Climate Action Network (CAN) Europe is Europe's leading NGO coalition fighting dangerous climate change. With 200 member organisations active in 40 European countries, representing over 1,700 NGOs and more than 40 million citizens, CAN Europe promotes sustainable climate, energy and development policies throughout Europe.

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RECOMMENDATIONS ON THE APPLICATION OF PENALTIES UNDER THE EU METHANE REGULATION BY MEMBER SATES

A focus on methane emissions from fossil gas operations

The EU Methane Regulation (EUMR) establishes a legal framework requiring Member States to adopt penalties that are effective, proportionate and dissuasive. Robust and timely penalties are not a secondary element of the Regulation: they are essential to its implementation, credibility and effective results in terms of methane emission reductions. The latest update by the IEA of the Global Methane Tracker 2026 highlights the urgent need to improve methane reductions, while stressing both the feasibility and the incredibly fast and positive results of effective methane mitigation measures.

To address technical implementation issues of the EUMR without touching the effectiveness of the regulation, the forthcoming Commission guidance on penalties can play an important role in supporting coherent implementation across the EU. **However, such guidance must remain fully aligned with the EUMR legal framework and avoid creating loopholes, excessive flexibilities or de facto exemptions** that would weaken enforcement and undermine the objectives of the Regulation.

The recommendations below build on previous work by CAN Europe and the Ecologic Institute on EUMR implementation and penalty regimes across Member States. They aim to support legally robust, harmonised and effective implementation of Article 33 EUMR across the European Union. In that perspective, we recommend the European Commission's guidance document to include following 5 guiding principles:

1. The guidance should **recognize the central role of penalties and incentivise harmonised implementation across Member States**;
2. It should **define and limit the use of the "security of energy supply" exemption by including clear time limitation** of the sanction suspension and applying it only to importer-related obligations;
3. It should **define minimum levels of sanctions across Member States** to avoid "enforcement shopping" by gas operators;
4. The guidance should also **provide common methodologies for calculating economic benefit and environmental damage;** and
5. It should **avoid any indirect deregulation of the EUMR** through technical recommendations.

1. Recognise the central role of penalties and support harmonised implementation across Member States

Risk identified

The current state of implementation across the EU already creates **significant legal uncertainty and enforcement gaps**. Most Member States have still not adopted penalty regimes, while several have not yet formally tabled draft legislation. As a consequence, in many Member States, violations of the EUMR are still practicably not sanctionable. This situation creates several risks:

- compliant companies face a **competitive disadvantage** compared to non-compliant operators;
- uneven national approaches create incentives for "**enforcement shopping**", particularly for importers;
- weak or excessively flexible guidance risks encouraging a **race to the bottom** among Member States when designing national penalty regimes, and is penalising ambitious Member States;
- fragmented enforcement **undermines both the internal market** and the environmental objectives of the EUMR.

Envisaging overly broad flexibility in the guidance would further weaken incentives for implementation and risk normalising ineffective enforcement approaches across the Union.

Recommendations:

The Commission guidance should:

- explicitly recognise that **robust penalties are central to the effectiveness and credibility of the EUMR**;
- strongly encourage Member States to urgently adopt complete and operational penalty regimes fully aligned with Article 33 EUMR;
- clarify that **penalties must create a real incentive to comply** and must not fall below the economic benefit of non-compliance;
- promote **convergence of national approaches** and coordination among competent authorities to avoid fragmentation and enforcement shopping;
- **encourage Member States to build on existing implementation models that are compatible with the EUMR framework**, including examples such as the Danish model identified in the Ecologic Institute analysis;

The guidance should clearly state that flexibility in implementation cannot result in ineffective enforcement or undermine the obligation for penalties to remain effective, proportionate and dissuasive.

2. Define and limit the use of the “security of energy supply” exemption

Risk identified

Envisaging a broad or **undefined interpretation of “security of energy supply”** would risk transforming an exceptional safeguard into a structural exemption mechanism. Allowing broad and undefined indicators to justify postponement or suspension of penalties would create significant legal uncertainty and open the door to disproportionate use of this exemption. Without clear safeguards, this could:

- create an **incentive for "non-compliance"** leading into indirect “stop-the-clock” effects for implementation the EUMR, which concretely could result into deregulation under the guise of technical implementation exemptions;
- undermine harmonisation and **strengthen enforcement shopping risks**;
- allow affordability concerns, contractual constraints or general market conditions to be used as **de facto exemptions from compliance.**

Such an approach would go beyond the limited safeguard foreseen under Article 33 EUMR and risk undermining the effectiveness of the Regulation as a whole.

