



European Securities and  
Markets Authority

# Report

**Administrative and criminal sanctions and other administrative  
measures imposed under the Market Abuse Regulation in 2020**





## Table of Contents

1	Executive Summary .....	2
2	Background and relevant regulatory framework for reporting on MAR administrative and criminal sanctions and other administrative measures.....	3
3	Information on the sanctions and measures imposed.....	4
4	Guidance for interpretation of penalties and measures reported .....	6
5	Sanctions imposed by NCAs.....	6
5.1	Overview of the administrative sanctions and measures imposed in 2020 .....	6
5.2	Overview of the administrative sanctions and measures imposed during 2020 by NCAs (split by MAR Article).....	10
5.3	Overview of the criminal penalties imposed in NCAs' Member States in 2020.....	11
5.4	Administrative sanctions and measures imposed during 2020 by NCAs (split by MAR Article).....	12
5.5	Criminal sanctions imposed during 2020 by NCAs' Member States (split by MAR Article).....	13

## 1 Executive Summary

In 2020, national competent authorities (NCAs) reported in total 541 administrative sanctions and measures and 18 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 exceeded EUR 17,500,000, while the financial penalties in relation to criminal infringements of MAR amounted to almost EUR 250,000.

Whereas the number of administrative sanctions and measures under MAR increased significantly compared to 2019, the financial penalties imposed are significantly lower. With regards to criminal sanctions under MAR, both the number of sanctions and the aggregated value of the imposed sanctions decreased compared to 2019.

### Background

Article 33 of Regulation (EU) 596/2014 on market abuse (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 2020 to 31 December 2020. 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 website<sup>1</sup>.

---

---

<sup>1</sup> <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 this 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 provide ESMA annually 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) where Member States have, in accordance with the second subparagraph of Article 30(1), laid down criminal sanctions for market abuse conduct, anonymised and aggregated data regarding:
    - (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) 2017/1158<sup>2</sup>, 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.

---

<sup>2</sup> OJ L 167, 30.6.2017, p. 22.

### 3 Information on the sanctions and measures imposed

5. This is the fourth report published by ESMA concerning penalties and measures issued under MAR<sup>3</sup>.
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 MAR<sup>4</sup>:
  - 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 MAR<sup>5</sup>.

---

<sup>3</sup> 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>

<sup>4</sup> 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.

<sup>5</sup> 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, 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. Despite this report presenting the data provided by the 30 EU/European Economic Area Member States, MAR is only applicable in Iceland, Norway and Liechtenstein since January 2021. Therefore, no MAR sanctions have been imposed in these jurisdictions up to the end of 2020.
11. The aggregated information contained in this report reflects the data submitted to ESMA by the NCAs.
12. Sanctions imposed in 2020 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. In the latter case, the equivalent value in Euros is also provided in this report<sup>6</sup>.

