoided due to the infringement insofar as they can be determined;
 - c) a public warning which indicates the person responsible for the infringement and the nature of the infringement;
 - d) withdrawal or suspension of the authorisation of an investment firm;
 - e) a temporary ban of a person discharging managerial responsibilities within an investment firm or any other natural person, who is held responsible for the infringement, from exercising management functions in investment firms;
 - f) in the event of repeated infringements of Article 14 or 15, a permanent ban of any person discharging managerial responsibilities within an investment firm or any other natural person who is held responsible for the infringement, from exercising management functions in investment firms;
 - g) a temporary ban of a person discharging managerial responsibilities within an investment firm or another natural person who is held responsible for the infringement, from dealing on own account;
 - h) maximum administrative pecuniary sanctions of at least three times the amount of the profits gained, or losses avoided because of the infringement, where those can be determined, and
 - i) maximum administrative pecuniary sanctions reaching, at least, the amounts specified in Article 30(2), letters (i) and (j) of MAR⁵.

³ Previous sanctions report published by ESMA on administrative and criminal sanctions and other administrative measures under the MAR can be found at these links:

- 2020 report: <https://www.esma.europa.eu/sites/default/files/library/esma70-156-3537.pdf>
- 2019 report: <https://www.esma.europa.eu/sites/default/files/library/esma70-156-2005.pdf>
- 2018 report: <https://www.esma.europa.eu/sites/default/files/library/esma70-145-1081.pdf>

⁴ Article 30 of MAR requires Member States to grant NCAs the power to take administrative sanctions and other administrative measures on at least infringements referring to the following provisions of MAR:

- a) Prohibition of insider dealing and unlawful disclosure of inside information (Article 14 MAR);
- b) Prohibition of market manipulation (Article 15 MAR);
- c) Obligation to detect suspicious transactions and the related reporting to NCAs pursuant to Article 16(1) and (2) MAR;
- d) Publication of inside information by the issuer (Article 17(1), (2), (4) and (5), and (8) MAR);
- e) Drawing up, maintaining and submitting to the NCA upon request insider lists (Article 18(1) to (6) MAR);
- f) Managers' transactions (Article 19(1), (2), (3), (5), (6), (7) and (11) MAR);
- g) Investment recommendations (Article 20(1) MAR), and
- h) Failure to cooperate or to comply with an investigation, with an inspection or with a request as referred to in Article 23(2) MAR.

⁵ In particular, Article 30(2) letters (i) and (j) of MAR requires Member States to ensure:

7. As regards the administrative or criminal nature of the sanctions, Article 30(1), second subparagraph of MAR provides that a Member State could decide to not lay down rules for administrative sanctions where the infringements referred to in the same provision were already subject to criminal sanctions in their national law by 3 July 2016.
8. In this respect, Denmark, Finland, Germany, Ireland and Poland exercised this option. The following is an indication of criminal offences under MAR as of the date of this Report : (i) in Denmark there are criminal offences for all the infringements under MAR; (ii) in Finland there are criminal offences for infringements of Article 14, 15 and 17 of MAR; (iii) in Germany there are criminal offences for infringements of Article 14 and 15 of MAR – where committed intentionally and, for Article 15, if the infringement leads to an influence on the market price of the respective financial instrument; (iv) in Ireland there is a criminal offence for the infringement set forth in Article 30(1), first subparagraph, letter (b) of MAR, and (v) in Poland there are criminal offences for infringements of Article 14, 15, and for the infringement set forth in Article 30(1), first subparagraph, letter (b) of MAR. Moreover, further to administrative sanctions for Article 17 of MAR, in Poland there are criminal offences for Article 17(1), 17(4) and 17(5) of MAR in place, where certain circumstances provided for by the Act on Public Offering are met.
9. The report provides details on the aggregated number of sanctions imposed by NCAs and judicial authorities under MAR. NCAs may also have the power to impose additional types of measures and sanctions under national law.
10. This report contains the data provided by the 30 EU/European Economic Area Member States, however MAR is only applicable in Iceland, Norway and Liechtenstein since January 2021 and no MAR sanctions have been imposed in these jurisdictions up to the end of 2021 yet.
11. The aggregated information contained in this report reflects the data submitted to ESMA by the NCAs.
12. Sanctions imposed in 2021 based on Directive 2003/6/EC on insider dealing and market manipulation (the Market Abuse Directive, MAD), are not reflected in the report.

