

Article 23 penalty regimes across eleven Member States

A comparative analysis

**POLICY BRIEF
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Executive Summary

This assessment examines how the eleven Member States hosting obligated oil and gas entities are implementing Article 23(13) of the NZIA, three months after the 30 June 2026 deadline. It looks at progress in establishing penalties, emerging approaches to penalty design, and the legal and institutional factors shaping enforcement.

Implementation of Article 23(13) remains incomplete across the eleven Member States hosting obligated entities, none of which had an enforceable penalty regime in place by the 30 June 2026 deadline. Since then, Member States have progressed at different speeds and taken different approaches to penalty design. While some are still determining how to integrate the obligation into their national legal frameworks, others have moved towards concrete penalty regimes, with significant differences emerging in how penalties would be calculated.

Three broad groups can be identified based on progress. Ireland and Poland have yet to establish a specific pathway for Article 23 penalties; Austria, the Netherlands, Romania, Hungary and Italy have begun implementing the NZIA but have not yet designed their penalty regimes; while Germany, Denmark, Croatia and France have moved towards concrete enforcement mechanisms.

Among the more advanced Member States, significantly different approaches to penalty design are emerging: fixed statutory fines, penalties linked to undelivered injection capacity, and penalties based on the economic benefit or costs avoided through non-compliance. The key concern is whether these different approaches ultimately result in substantially different incentives for compliance. This could affect the level playing field and contribute to a geographically uneven development of CO₂ storage capacity across the EU.

Introduction

Article 23 of the Net-Zero Industry Act (NZIA) requires the EU's top oil and gas producers to contribute to the EU's objective of developing at least 50 Mt of annual CO₂ injection capacity by 2030. To support enforcement of this obligation, Article 23(13) requires Member States to establish effective, proportionate, and dissuasive penalties for non-compliance by 30 June 2026.

This assessment looks at the implementation status of Article 23(13) three months after the 30 June 2026 deadline, examining progress towards the establishment of penalty regimes across the eleven Member States where obligated oil and gas entities are registered. **It aims to identify emerging trends and patterns in penalty design and provide a clearer picture of the legal and institutional opportunities and constraints shaping how these Member States can sanction non-compliance by obligated entities.** The assessment covers Austria, Croatia, Denmark, France, Germany, Hungary, Ireland, Italy, the Netherlands, Poland and Romania.

The implementation of Article 23 is relatively uncharted territory, as it introduces a novel form of obligation on EU oil and gas producers. To establish a penalty, Member States need to identify the appropriate legal instrument and allocate institutional responsibilities. They must also determine how non-compliance penalties fit within their existing national rules on administrative or criminal enforcement, corporate liability and judicial review, and ensure that the relevant authorities have a clear legal mandate to act.

In some Member States, it still remains unclear which authority should monitor compliance, identify a breach, initiate enforcement or determine the appropriate penalty. Responsibility for CCS policy or technical oversight does not automatically designate the legal authority to impose sanctions; this may require amendments to national legislation or the establishment of new administrative procedures.

The involvement of partly or wholly state-owned oil and gas companies adds a further layer of complexity. Where the state has a role both in the obligated entity and in enforcing the obligation, this may raise questions around potential conflicts of interest, particularly where penalties could have implications for public finances.

Our assessment brings three main conclusions to light. Three months after the deadline for Member States to establish penalties under Article 23(13), we find that, firstly, **none of the eleven Member States hosting obligated entities has a fully enforceable penalty regime in place.**

Secondly, the eleven **Member States show three very different levels of progress.** Ireland and Poland have yet to establish a specific pathway for Article 23 penalties; five countries have recognised

or begun implementing the NZIA but have not yet designed their sanction regimes; and only Germany, Denmark, Croatia and France have moved towards a concrete enforcement regime.

Thirdly, the advanced group demonstrates that there is **no common or harmonized approach to what constitutes an “effective, proportional and dissuasive” penalty; there is currently no convergence towards a single enforcement model.** Three broad approaches to determining penalties can be identified: fixed statutory fines, penalties linked to the amount of injection capacity left undelivered, and penalties based on the economic cost avoided through non-compliance.

France proposes a penalty directly linked to missing injection capacity; Denmark seeks to align the sanction with the economic benefit or avoided cost of non-compliance, while Germany pursues a similar objective but operationalises it through a penalty framework capped by reference to the German Emissions Trading Act (TEHG). By contrast, Croatia proposes a fixed statutory fine range. This divergence will be particularly important to monitor as the legislation is finalised, since the ultimate deterrent effect of the national regimes may differ substantially.

Each penalty design has different implications. Fixed fines are relatively straightforward and easy to administer but may not reflect the scale of the shortfall or the size of the obligated entity. Capacity-based penalties scale with non-compliance, while cost-based models seek to remove the economic advantage of failing to comply. Both latter approaches, however, depend on credible assumptions about the cost of developing or securing injection capacity.

The broader concern is whether different approaches result in substantially different levels of deterrence. If similar levels of non-compliance lead to significantly different penalties across Member States, obligated entities could face uneven incentives to comply. **This could affect the level playing field within the internal market and contribute to a geographically uneven development of CO₂ storage capacity, with potential implications for the pace of industrial decarbonisation and competitiveness across the EU.**

Comparative Overview of Implementation Progress

Based on their progress in establishing penalties for non-compliance, the eleven Member States can broadly be divided into three groups: countries where no specific Article 23 or NZIA implementation process has been identified; countries that have initiated NZIA implementation but have not yet defined an Article 23 penalty regime; and countries where a concrete penalty mechanism is already under legislative development.