## 5 Sanctions imposed by NCAs

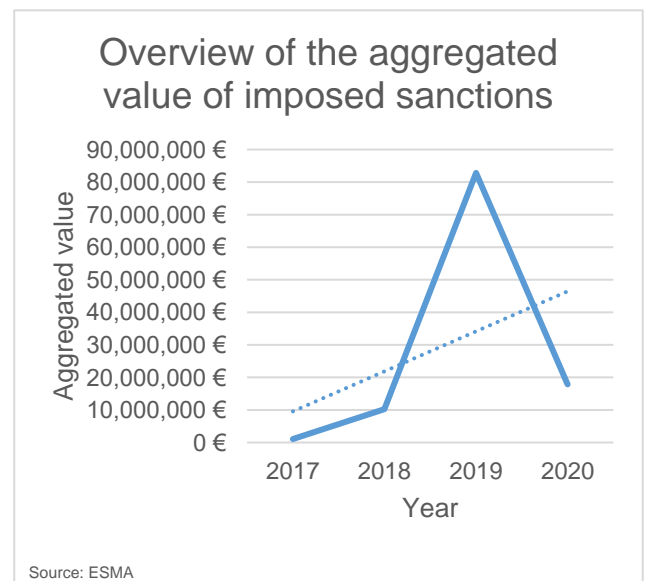
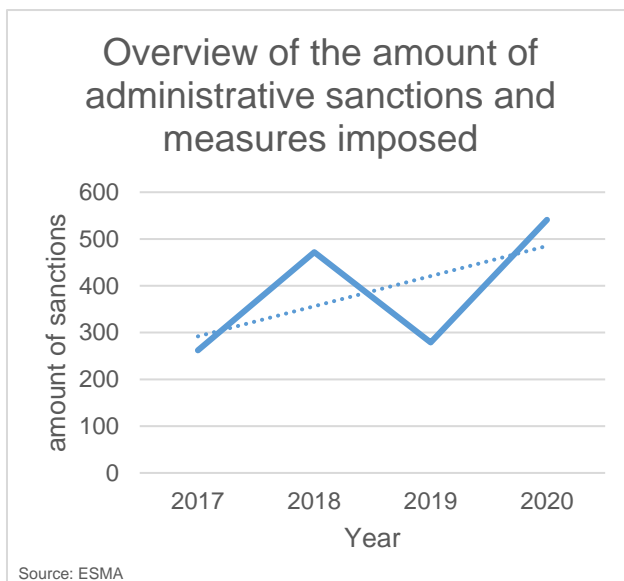
### 5.1 Overview of the administrative sanctions and measures imposed in 2020

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 2020 to 31 December 2020. Over this period, NCAs imposed 541 MAR administrative sanctions and measures. This is almost twice as much compared to the 279 administrative sanctions and measures imposed in 2019.
17. It is important to note that more NCAs have imposed sanctions and/or measures in 2020 (where seven NCAs did not impose any sanctions) compared to 2019 (where eleven NCAs did not impose any sanctions and/or measures). Only three of these seven NCAs have not imposed any sanctions and/or measures neither in 2018 nor in 2019.

---

<sup>6</sup> 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](https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/index.en.html)

18. A significant increase in the number of sanctions and measures imposed by the Bulgarian (imposing 187 sanctions<sup>7</sup> compared to none the previous year), Hungarian (45 sanctions and measures<sup>8</sup> compared to 12 in 2019) and Portuguese (94 measures<sup>9</sup>) authorities is also noticeable.
19. At the same time, there is a significant decrease of the aggregated value of the sanctions. In 2020 the aggregated value of administrative sanctions amounts to a total of EUR 17,840,686. This figure implies a substantial reduction in comparison with the aggregated value of EUR 82,824,945 in 2019.
20. The decrease of the aggregated value of sanctions can be mostly attributed to a significant drop in the number and the aggregated value of sanctions imposed in other jurisdictions, including France, the Netherlands and Greece.
21. Overall, since the application of MAR on 3 July 2016, it can be observed that the number of administrative sanctions and measures increased as well as the aggregated value of the imposed sanctions. Nevertheless, it is interesting to note that in 2019 there were relatively few sanctions and measures imposed while the pecuniary amount of such sanctions is an upwards outlier over the 4-year period and this year the trend has reversed.



<sup>7</sup> The Bulgarian FSC clarified that the number only reflects administrative pecuniary sanctions.

<sup>8</sup> The Central Bank of Hungary clarified that it concerns 17 pecuniary sanctions and 28 other than pecuniary sanctions.

<sup>9</sup> The CMVM clarified that it imposed 63 administrative measures but no administrative pecuniary sanctions in 2019.