i) "in respect of a natural person, maximum administrative pecuniary sanctions of at least:

a. for infringements of Articles 14 and 15, EUR 5 000 000 or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014; b. for infringements of Articles 16 and 17, EUR 1 000 000 or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014; and

c. for infringements of Articles 18, 19 and 20, EUR 500 000 or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014; and

j) in respect of legal persons, maximum administrative pecuniary sanctions of at least: a. for infringements of Articles 14 and 15, EUR 15 000 000 or 15 % of the total annual turnover of the legal person according to the last available accounts approved by the management body, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014; b. for infringements of Articles 16 and 17, EUR 2 500 000 or 2 % of its total annual turnover according to the last available accounts approved by the management body, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014; and c. For infringements of Articles 18, 19 and 20, EUR 1 000 000 or in the Member States whose currency is not the euro, the corresponding value in the national currency on 2 July 2014".

The indication is provided for information only and does not specify conditions triggering criminal offences. In addition, administrative sanctions can, in certain cases, be imposed for infringements under the same Articles (for instance, minor infringements, cases of gross negligence, etc.).

4 Guidance for interpretation of penalties and measures reported

13. This report should be considered in the context of the following provisions as provided for in Annex I to the Commission Implementing Regulation (EU) 2017/1158:

- The administrative and criminal sanctions and measures imposed may be based on more than one legislative provision. Therefore, the sum of the number of sanctions and measures/values of the sanctions disclosed in the analytical tables of section 5 of this report may not correspond to the total number of sanctions and measures or to the total value of the fines imposed.
- If the relevant penalties/measures refer not only to breaches relating to one single article of the MAR, but also to other provisions (at EU and/or national level), and the relevant amounts cannot be disaggregated per infringed article, “AGGREGATED FIGURE” would be added to each value.

14. As per Annex I of the Commission Implementing Regulation (EU) 2017/1158, the pecuniary amount imposed by the sanctions can be submitted in Euros, or in the national currency where different from the Euro. To facilitate the use of the report, all the pecuniary amounts are provided in Euros, together with the exchange rate used⁶.

5 Sanctions imposed by NCAs

5.1 Overview of the administrative sanctions and measures imposed in 2021

15. ESMA underlines that the analysis presented below is based on high level observations of the aggregate penalties imposed and does not reflect an analysis of individual decisions.

16. This report covers the period from 1 January 2021 to 31 December 2021. Over this period, NCAs imposed 366 MAR administrative sanctions and measures. This is a significant decrease compared to the 541 administrative sanctions and measures imposed in 2020.

17. In line with that, nine NCAs did not impose any sanctions and/or measures in 2021. This is an increase with respect to 2020, where seven NCAs did not impose any sanctions and/or measures.