No specific Article 23 or NZIA penalty implementation identified: Ireland and Poland

Ireland has made the least progress. It has neither an Article 23 penalty proposal nor a broader legislative instrument implementing the NZIA. Geological CO₂ storage remains prohibited, and it does not yet have a domestic legal framework regulating CCS or enforcing the injection capacity obligation. No CCS bill, consultation or relevant legislative proposal has entered the Oireachtas (Irish Parliament). Establishing an Article 23 penalty regime would therefore require Ireland first to create the necessary legal and institutional basis for implementation.

Poland is more advanced on CCS generally but has not yet initiated a specific Article 23 implementation process. Poland recently lifted the ban on geological CO₂ storage and is undertaking a broader reform of its CCUS and Geological and Mining Law framework.¹

¹ Before amending its Mining Law in October 2023, CO₂ storage was permitted only as demonstration projects. CMS (2023) Poland enacts regulations to accelerate development of carbon dioxide capture, utilisation and storage technology (CCUS), available [here](#).

NZIA implementation initiated, but Article 23 penalties remain undefined: Austria, the Netherlands, Romania, Hungary and Italy

Austria has prepared a national NZIA implementing legislation, but the proposal expressly excludes Chapter III and therefore does not address the CO₂ storage obligation or its penalties. No decision has been taken on whether enforcement would be administrative or judicial.

The Netherlands has included an NZIA Implementation Act in its legislative programme, with entry into force envisaged for 1 January 2027. However, it isn't confirmed and remains unclear whether this Act contains Article 23 penalties at all. The enforcement authority, type of sanction, calculation methodology, and possible need for secondary legislation have not yet been determined.

Romania has gone further by publishing a draft Government Emergency Ordinance implementing the NZIA in December 2025. Nevertheless, the draft does not contain an Article 23 offence or penalty regime. Romania already has administrative fines and a specialised authority for domestic CO₂ storage, meaning much of the necessary enforcement infrastructure exists, but it has not yet been extended to the Article 23 obligation.

Hungary has expressly recognised the need to implement Article 23(13). Its Autumn 2026 Legislative Programme includes a dedicated NZIA harmonisation measure specifically identifying Article 23(13). Hungary also already operates an administrative penalty system for CCS infringements. However, the legislation implementing Article 23 still needs to be drafted, and therefore the competent authority, enforcement model, and level of penalties still remain undecided.

Italy has established the clearest legal route within this group. Law No. 36/2026 already delegates power to the Government to implement the NZIA and to introduce administrative or criminal sanctions for EU-law infringements. The next step is therefore the adoption of a legislative decree. However, Italy has not yet selected the Article 23 enforcement model, designated the competent authority or established how penalties would be calculated.

Concrete Article 23 penalty regimes under development: Germany, Denmark, Croatia and France

In France, the Senate has already adopted provisions establishing a direct administrative penalty calculated according to the amount of injection capacity not delivered. The Government originally proposed €300/tCO₂, which later the Senate proposed to reduce to €50/tCO₂. The amount remains provisional while the legislation awaits adoption by the National Assembly. France has therefore established both the enforcement model and the basic methodology, although the final level of the sanction remains up for negotiations.

Croatia has incorporated Article 23 directly into its proposed new Energy Georesources Act. The Bill establishes the failure to fulfil an individual storage contribution as a “most serious misdemeanour” and proposes fines of €130,000–€265,440 for the obligated legal entity, alongside fines for the responsible individual within the company. On 17 September 2026, the Government adopted the final proposal and submitted it to Parliament for second reading. Unlike Germany, Denmark and France, Croatia currently relies on a fixed statutory range rather than linking the fine directly to the amount of missing capacity or avoided compliance costs.

Denmark has developed a detailed judicial enforcement model through amendments to the Subsoil Act. The proposal would make non-compliance subject to a fine imposed by the courts. Rather than setting a fixed statutory amount, the fine would principally reflect the economic cost avoided by failing to provide the required injection capacity. A revised proposal underwent a second consultation in July–August 2026, with introduction in the Folketing expected in November 2026 and entry into force proposed for 1 January 2027.

Germany has already enacted the legislative basis for penalties through the amended Carbon Dioxide Storage and Transport Act. The remaining step is an implementing ordinance. Germany has selected an administrative fine designed to remove the economic benefit of non-compliance, with the penalty ceiling linked to the German ETS penalty benchmark of approximately €100/tCO₂, adjusted for inflation. The final ordinance will determine the detailed calculation and enforcement arrangements.