Recommendations:

The Commission guidance should:

- **Include clear time-limitation to the usage of the security of supply exemptions;**
- clarify that the “security of energy supply” safeguard must remain **time-limited, exceptional and proportionate** to the risk created on energy supplies and exceptional,
- require any suspension or postponement of penalties to **include mandatory periodic reviews or evidence-based reassessments** of the energy supply risk, done by independent third-parties;
- **clarify that security of supply considerations should only apply to importer-related obligations and should not be extended to domestic operational requirements under the Regulation**;

To ensure consistency and legal certainty, the Commission should align the interpretation by Member States and competent authorities of the security of energy supply considerations with existing EU emergency frameworks. In particular:

- References to the **Gas Security of Supply Regulation** (Regulation (EU) 2017/1938) are welcomed but should be **limited to the most serious crisis situations corresponding to Article 11 crisis levels 2 (“alert”) and 3 (“emergency”),** which allow a clearer and more evidence-based assessment of concrete risks of disruptions of gas supplies.
- The Commission should also build on the safeguards and governance models developed under the **REPowerEU framework** (Regulation (EU) 2026/261) concerning the phase-out of Russian gas imports.

Outside these narrowly defined crisis situations, no additional broad indicators justifying disapplication or postponement of penalties should be envisaged. No general grace periods, grandfathering mechanisms or affordability-based indicators should justify adapting the enforcement or suspending sanctions in case of bnon-compliance with the EUMR.

3. Define minimum levels of sanctions across Member States

Risk identified

The absence of **minimum sanction benchmarks** across the EU creates a significant risk of divergence between national regimes. While the EUMR establishes maximum ceilings, the absence of guidance on minimum levels risks encouraging very low or symbolic sanctions that fail to comply with the EUMR and do not remove the economic benefit of non-compliance. This creates:

- unequal enforcement across Member States and incentives for enforcement shopping;
- competitive distortions within the internal market;
- incentivize a “race to the bottom” by Member States, that could pressure some Member States to revise their ambition or adopt weaker regimes to avoid perceived competitiveness impacts.

Without a common floor, the effectiveness and credibility of the EUMR are placed at risk.

Recommendations:

The Commission guidance should:

- **define a harmonized minimum level of penalty across the EU**
- clarify that penalties must systematically exceed the economic benefit derived from non-compliance and discourage very low or undefined minimum penalties;
- support convergence in national methodologies for calculating sanctions.

The guidance should emphasise that a harmonised minimum level of sanctions is necessary to ensure a level playing field and avoid fragmentation of enforcement across the Union, and can also refer to existing models such as the sanction regime developed under the REPowerEU regulation to ban Russian Gas imports that defines a harmonized minimum fine level.

4. Provide common methodologies for calculating economic benefit and environmental damage

Risk identified

Providing guidance **focused primarily on proportionality, while simultaneously allowing broad security of supply considerations** to influence proportionality assessments, risks creating an **imbalance between the principles of effectiveness, proportionality and dissuasiveness**. Without common methodologies, Member States may apply widely divergent approaches to:

- estimating environmental damage,

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- assessing avoided compliance costs,
- calculating economic benefit,
- evaluating aggravating and mitigating factors.

This would create uncertainty, inconsistent enforcement and incentives for weak sanctions that do not effectively discourage non-compliance. Allowing security of supply considerations to become part of broad proportionality assessments would also risk **duplicating the existing exemption mechanism already foreseen under Article 33, thereby opening the door to excessive use of this argument for almost any infringement.**

Recommendations:

Overall, the Commission should clarify that **penalties must remain clearly higher than the cost of compliance** in order to be genuinely dissuasive; support consistent application of aggravating and mitigating factors under Article 33(7) and ensure that the **principles of effectiveness, proportionality and dissuasiveness are applied in a balanced and coherent manner**.

The Commission guidance should include model methodologies for calculating:

- the **economic benefit derived from non-compliance**,
- **avoided compliance costs**,
- environmental damage linked to methane emissions,
- methane-related impacts on human health and safety;

The guidance should provide **practical indicators and examples to support coherent case-by-case assessments** across Member States and explicitly avoid creating a situation where broad proportionality assessments become an indirect pathway for systematically weakening sanctions. The objective of the guidance should be to strengthen implementation incentives, not create additional incentives for delay or non-compliance.

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5. Avoid any indirect deregulation of the EUMR through technical recommendations

Risk identified

Technical implementation guidance must not become a vehicle for reopening, delaying or weakening the EUMR through indirect deregulation. Creating broad flexibility mechanisms, indefinite postponements or weak enforcement expectations would effectively amount to a de facto “stop-the-clock” approach, despite the absence of any legislative amendment to the Regulation itself.

Such an approach would:

- reward external political and industrial pressure seeking to delay or eliminate the implementation of the EUMR, thus weakening the autonomy of EU policymaking;

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- create incentives for further future attempts to weaken EU environmental legislation through political pressure rather than democratic legislative processes;
- Systematic impunity of unlawful behaviour would question the effectiveness of rule of law in the EU and undermine the legal certainty and credibility of EU climate legislation.

Recommendations:

The Commission guidance should:

- clarify that **technical guidance cannot alter, suspend or weaken obligations established in the Regulation;**
- emphasise that implementation challenges must be addressed through enforcement support, coordination and practical science-based methodologies, not through broad exemptions or weakened sanctions;
- **send a clear signal that the EU remains committed to the full implementation of the EUMR** and to maintaining the integrity of EU climate and environmental law.