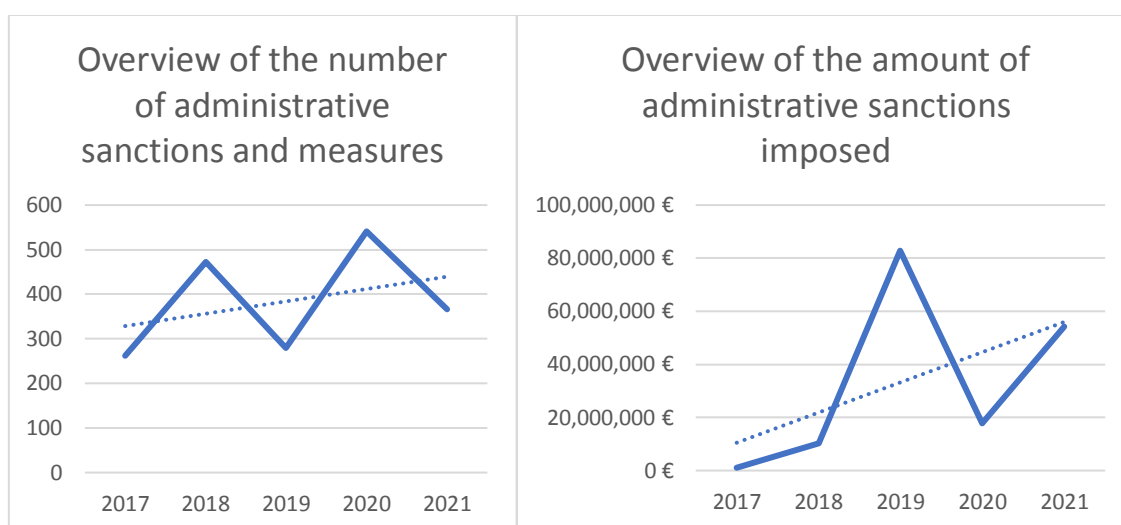
18. When considering the entire period since the entry into application of MAR, two NCAs have not imposed any administrative sanctions or measures as of 31 December 2021: The Central Bank of Ireland and the National Bank of Slovakia. Over the same time period

⁶ Based on foreign exchange reference rates at mid-2021; https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/index.en.html

two other NCAs have only imposed administrative sanctions or measures under MAR in one of the five years covered: The Czech National Bank and the Malta Financial Services Authority.

19. As regards the number of sanctions imposed, ESMA cross-refers to previous statements on the same issue⁷ and in particular to the fact that insider dealing, and market manipulation infringements imply extensive investigations and complex evidence gathering exercises.

20. However, the aggregated value of the sanctions jumped from EUR 17,840,686 in 2020 to EUR 54,273,686.97 in 2021. This increase has been led by the sanctions imposed in France (EUR 38,905,000) and Sweden (EUR 7,071,213).



Source: ESMA

21. Overall, an overall increasing (but not steady) trend in the number of administrative sanctions as well as the aggregated value of the imposed sanctions is noticeable.

NCAs' Member States	Administrative sanctions		No sanctions imposed
	Total number of penalties and measures	Total aggregate amount of financial penalties	
Austria	17	514,075.00 €	

⁷ For all, ESMA Report on administrative and criminal sanctions and other administrative measures imposed under MAR in 2020: As regards the increases (and decreases) in the number of administrative sanctions and measures, they may be related to internal and external circumstances.

As internal circumstances, different elements can be identified.

Administrative sanctions and measures may entail different degrees of complexity. Insider dealing and market manipulation infringements imply extensive investigations and complex evidence gathering exercises. Sanctioning those infringements is likely to require more work and longer delays than administrative measures imposed for other infringements e.g., breaching the obligation to report the transactions executed under an accepted market practice.

NCAs' Member States	Administrative sanctions		No sanctions imposed
	Total number of penalties and measures	Total aggregate amount of financial penalties	
Belgium	3	950,000.00 €	
Bulgaria	81	51,129.90 € ⁸	
Croatia	1	0.00 €	
Cyprus	3	52,000.00 €	
Czech Republic	3	13,945.50 € ⁹	
Denmark	22	0.00 €	
Estonia	11	1,000.00 €	
Finland	1	1,650,000.00 €	
France	6	38,905,000.00 €	
Germany	6	1,012,250.00 €	
Greece	22	1,746,000.00 €	
Hungary	23	74,835.109 € ¹⁰	
Ireland	0	0.00 €	X
Italy	31	1,541,500.00 €	
Latvia	5	83,347.16 €	
Lithuania	0	0.00 €	X
Luxembourg	0	0.00 €	X
Malta	0	0.00 €	X
Netherlands	1	0.00 €	
Poland	1	217,391.00 € ¹¹	
Portugal	28	75,000.00 €	
Romania	0	0.00 €	X
Slovenia	0	0.00 €	X
Slovakia	0	0.00 €	X
Spain	7	315,000.00 €	
Sweden	94	7,071,213.30 € ¹²	
Norway	0	0.00 €	X
Iceland	N/A	N/A	N/A
Liechtenstein	0	0.00 €	X
Total	366	54,273,686.97 €	