Penalty Frameworks and Enforcement

Context

Member State	Status of the penalty regime	Emerging approach
Austria	No penalty regime proposed. Existing NZIA implementation draft excludes Chapter III.	Enforcement model and penalty design not yet determined.
Croatia	Concrete penalty provisions included in the proposed Energy Georesources Act; final proposal submitted to Parliament for second reading.	Fixed statutory fines of €130,000–€265,440 for the obligated legal entity, alongside fines for responsible individuals.
Denmark	Concrete legislative proposal developed; revised draft consulted in 2026 and expected to be introduced in Parliament.	Court-imposed fine primarily based on the economic cost avoided through non-compliance.
France	Concrete penalty provisions adopted by the Senate but not yet enacted; awaiting further parliamentary consideration.	Administrative penalty linked to undelivered injection capacity. Current Senate text: €50/tCO ₂ , subject to further amendment.
Germany	Legislative basis already enacted; implementing ordinance still required.	Administrative fine of €100/tCO ₂ (to be adjusted for inflation) aimed at removing the economic benefit of non-compliance, with a ceiling linked to the German ETS penalty benchmark.
Hungary	Article 23(13) expressly included in the Autumn 2026 Legislative Programme, but implementing provisions have not yet been drafted.	Enforcement model, competent authority and penalty calculation not yet determined; an existing CCS administrative enforcement framework can provide a basis.
Ireland	No Article 23 penalty proposal or broader NZIA implementation instrument identified.	No enforcement model identified; a wider domestic CCS legal and institutional framework is still under development.
Italy	Legal basis exists for the Government to implement the NZIA and introduce sanctions; implementing legislative decree still required.	Administrative or criminal sanctions possible, but the Article 23 enforcement model and penalty

		calculation have not yet been determined.
Netherlands	NZIA Implementation Act planned, but it remains unclear whether it will include Article 23 penalties.	Enforcement authority, type of sanction and calculation methodology remain undecided.
Poland	No specific Article 23 penalty implementation process identified, despite broader ongoing CCUS legal reform.	No Article 23 enforcement model or penalty design identified.
Romania	Draft NZIA implementing legislation exists but does not establish an Article 23 offence or penalty.	Existing CO ₂ storage enforcement infrastructure could provide a basis, but no Article 23-specific model has been established.

Austria

Implementation status

Austria has not adopted a penalty regime pursuant to Article 23(13) of the NZIA. On 16 June 2026, the Federal Ministry of Economy, Energy and Tourism (BMWET) submitted for consultation the ministerial draft "Accompanying Measures Act for the Net-Zero Industry Regulation."

The draft was received by the National Council on 16 June 2026 as part of the pre-parliamentary consultation procedure, with a consultation deadline of 26 June 2026. On 29 June 2026, the consultation results and ministerial draft were transmitted to the BMWET. However, the draft does not implement Chapter III of the NZIA.²

Its explanatory memorandum expressly states that the proposed national measures concern Chapter II, Sections II and III, up to and including Article 16, of the NZIA. Its operative provisions deal only with the designation of the central contact points (*zentrale Kontaktstellen*), the competent authority for recognition of strategic projects, and related procedural provisions. In particular, §2 designates the territorially competent Office of the Provincial Government (*Amt der Landesregierung*) as the central contact point, while §3 designates the BMWET as the authority responsible for applications for recognition as strategic net-zero projects.

² Austrian Parliament (2026), Ministerial draft law – Accompanying measures for the implementation of the NZIA, available [here](#).

Legal and institutional framework

Under the Federal Act on the Prohibition of the Geological Storage of Carbon Dioxide (*Bundesgesetz über das Verbot der geologischen Speicherung von Kohlenstoffdioxid*), exploration for the purpose of geological CO₂ storage and geological storage itself are prohibited in Austrian territory, subject to limited exceptions for research projects.

The domestic storage prohibition is, however, expected to be lifted. Austria adopted the Austrian Carbon Management Strategy (*Österreichische Carbon Management Strategie*) in June 2024.³ The CMS recommends:

- creating the legal basis for lifting the prohibition on domestic CO₂ storage;
- establishing a comprehensive framework for the geological storage of hard-to-abate residual emissions;
- adapting the legal framework governing the pipeline transport of CO₂;
- planning national and cross-border CO₂ transport infrastructure; and
- securing access to geological storage capacity in other European countries.

Furthermore, the Government Programme 2025–2029⁴ commits Austria to lifting the prohibition on CO₂ storage, developing storage technologies in accordance with high safety and environmental standards, establishing the regulatory framework for CO₂ pipeline transport, and cooperating with Germany, Italy and North Sea countries on CO₂ transport and storage solutions.⁵

Potential enforcement model

Austria has not yet indicated whether infringements of Article 23(3) NZIA will be subject to administrative or judicial penalties.

³ Ministry of Land, Forest and Climate (2024), Carbon Management Strategy, available [here](#).

⁴ This program is a coalition agreement between the governing parties. While it is not a legally binding instrument, it sets out the government's agreed policy priorities and serves as an important basis for its legislative and policy agenda.

⁵ Austrian Government Programme 2025–2029, available [here](#).

An administrative model would be consistent with existing Austrian practice. The Federal Act on the Prohibition of the Geological Storage of Carbon Dioxide treats breaches of the domestic storage prohibition as administrative offences punishable by fines, and Austrian mining legislation also relies extensively on administrative enforcement.

However, Austria would need to establish a specific legal basis for any Article 23 penalty. Under §1 of the Administrative Penal Act, conduct may only be punished as an administrative offence where the infringement and sanction are provided for by law.

A particular issue under Austrian law concerns attribution of liability. Under §9 VStG, responsibility for compliance by a legal person is ordinarily attributed to the natural persons authorised to represent it externally, while the legal entity may be jointly liable for the resulting fine. Austria may therefore need to determine whether Article 23 penalties should follow this model or instead establish direct liability of the obligated entity itself.

Austria could alternatively rely on a judicial enforcement model, including the corporate liability framework under the Federal Act on the Responsibility of Associations for Criminal Offences. At present, however, no draft legislation indicates which option Austria intends to adopt.