NCAs' Member States	Sanctions and measures		No sanctions imposed
	Total number of penalties and measures in 2020	Total aggregate amount of financial penalties in 2020	
<b>Austria</b>	15	EUR 504.000,00	
<b>Belgium</b>	11	EUR 1.314.882	
<b>Bulgaria</b>	187 <sup>10</sup>	EUR 109.140 <sup>11</sup>	
<b>Croatia</b>	4	0	
<b>Cyprus</b>	1	EUR 30.000,00	
<b>Czech Republic</b>	0	0	x
<b>Denmark</b>	16	0	
<b>Estonia</b>	2	EUR 500,00	
<b>Finland</b>	0	0	x
<b>France</b>	3	EUR 5.152.000,00	
<b>Germany</b>	6	EUR 1.377.000,00	
<b>Greece</b>	4	EUR 15.000,00	
<b>Hungary</b>	45	EUR 841.400 <sup>12</sup>	
<b>Ireland</b>	0	0	x
<b>Italy</b>	30	EUR 850.000,00	
<b>Latvia</b>	0	0	x
<b>Lithuania</b>	1	EUR 5.000,00	
<b>Luxembourg</b>	1	EUR 41.050,00	
<b>Malta</b>	1	EUR 5.000,00	
<b>Netherlands</b>	0	0	x
<b>Poland</b>	0	0	x
<b>Portugal</b>	94 <sup>13</sup>	0	
<b>Romania</b>	2	EUR 4.700 <sup>14</sup>	
<b>Slovenia</b>	1	0	
<b>Slovakia</b>	0	0	x
<b>Spain</b>	4	EUR 400.000,00	
<b>Sweden</b>	113 <sup>15</sup>	EUR 7.191.014 <sup>16</sup>	
<b>Norway</b>	N/A	N/A	N/A
<b>Iceland</b>	N/A	N/A	N/A
<b>Liechtenstein</b>	N/A	N/A	N/A

<sup>10</sup> Corresponding in all cases to pecuniary administrative sanctions.

<sup>11</sup> BGN 214.000 (BGN/EUR= 0.5113)

<sup>12</sup> Corresponding to HUF 300.500.000 (HUF/EUR= 0.0028)

<sup>13</sup> Corresponding in all cases to administrative measures, not sanctions.

<sup>14</sup> Corresponding to RON 23.000 (RON/EUR= 0.2029)

<sup>15</sup> Corresponding in all cases to pecuniary administrative sanctions.

<sup>16</sup> Corresponding to SEK 73.777.700 (SEK/EUR= 0.0975)

22. As regards the increases (and decreases) in the number of administrative sanctions and measures, they may be related to internal and external circumstances.
23. As internal circumstances, different elements can be identified.
24. 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.
25. As an example, the Bulgarian Financial Services Commission (FSC) reports that a separate sanction is imposed for each separate notification not submitted under Article 19 of MAR within the statutory term. Thus, if one person discharging managerial responsibilities (or a closely associated person) failed to report to the FSC and to the issuer ten different transactions, 20 sanctions are imposed on that person (ten for the transactions not reported to the NCA and ten for the transactions not reported to the issuer).
26. As a consequence, it is not possible to extract clear conclusions from this data.
27. Going forward, ESMA is currently monitoring whether two Judgments of the Court of Justice of the EU (CJEU) (the Judgments of 6 October 2020, *Privacy International*, in Case [C-623/17](#) and of 6 October 2020, *La Quadrature du Net and Others*, in Joined Cases [C-511/18](#), [C-512/18](#) and [C-520/18](#)) could impact the capacity of NCAs to obtain existing data traffic records held by a telecommunications operator in accordance with Article 23(2)(h) of MAR and, as a consequence, the NCAs' capacity to enforce MAR.
28. Data traffic records<sup>17</sup> permit NCAs to establish connections between different persons investigated in insider dealing cases, where circumstantial evidence is critical. As an example, data traffic can demonstrate that two persons spoke after the moment in which one of them became an insider, explaining why the other person traded the financial instrument in question.
29. Article 23(2)(h) of MAR establishes that NCAs have the capacity to require, insofar as permitted by national law, existing data traffic records held by electronic communications services providers (ECSPs), where there is a reasonable suspicion of an infringement and where such records may be relevant to an investigation of insider dealing, unlawful disclosure of inside information or market manipulation. Therefore, many NCAs regularly request traffic data from their national telecommunication providers in the context of their MAR investigations. Over the last four years, NCAs have imposed at least 82 administrative sanctions and three criminal sanctions based on findings from traffic data.

---

<sup>17</sup> I.e. data processed for the purpose of the conveyance of a communication on an electronic communications network (or for the billing thereof). The considerations below are focused on traffic data and not on (the content of) communications.