⁸ BGN/EUR=1.95

⁹ CZK/EUR= 24.739

¹⁰ HUF/EUR=394.2

¹¹ PLN/EUR=4.6

¹² SEK/EUR=10.6

5.2 Overview of the administrative sanctions and measures imposed during 2021 by NCAs (split by MAR Article)¹³

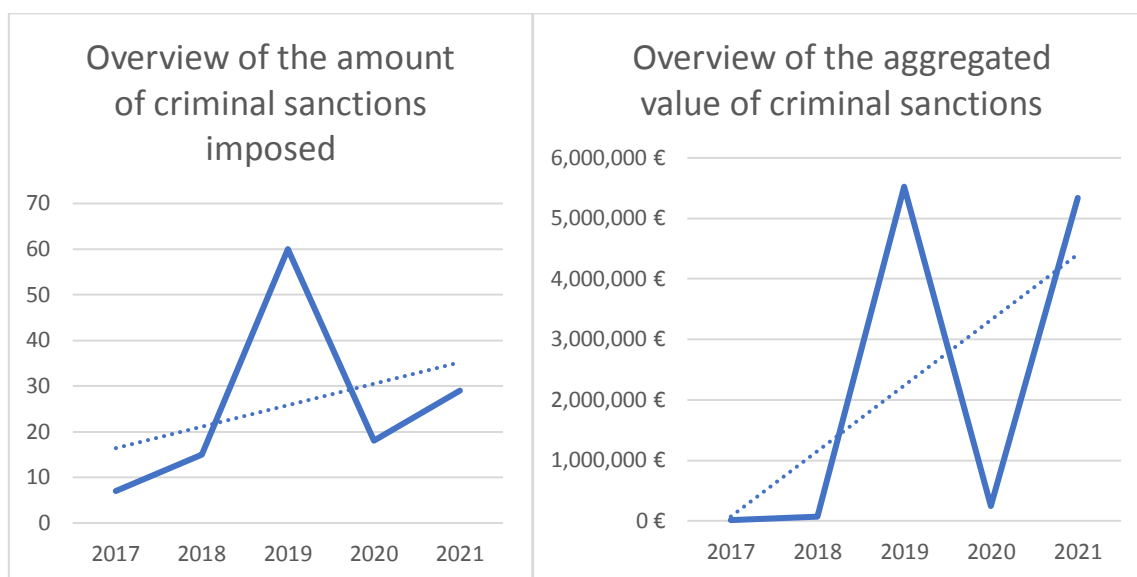
22. The tables provided in section 5.4 set out the details on the administrative sanctions and measures imposed by NCAs in 2021 under MAR. In order to properly account for the different MAR provisions and to facilitate the reading of the reported data, the information on sanctions and measures imposed by NCAs is shown in separate tables for Article 14, Article 15 and for other MAR infringements.
23. In line with the previous years, the sanctions and measures imposed under 'other infringements' have been the most numerous (230), followed by the sanctions under Article 15 of MAR (market manipulation) (118) and by the sanctions under Article 14 of MAR (prohibition of insider dealing and of unlawful disclosure of inside information) (14).
24. These numbers, compared to last year's report, represent a significant decrease despite the higher number of sanctions imposed under Article 15 of MAR (74 in 2020 per 118 in 2021). This decrease is mostly due to the lower number of sanctions under 'other infringements' (348 in 2020 per 230 in 2021). The reduced number of sanctions imposed under Article 14 of MAR, which halved compared to last year (26 in 2020 and 14 in 2021) is also noticeable.
25. It is worth noting that, in line with last year's report, a limited number of NCAs imposed sanctions under Article 14 of MAR (7 in 2021 vs 6 in 2020).
26. 14 NCAs imposed sanctions in relation to infringements of Article 15 of MAR in 2021, i.e. three more than in 2020.
27. 17 NCAs imposed sanctions under other MAR infringements in 2021, i.e. six more than in 2020.
28. With respect to the economic value of the sanctions, the aggregated amount imposed for Article 15 infringements is the highest (EUR 41,149,145.62) followed by the 'other infringements' sanctions (EUR 8,367,033.85). Finally, the aggregated amount imposed under Article 14 of MAR was significantly higher than in 2020 (EUR 5,506,907.20 in 2021 vsr 626.882 in 2020).