Key legal instruments

- Ministerial draft - Accompanying Measures Act for the Net-Zero Industry Regulation (*Begleitmaßnahmengesetz Netto-Null-Industrie-Verordnung*, 120/ME);⁶
- Federal Act on the Prohibition of Geological Storage of Carbon Dioxide (*Bundesgesetz über das Verbot der geologischen Speicherung von Kohlenstoffdioxid*, BGBl. I Nr. 144/2011);⁷
- Administrative Penal Code (*Verwaltungsstrafgesetz 1991*, BGBl. Nr. 52/1991);⁸ particularly important provisions for the Article 23 penalty regime are §1 on the requirement for a pre-existing statutory offence, §5 on culpability and §9 on responsibility in relation to legal persons and responsible representatives;
- Federal Act on Mineral Resources (*Bundesgesetz über mineralische Rohstoffe*, BGBl. I Nr. 38/1999): §193 contains the Act's principal administrative penalty provisions and illustrates the use of administrative enforcement in Austrian mining law;⁹
- Corporate Liability Act (*Verbandsverantwortlichkeitsgesetz*, BGBl. I Nr. 151/2005);¹⁰ relevant if Austria chooses a judicial corporate-sanctions model. §4 provides for a criminal fine imposed by a court; and

⁶ Austrian Parliament (2026), Ministerial draft law – Accompanying measures for the implementation of the NZIA, available [here](#).

⁷ Federal Act on the Prohibition of Geological Storage of Carbon Dioxide (2011), available [here](#).

⁸ Administrative Penal Code (1991), available [here](#).

⁹ Federal Act on Mineral Resources (*Mineralrohstoffgesetz*), BGBl. I Nr. 38/1999, available [here](#).

¹⁰ Corporate Liability Act (2005), available [here](#).

- Austrian Carbon Management Strategy: Adopted by the Federal Government in June 2024 and recommends lifting the storage prohibition and establishing the legal framework for storage, transport and cross-border infrastructure;
- Federal Government Programme (*Jetzt das Richtige tun. Für Österreich - Regierungsprogramm 2025–2029*).¹¹

Legislative process required to adopt the penalty regime

Because Austrian administrative and criminal sanctions require a statutory basis, new legislation will be necessary before penalties can be imposed for failure to comply with Article 23 obligations. The legislative process would most likely follow these next steps:

1. Preparation of draft legislation, most likely by the BMWET, either through amendments to the ongoing NZIA implementation package or through separate amendments to existing federal legislation.
2. Consultation of stakeholders and revision of the draft, following the approach already used for the June 2026 NZIA implementation proposal.
3. Parliamentary adoption, including consideration by the National Council and, where required, the Bundesrat.
4. Promulgation in the Federal Law Gazette (*Bundesgesetzblatt*), followed by entry into force of the legislation establishing the infringement, the competent authority and the applicable penalties.

Based on comparable recent Austrian legislative procedures, adoption could reasonably take approximately 4-8 months from the current stage, assuming the Government first develops the substantive Article 23 penalty provisions and integrates them into either the ongoing NZIA implementation package or separate legislation. Once a complete draft has entered the formal legislative process, parliamentary adoption itself could potentially be completed within approximately 2-3 months. This is an indicative procedural estimate rather than a statutory deadline and will depend principally on how quickly the Government agrees on the enforcement model and prepares the necessary legislation.

¹¹ Federal Government Programme (*Jetzt das Richtige tun. Für Österreich - Regierungsprogramm 2025–2029*, available [here](#)).

Croatia

Implementation status

Croatia has not adopted a penalty regime pursuant to Article 23(13) of the NZIA. However, Croatia had already initiated the legislative process before the deadline.

The Plan for the Alignment of the Legislation of the Republic of Croatia with the EU Acquis for 2026, adopted by the Croatian Parliament on 6 March 2026, listed the Act on Exploration and Exploitation of Energy Georesources among the legislative measures scheduled for the first quarter of 2026, under the responsibility of the Ministry of Economy (MINGO).¹² However, no Bill had yet been formally introduced into the Croatian Parliament by 30 June 2026.

The Government formally submitted the Proposal for the Act on Exploration and Exploitation of Energy Georesources, first reading to the Croatian Parliament on 9 July 2026. The Parliament held its first-reading debate on 13 July and accepted the proposal on 15 July 2026, by 79 votes in favour, one against and 53 abstentions. Parliament then sent the comments, proposals and opinions from the first reading back to the Government so that it could prepare the final text.¹³ On 17 September 2026 the Government adopted the final proposal and submitted it to the Sabor for second reading.¹⁴

Legal and institutional framework

Croatia already has a legal framework permitting and regulating geological CO₂ storage. The current Act on Exploration and Exploitation of Hydrocarbons regulates permanent geological storage of CO₂ and transposes Directive 2009/31/EC (CCS Directive). The Draft Act on Exploration and Exploitation of Energy Georesources (PZE 321) would replace the current Hydrocarbons Act with a unified framework covering hydrocarbons, geothermal resources, underground gas storage and geological CO₂ storage. The draft expressly implements both the CCS Directive and the Net-Zero Industry Act.

The draft law introduces a dedicated governance framework for CO₂ storage, including:

- a National CO₂ Geological Storage Development Plan;
- regulatory oversight by the Ministry of Economy;

¹² Croatian Parliament (2026), Plan for harmonizing the legislation of the Republic of Croatia with the acquis of the European Union for the year 2026, available [here](#).