## **5.2 Overview of the administrative sanctions and measures imposed during 2020 by NCAs (split by MAR Article)<sup>18</sup>**

30. The tables provided in section 5.4 set out the details on the administrative sanctions and measures imposed by NCAs in 2020 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. The NCAs that did not impose sanctions and measures in 2020 are not represented in the tables below.
31. In line with the previous years, the sanctions and measures imposed under ‘other infringements’ have been the most numerous (348), followed by sanctions under Article 15 of MAR (market manipulation) (74) and by sanctions under Article 14 of MAR (prohibition of insider dealing and of unlawful disclosure of inside information) (26).
32. These numbers, compared to last year’s report, portray a significant increase in the number of sanctions under ‘other infringements’ (192 in 2019 and 348 in 2020). Similarly, sanctions imposed under Article 14 of MAR almost doubled compared to last year (15 in 2019 and 26 in 2020). The number of sanctions imposed under Article 15 of MAR stays the same compared to last year (74 in 2019 and in 2020).
33. It is worth noting that, in line with last year’s report, a very limited number of NCAs imposed sanctions under Article 14 of MAR (6 in 2020, per 8 in 2019). The intrinsic difficulties that exist in demonstrating insider dealing may contribute to this number as well as other reasons such as those referred to in paragraph 23 and 24.
34. Eleven NCAs imposed sanctions in relation to infringements of Article 15 of MAR in 2020 i.e., one more than in 2019 and the same amount of NCAs as in 2018.
35. Eleven NCAs imposed sanctions under other MAR infringements in 2020 i.e., two less than in 2019.
36. With respect to the economic value of the sanctions, the aggregated amount imposed for ‘other infringements’ is the highest (EUR 9.812.854), heavily driven by the 81 sanctions imposed in Sweden (EUR 6.720.124). Moreover, the aggregated amount imposed under Article 15 of MAR amounts to EUR 7.400.950 led by 2 sanctions imposed in France (EUR 5.122.000). Finally, the aggregated value of sanctions imposed under Article 14 of MAR amounts to EUR 626.882.

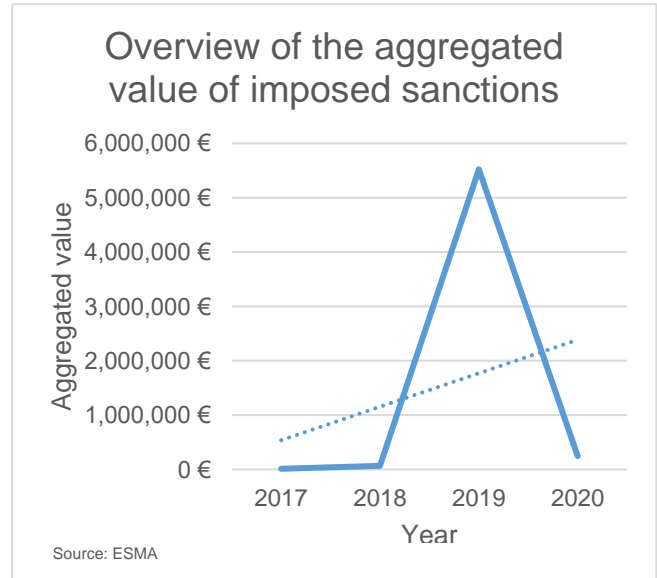
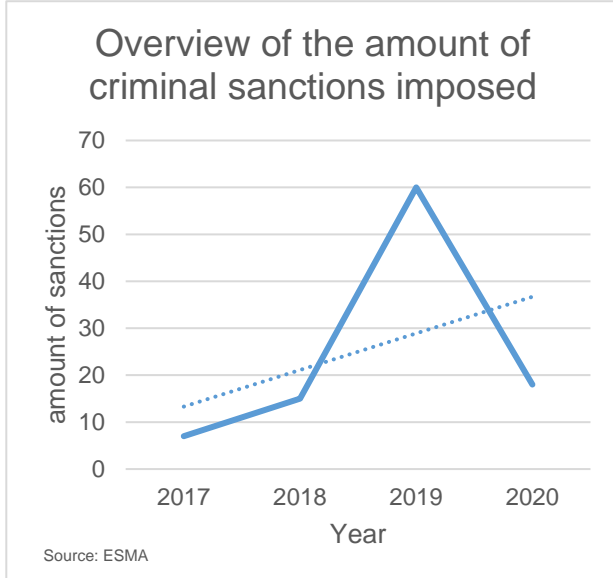
### 5.3 Overview of the criminal penalties imposed in NCAs' Member States in 2020