5.3 Overview of the criminal penalties imposed in NCAs' Member States in 2021

29. Overall, 29 criminal sanctions were imposed in 2021 in relation to MAR criminal sanctions, amounting to an aggregate value of EUR 5.340.879. All these sanctions were imposed in Germany, Poland and Sweden. A significant decrease in the number of

sanctions can be detected compared to last year's report, where 60 criminal sanctions were imposed.

30. The aggregated economic penalties have slightly decreased (EUR 5.340.879 in 2021 vs EUR 5.523.750 in 2020). It is important to note that Sweden could not provide data on the aggregated amounts imposed for the criminal sanctions in their jurisdiction.
31. At the same time, it is noticeable that the sanctions were only imposed under Articles 14 and 15 of MAR, with no sanctions reported under other infringements. In line with that, section 5.5 only contains the tables referring to Articles 14 and 15 of MAR.



Source: ESMA

32. The table below provides the aggregated and the specific information on the sanctions imposed.

NCAs' Member States	Criminal sanctions		No sanctions imposed
	Total number of penalties and measures	Total aggregate amount of financial penalties	
Denmark	1	0.00 €	
Finland	0	0.00 €	X
Germany	20	5,308,271.00 €	
Ireland	0	0.00 €	X
Poland	2	32,608.00 € ¹⁴	
Sweden	7	Not available	

¹⁴ PLN/EUR=4.6

Total	30	5.340.879 €	
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5.4 Administrative sanctions and measures imposed during 2021 by NCAs (split by MAR Article)

MAR Article	Administrative penalties/measures		No sanctions imposed
	Number	Amount	
Art. 14			
Austria	1	96,000.00 €	
Belgium	0	0.00 €	X
Bulgaria	1	10,225.90 € ¹⁵	
Croatia	0	0.00 €	X
Cyprus	0	0.00 €	X
Czech Republic	0	0.00 €	X
Denmark	0	0.00 €	X
Estonia	0	0.00 €	X
Finland	0	0.00 €	X
France	4	1,785,000.00 €	
Germany	0	0.00 €	X
Greece	1	40,000.00 €	
Hungary	0	0.00 €	X
Ireland	0	0.00 €	X
Italy	0	0.00 €	X
Latvia	0	0.00 €	X
Lithuania	0	0.00 €	X
Luxembourg	0	0.00 €	X
Malta	0	0.00 €	X
Netherlands	0	0.00 €	X
Poland	0	0.00 €	X
Portugal	0	0.00 €	X
Romania	0	0.00 €	X
Slovenia	0	0.00 €	X
Slovakia	0	0.00 €	X
Spain	6	300,000.00 €	
Sweden	1	3,275,681.30 € ¹⁶	

¹⁵ BGN/EUR=1.95

¹⁶ SEK/EUR=10.6

Norway	0	0.00 €	X
Iceland	N/A	N/A	N/A
Liechtenstein	0	0.00 €	X
Total	13	5,506,907.20 €	