¹³ Croatian Parliament (2026), 11th convocation of the Croatian Parliament (16.05.2024.) - Proposed Law on Exploration and Exploitation of Energy Georesources, first reading, PZE no. 321, available [here](#).

¹⁴ Croatian Parliament (2026), 11th convocation of the Croatian Parliament (16.05.2024.) - Final Bill on Exploration and Exploitation of Energy Georesources, second reading, PZE no. 321, available [here](#).

- enhanced implementation role for the Croatian Hydrocarbon Agency (*Agencija za ugljikovodike*); and
- provisions on strategic CO₂ storage projects and implementation of Article 23 NZIA.

Article 99 transposes the obligation under Article 23 NZIA. Holders of hydrocarbon production or exploitation licenses must fulfil the individual CO₂ storage-capacity contribution allocated by the European Commission. Compliance may be achieved through direct development of storage projects, joint projects, agreements with other obligated entities, or agreements with third-party storage developers. The draft also requires annual reporting to the Commission and allows Croatia to seek an exemption where national storage capacity exceeds the contributions attributable to investors established in Croatia.

Importantly, Article 99(11) gives the Ministry of Economy a direct enforcement role. Where it determines that an investor has failed to fulfil its individual contribution, it must adopt a formal administrative decision establishing the extent of the unfulfilled obligation.

The draft also establishes a dedicated penalty regime for breaches of Article 23 NZIA obligations. Under Article 186(1)(3), failure to fulfil the individual contribution obligation under Article 99 constitutes a “most serious misdemeanour”. Article 186(3) provides for fines applicable to the legal entity, as well as liability of the responsible individual within the company. Accordingly, the draft creates a specific national penalty regime for non-compliance as required by Article 23(13) NZIA.

Article 186 provides a fixed statutory fine range of €130,000–€265,440 for the legal person and €10,000–€13,260 for the responsible individual. The draft does not currently link the penalty to missing storage capacity, avoided costs, turnover, economic benefit, or the degree of non-compliance.

The Croatian Hydrocarbon Agency performs technical and operational functions within the energy-georesources framework. Administrative supervision is exercised by the Ministry of Economy, while under article 181, inspection supervision is carried out by the mining inspection of the State Inspectorate (*Državni inspektorat*).

Key legal instruments

- Act on Exploration and Exploitation of Hydrocarbons (*Zakon o istraživanju i eksploataciji ugljikovodika*, as amended by NN 52/2019 and NN 30/2021):¹⁵ Current Croatian framework governing hydrocarbons and permanent geological CO₂ storage; remains applicable until replaced by the proposed new Act.

¹⁵ Croatian Parliament (2018), Law on Exploration and Exploitation of Hydrocarbons, available [here](#).

- Proposal for the Act on Exploration and Exploitation of Energy Georesources (*Prijedlog zakona o istraživanju i eksploataciji energetske georesursa*, P.Z.E. br. 321):¹⁶ Proposed Act on Exploration and Exploitation of Energy Georesources, submitted 9 July 2026. Article 23 implementation instrument.
- Act on the Establishment of the Hydrocarbon Agency (*Zakon o osnivanju Agencije za ugljikovodike*):¹⁷ establishes the Hydrocarbon Agency as the public institution responsible for functions relating to hydrocarbons, geothermal resources, underground gas storage and permanent geological CO₂ storage.

Legislative process required to adopt the penalty regime

The penalty regime contained in Articles 99 and 186 of the Draft Act on Exploration and Exploitation of Energy Georesources has not yet been adopted and remains subject to the ongoing legislative process. The draft was submitted to the Croatian Parliament (Sabor) by the Government on 9 July 2026 and has completed its first reading. Parliament subsequently instructed the Government to prepare and submit a final draft for second reading.

Under Croatia's ordinary legislative procedure, the remaining steps are:

- preparation of the final bill by the Government;
- second parliamentary reading and committee scrutiny;
- consideration of amendments;
- final parliamentary vote;
- promulgation and publication in the publication in the Official Gazette (*Narodne novine*); and
- entry into force of the Act on the eighth day following its publication in the Gazette.

The draft's provisions on implementing regulations do not identify either Article 99 or Article 186 as requiring further secondary legislation. Accordingly, once the Act is adopted, published and enters into force, the statutory basis for both the Article 23 obligation and the associated penalty regime would be in place without the need for a separate ordinance or ministerial decree.

However, the penalty provisions are not yet final. The Government may amend the draft when preparing the final bill, and Members of Parliament may propose further amendments during the second reading. As a result, the current penalty range, the definition of the offence, the allocation of responsibilities, and other aspects of the enforcement mechanism remain subject to change before final adoption.

Given that the proposed Act on Exploration and Exploitation of Energy Georesources has already completed its first reading in the Croatian Parliament, adoption could reasonably take approximately 1-4

¹⁶ Croatian Government (2026), Draft Law on the Exploration and Exploitation of Energetic Georesources, available [here](#).

¹⁷ Law on the establishment of the Hydrocarbon Agency (2014), available [here](#).

months from the current stage. Once the Government submits the final text, the remaining parliamentary procedure could potentially be completed within approximately 2-6 weeks, based on recent Croatian legislative practice. The main uncertainty is therefore the time required for the Government to prepare and submit the final bill rather than the parliamentary procedure itself.