37. Overall, 18 criminal sanctions were imposed in 2020 in relation to MAR criminal sanctions, amounting to an aggregate value of EUR 246.750. All these sanctions were imposed in Germany and Finland for infringements of Article 15 of MAR. This represents a significant decrease compared to last year's report, where 60 criminal sanctions were imposed, for an aggregated amount of EUR 5.523.750.
38. The table below provides the aggregated and the specific information on the sanctions imposed (that this year only reflects sanctions under Article 15 of MAR).
39. Given that only five Member States decided to not lay down rules for some administrative sanctions for infringements already subject to criminal sanction under their national law, the number of criminal sanctions imposed in 2020 must be lower than the number of administrative sanctions.
40. Moreover, in addition to the caveats mentioned above in relation to administrative sanctions (such as the different characteristics of the financial markets or the quantity and quality of the Suspicious Transaction and Order Reports received by NCAs), the number of sanctions is also affected by the specificities of criminal enforcement procedures.

NCAs' Member States	Sanctions		No sanctions imposed
	Total number of criminal penalties	Total aggregate amount of financial penalties	
Denmark	0	0	X
Finland	1	0	
Germany	17 <sup>19</sup>	EUR 246,750	
Ireland	0	0	X
Poland	0	0	X

<sup>19</sup> Corresponding to 16 pecuniary sanctions and 1 imprisonment.

41. Overall, since the application of MAR on 3 July 2016, the number of criminal sanctions increased as well as the aggregated value of sanctions. A similar uptrend as with the graphs on administrative sanctions can be observed in the number of criminal sanctions and the aggregated value of such sanctions.



## 5.4 Administrative sanctions and measures imposed during 2020 by NCAs (split by MAR Article)

MAR Article	Penalties/measures	Austria	Belgium	France	Hungary	Italy	Slovenia
Art. 14	Number	2	2	1	7	14	1
	Amount	EUR 27,000	EUR 134,882	EUR 30,000	HUF 50,000,000 [EUR 140,000]	EUR 295,000	N/A

MAR Article	Penalties/measures	Austria	Belgium	Bulgaria	Croatia	Cyprus	Estonia	France
Art. 15	Number	2	3	1	4	1	2	2
	Amount	EUR 1,200	EUR 725,000 AGGREGATED FIGURE	BGN 20,000 [EUR 10,200]	NA	EUR 30,000	EUR 500	EUR 5,122,000

MAR Article	Hungary	Italy	Lithuania	Spain	Sweden
Art. 15	17	4	1	4	32
	HUF 214,700,000 [EUR 601,160]	EUR 135,000	EUR 5,000	EUR 400,000	SEK 4,805,000 [EUR 470,890]

MAR Article	Penalties/measures	Austria	Belgium	Bulgaria	Denmark	Germany	Greece
Other infringements	Number	11	7	186	16	7	4
	Amount	EUR 475,800	EUR 955,000 AGGREGATED FIGURE	BGN 194,000 [EUR 98,940]	N/A	EUR 1,377,000	EUR 15,000

MAR Article	Hungary	Italy	Luxembourg	Malta	Portugal	Romania	Sweden
Other infringements	20	12	1	1	94 <sup>20</sup>	2	81
	HUF 35,800,000 [EUR 100,240]	EUR 420,000	EUR 41,050	EUR 5,000	N/A	RON 23,000 [EUR 4,700]	SEK 68,572,700 [EUR 6,720,124]

## 5.5 Criminal sanctions imposed during 2020 by NCAs' Member States (split by MAR Article)

MAR Article	Penalties/measures	Finland	Germany
Art. 15	Number	1	17
	Amount	N/A	EUR 246,750

<sup>20</sup> Corresponding in all cases to administrative measures, not sanctions.