MAR Article	Penalties/measures		No sanctions imposed
Art. 15	Number	Amount	
Austria	10	326,275.00 €	
Belgium	2	750,000.00 € ¹⁷	
Bulgaria	0	0.00 €	X
Croatia	1	0.00 €	X
Cyprus	1	9,000.00 €	
Czech Republic	1	12,126.50 € ¹⁸	
Denmark	0	0.00 €	X
Estonia	1	1,000.00 €	
Finland	0	0.00 €	X
France	4	37,020,000.00 €	
Germany	0	0.00 €	X
Greece	13	1,695,000.00 €	
Hungary	12	67,224.759 € ¹⁹	
Ireland	0	0.00 €	X
Italy	11	745,000.00 €	
Latvia	3	58,347.16 €	
Lithuania	0	0.00 €	X
Luxembourg	0	0.00 €	X
Malta	0	0.00 €	X
Netherlands	1	0.00 €	
Poland	0	0.00 €	X

¹⁷ Aggregated figure
¹⁸ CZK/EUR= 24.739
¹⁹ HUF/EUR=394.2

Portugal	0	0.00 €	X
Romania	0	0.00 €	X
Slovenia	0	0.00 €	X
Slovakia	0	0.00 €	X
Spain	1	15,000.00 €	
Sweden	57	450,172.20 € ²⁰	
Norway	0	0.00 €	X
Iceland	N/A	N/A	
Liechtenstein	0	0.00 €	X
Total	118	41,149,145.62 €	

MAR Article	Penalties/measure		No sanctions imposed
	Number	Amount	
Other infringements			
Austria	6	91,200.00 €	
Belgium	3	950,000.00 € ²¹	
Bulgaria	80	40,903.90 € ²²	
Croatia	0	0.00 €	X
Cyprus	2	43,000.00 €	
Czech Republic	2	1,818.90 € ²³	
Denmark	22	0.00 €	
Estonia	0	0.00 €	X
Finland	1	1,650,000.00 €	
France	4	355,000.00 €	
Germany	7	1,012,250.00 €	
Greece	8	11,000.00 €	
Hungary	11	7,610.35 € ²⁴	
Ireland	0	0.00 €	X
Italy	20	796,500.00 €	
Latvia	2	25,000.00 €	
Lithuania	0	0.00 €	X

²⁰ SEK/EUR=10.6

²¹ Aggregated figure

²² BGN/EUR=1.95

²³ CZK/EUR= 24.739

²⁴ HUF/EUR=394.2

Luxembourg	0	0.00 €	X
Malta	0	0.00 €	X
Netherlands	0	0.00 €	X
Poland	1	217,391.00 € ²⁵	
Portugal	28	75,000.00 €	
Romania	0	0.00 €	X
Slovenia	0	0.00 €	X
Slovakia	0	0.00 €	X
Spain	0	0.00 €	X
Sweden	36	3,345,359.70 € ²⁶	
Norway	0	0.00 €	X
Iceland	N/A	N/A	
Liechtenstein	0	0.00 €	X
Total	230	8,367,033.85 €	

5.5 Criminal sanctions imposed during 2021 by NCAs' Member States (split by MAR Article)

MAR Article		Penalties/measures		No sanctions imposed
Art. 14	Number	Amount		
Denmark	0	0.00 €		X
Finland	0	0.00 €		X
Germany	15	2,272,200.00 €		
Ireland	0	0.00 €		X
Poland	1	32,608.00 €		
Sweden	6	Not available		
Total	22	2.304.808 €		

MAR Article		Penalties/measures		No sanctions imposed

²⁵ PLN/EUR=4.6

²⁶ SEK/EUR=10.6

Art. 15	Number	Amount	
Denmark	1	0.00 €	
Finland	0	0.00 €	X
Germany	5	3,036,071.00 €	
Ireland	0	0.00 €	X
Poland	1	2,608.00 €	
Sweden	12	0.00 €	X
Total	19	3.038.631 €	