Denmark

Implementation status

Denmark has not adopted a penalty regime under Article 23(13) of the NZIA, however there is a concrete legislative proposal under preparation. An initial draft amendment to the Danish Subsoil Act was publicly consulted on between 12 November and 10 December 2025.¹⁸ A revised version was submitted to a second public consultation on 3 July 2026, with a deadline for comments of 21 August 2026¹⁹. The Ministry of Climate & Energy has indicated that the Bill is expected to be introduced in the Folketing (Danish Parliament) during the first half of November 2026, with entry into force proposed for 1 January 2027.

The progression of the legislation appears to have been affected by the 2026 general election. Under the Government's legislative programme for 2025-2026, the Bill was expected to progress during the first half of February 2026 and had already been proposed and opened to public consultation. However, when the election was called on 26 February 2026 and subsequently held on 24 March 2026, Parliament was unable to complete the legislative process for adoption.²⁰ While the election was ongoing, work on the draft legislation reportedly continued, including further refinements to the text. Following the election, the authorities relaunched the public consultation process before resuming the legislative procedure. The election therefore constitutes a credible procedural factor contributing to the delay in the act's adoption.

Legal and institutional framework

Denmark has established an extensive regulatory framework for CO₂ storage. Geological storage is principally governed by the Act on the Use of the Danish Subsoil while the detailed permitting, monitoring, closure, financial-security and other storage requirements are contained in Executive Order

¹⁸ Folketinget (2025), Climate, Energy and Utilities Committee (KEF) General part, Collection: 2025-26 (2nd collection), Appendix 82, available [here](#).

¹⁹ Danish Energy Agency (2026), Public consultation, available [here](#).

²⁰ In Denmark, when elections are called, all proposed legislative initiatives are automatically withdrawn.

No 845 of 26 June 2024 on geological storage of CO₂. The Danish Energy Agency administers licensing rounds and the relevant exploration and storage authorisations under Section 23 of the Subsoil Act.

Denmark has also adopted a generally supportive policy towards CCS. Broad political agreements concluded in 2022 and 2023 established the framework for domestic CO₂ storage, public support for capture and storage projects, and 20% state participation in storage licences through Nordsøfonden.²¹ Several onshore, nearshore and offshore exploration licences have subsequently been awarded.²²

The proposed Article 23 penalty would be inserted into Section 38 of the Subsoil Act which already contains the principal regulation of both Danish oil and gas operators and geological CO₂ storage. The Government has chosen to establish a judicial fine through primary legislation, rather than empower an administrative authority to impose an administrative fine.²³

The existing corporate-liability provision in the Subsoil Act would continue to apply, meaning that companies and other legal persons may be held criminally liable in accordance with Chapter 5 of the Danish Criminal Code. In practice, an operator that breaches Article 23 may therefore be subject to a court-imposed criminal fine as a legal entity, and liability may also be extended to responsible individuals where the circumstances justify it.

Key legal instruments

- Act on the Use of the Danish Subsoil (*lov om anvendelse af Danmarks undergrund*)²⁴: the principal legislation governing oil and gas activities and geological CO₂ storage. The proposed penalty would be inserted as a new Section 38(2). The current corporate liability provision would move to Section 38(4).
- Executive Order No. 845 of 26 June 2024 on geological storage of CO₂ (*Bekendtgørelse om geologisk lagring af CO₂*)²⁵: detailed national implementation of the CO₂ Storage Directive requirements governing storage activities.

²¹ Danish Energy Agency (2022), Agreement on framework conditions for CO₂ storage in Denmark, available [here](#).

²² Danish Energy Agency, Permits for exploration and storage of CO₂ and environmental consultations, available [here](#).

²³ This reflects the Danish legal framework, under which punitive fines are generally regarded as criminal sanctions and therefore imposed through judicial proceedings.

²⁴ Consolidated Act on the Use of the Danish Subsoil (2018), available [here](#).

²⁵ Danish Energy Agency (2023), Executive Order No. 1461 of 29 November 2023 of the Act on the Use of Denmark's Subsoil, available [here](#).

- Danish Criminal Code (Straffeloven), Chapter 5, particularly Sections 25–27²⁶: legal basis and conditions for the criminal liability of companies and other legal persons.
- Draft Act amending the Act on the Use of the Danish Subsoil, KEF General Part, Annex 82, 3 July 2026²⁷: current revised Article 23 penalty proposal.
- Earlier consultation draft, KEF General Part, Annex 61, 12 November 2025²⁸: first version of the proposed penalty provision, originally intended to enter into force on 30 June 2026.
- Political Agreement on the Framework Conditions for CO₂ Storage (Aftale om rammevilkår for CO₂-lagring i Danmark), 21 June 2022, and Agreement on Strengthened Framework Conditions for CCS (Aftale om styrkede rammevilkår for CCS i Danmark), 20 September 2023:²⁹ establish the broader political framework for storage licensing, state participation and CCS support.

Level and calculation of the proposed penalty

The fine would be determined by the courts on the basis of the circumstances of the individual case and the general sentencing principles contained in Chapter 10 of the Danish Criminal Code. The principal benchmark would be the economic cost that the company avoided by failing to fulfil its obligation. The Ministry proposes that the calculation could use the latest Danish Energy Agency technology catalogue or other official estimates of the cost of establishing the missing injection capacity.

The penalty would be expected to:

- remove any economic incentive to remain non-compliant;
- prevent compliant companies from being placed at a competitive disadvantage;
- reflect only the portion of the injection-capacity contribution that remained undelivered by the deadline;
- preserve an incentive for the company to deliver the capacity even after judgment; and
- take account, where relevant, of penalty levels applied in comparable cases in other Member States.

The draft also identifies possible mitigating and aggravating circumstances. Mitigating factors could include unforeseen geological conditions, delays outside the company's control, delivery of the capacity after the deadline but before judgment, or the adoption of a final investment decision before judgment. A failure to make any meaningful or sufficient effort to comply would be an aggravating factor. In order to preserve an obligated entity's ability and incentive to deliver the missing storage capacity, the courts could consider structuring penalty payments so that the full fine does not fall due immediately.

²⁶ Danish Criminal Code (2022), available [here](#).

²⁷ Draft Act amending the Act on the Use of the Danish Subsoil (2026), available [here](#).

²⁸ Draft Act amending the Act on the Use of the Danish Subsoil (2025), available [here](#).

²⁹ Agreement on Strengthened Framework Conditions for CCS in Denmark (2023), available [here](#).

The proposed penalty regime would operate as follows:

- **European Commission:** determines whether an obligated entity has fulfilled its Article 23 contribution and receives the entities' progress reports.
- **Danish Ministry of Climate & Energy:** receives the Commission's finding and forwards the matter, together with relevant evidence and a proposed calculation of the fine to the competent enforcement authorities.
- **Prosecution service:** assess whether the evidentiary and legal conditions for prosecution are satisfied and whether charges should be brought.
- **Danish courts:** determine criminal liability and the final level and payment conditions of the fine.

The legislation does not appear to prescribe any specific timeframe for completion of the enforcement process. The overall duration would depend on a number of factors, including the time required for the Commission to assess compliance, the complexity of the case, the prosecutorial assessment, and the progress of any court proceedings. As a result, the process could be expected to take many months and, in contested cases, potentially longer.

Legislative process required to adopt the penalty regime

Because Denmark has established a judicial fine model, the penalty must be introduced through an amendment to primary legislation.³⁰ It cannot become enforceable solely through an administrative decision by the Ministry of Climate or Energy Agency.

Step 1 - Public consultation

The first consultation took place from 12 November to 10 December 2025. According to the Ministry, the responses resulted in changes to both the Bill and its explanatory memorandum. A second consultation was therefore opened on 3 July 2026 and will close with a deadline of 21 August 2026.

The principal revisions include:

- clarification that the Commission, rather than a Danish administrative authority, determines substantive compliance;
- removal of the Ministry's previously contemplated preliminary review of possible errors or misunderstandings in the Commission's assessment;
- clarification of the transfer of cases to the police and prosecution service;
- a more detailed methodology for calculating the fine; and
- postponement of entry into force from 30 June 2026 to 1 January 2027.

³⁰ Folketinget, The legislative process, available [here](#).

Step 2 - Finalisation and government approval

After the consultation closes, the Ministry must review the submissions, prepare a consultation memorandum, make any necessary legal or policy amendments, complete interministerial coordination and obtain the necessary government approval to introduce the Bill.

The minister has informed the parliamentary committee that the Government expects to introduce the Bill over the first half of November 2026. The final consultation responses and consultation memorandum are expected to be transmitted to the Climate, Energy and Utilities Committee when the Bill is introduced.³¹

Step 3 - Introduction and first reading in the Folketing

Once formally introduced, the Bill will receive a Bill number and be published with its explanatory memorandum. At first reading, the Folketing debates the general principles and political purpose of the proposal. The Bill would then normally be referred to the Climate, Energy and Utilities Committee.

Step 4 - Committee examination

The Climate, Energy and Utilities Committee may:

- submit written questions to the minister;
- request additional legal or economic information;
- receive representations from obligated companies, industry bodies, civil-society organisations and other stakeholders;
- hold a hearing or invite a ministerial consultation;
- propose amendments; and
- issue a committee report recommending adoption, amendment or rejection.

Step 5 - Second reading

At second reading, the Folketing debates the detailed provisions and votes on amendments. The Bill may be referred back to the Committee if further work is necessary.

Step 6 - Third reading and final vote

The Bill must receive three readings before it can be adopted. Danish parliamentary rules normally provide for a minimum overall processing period of 40 days, although the Folketing can approve accelerated treatment. At third reading, the Folketing votes on any remaining amendments and on the Bill as a whole.

Step 7 - Royal assent, publication and entry into force

After adoption, the legislation must be signed by the King and the competent minister and published in the Danish Law Gazette. It then becomes law and would enter into force on the date specified in the final text, presently proposed as 1 January 2027.

³¹ Danish Ministry of Climate & Energy (2026), Notice Regarding the Submission of a Bill for Public Comment, available [here](#).

Following completion of the second public consultation and assuming the Government introduces the Bill in the Folketing according to its announced timetable, adoption could reasonably take approximately 2-4 months from the current stage. Comparable recent Danish energy and CCS legislation indicates that a Government Bill can complete the three required parliamentary readings within approximately 6-10 weeks after formal introduction. The estimate nevertheless depends on the Bill being introduced as planned and on no substantial political or technical issues emerging during parliamentary scrutiny.

France

Implementation status

France has not adopted a penalty regime pursuant to Article 23(13) of the NZIA. However, France had already developed and introduced a concrete Article 23 penalty proposal before the deadline.

On 10 November, the Government introduced the Draft law containing various provisions adapting French law to European Union law in the areas of economics, finance, the environment, energy, information, transport, health, agriculture and fishing, using the accelerated legislative procedure (*procédure accélérée*).³²

The Article 23 penalty regime was not included in the first draft. Original Article 43 dealt with access to and publication of geological/mining data. The Government only introduced the Article 23 penalty later, through Government amendment No. 483 of 12 February 2026, during the Senate first reading.³³ The Senate adopted the amended Bill on 18 February 2026. It was transmitted to the National Assembly on 20 February 2026 as Draft law No. 2518 (projet de loi).

The National Assembly's extraordinary July session did not include the draft law No. 2518 on its agenda, and public sittings ended on 21 July.³⁴ The Assembly currently states that ordinary-session work will resume on 1 October 2026.³⁵

³² French National Assembly (2025), Draft law containing various provisions adapting French law to European Union law in the areas of economics, finance, the environment, energy, information, transport, health, agriculture and fishing, available [here](#).

³³ French Senate (2026), Draft law – Alignment with EU law, available [here](#).

³⁴ French National Assembly (2026), Convening of Parliament in extraordinary session, available [here](#).

³⁵ French National Assembly (2026), Suspension of proceedings in public session, available [here](#).

Legal and institutional framework

France already has a well-developed legal framework for CCS. Geological CO₂ storage is regulated under both the Environmental Code (*Code de l'environnement*) and the Mining Code (*Code minier*).

Articles L.229-32 et seq. of the Environmental Code establish the legal regime for geological CO₂ storage and access to storage sites and associated transport infrastructure. Geological storage operations require both an environmental authorisation and a geological CO₂ storage concession (or, at minimum, a pending concession application). Operators must demonstrate the necessary technical and financial capacity and show that the storage formation does not present a significant risk of leakage or a significant risk to health or the environment.

France has chosen to implement Article 23 by amending the Mining Code. New Articles L.173-9 and L.173-10 should be introduced.

Proposed Article L.173-9 establishes an administrative fine applicable where the relevant Article 23 obligation is not fulfilled. The fine would be imposed directly on the holder of the relevant hydrocarbon concession and would amount to €50 per tonne of CO₂ injection capacity not delivered. France has therefore opted for an administrative enforcement model based on direct corporate liability rather than criminal prosecution.

The amount of the penalty remains politically unsettled. The Government originally proposed a rate of €300 per tonne, arguing that the sanction should exceed the cost of compliance so that operators would not have an economic incentive to pay the fine instead of contributing storage capacity. During the Senate debate, however, concerns were raised regarding the proportionality of the proposed amount and the absence of an accompanying impact assessment. Following a sub-amendment tabled by Senators Delahaye and Canévet, the Senate reduced the rate to €50 per tonne.³⁶

Importantly, several participants in the debate, including the rapporteur Daniel Gremillet and the Government, questioned whether a €50 rate would remain sufficiently dissuasive. The rapporteur expressly indicated that the issue could be revisited during the parliamentary *navette*. The current €50/t amount should therefore be regarded as provisional and remains subject to possible amendment during the remainder of the legislative process. Under the proposed system, the penalty would scale directly with the size of the injection capacity shortfall.

The enforcement framework would be administrative rather than criminal. Proposed Article L.173-10 relies on existing control and inspection mechanisms under the Environmental Code and empowers mining-police authorities to establish infringements.

³⁶ French Senate (2026), Official Analytical Reports of February 18 2026, available [here](#).

Key legal instruments

- Draft law containing various provisions adapting French law to European Union law in the areas of economics, finance, the environment, energy, information, transport, health, agriculture and fishing (Projet de loi portant diverses dispositions d'adaptation au droit de l'Union européenne en matière économique, financière, environnementale, énergétique, d'information, de transport, de santé, d'agriculture et de pêche);³⁷
- French Mining Code (Code minier);³⁸ and
- Environmental Code (Code de l'environnement).³⁹

Legislative process required to adopt the penalty regime

Following Senate adoption, the bill was transmitted to the National Assembly, where the Article 23 provisions remain under consideration. The Assembly may retain the €50/t rate, restore the Government's original €300/t proposal, adopt another amount, amend the enforcement framework, clarify certain drafting points, or otherwise modify the Senate text.

Given the accelerated legislative procedure, any differences between the Senate and Assembly versions may be addressed through a joint committee (Commission mixte paritaire) after one reading in each chamber. If agreement is reached, a common text would be submitted for final approval. If disagreement persists, the National Assembly may ultimately have the final word under Article 45 of the Constitution.

Following final parliamentary adoption, the law must be promulgated by the President of the Republic and published in the Official Gazette (*Journal officiel de la République française*).

At present, therefore, France has proposed an Article 23 penalty regime but has not yet enacted it. The amount of the penalty and certain aspects of the enforcement framework remain subject to the outcome of the ongoing legislative process.

Because the proposed Article 23 penalty has already been adopted by the Senate and the Bill is awaiting adoption by the National Assembly, the remaining legislative process could reasonably take approximately 2-6 months once parliamentary consideration resumes. The principal uncertainty is therefore parliamentary scheduling rather than the number of formal legislative stages remaining.

³⁷French National Assembly (2026), Draft law containing various provisions adapting French law to European Union law in the areas of economics, finance, the environment, energy, information, transport, health, agriculture and fishing, available [here](#).

³⁸ French Government (2026), Mining Code, available [here](#).

³⁹ French Government (2026), Environmental Code, available [here](#).

Germany

Implementation status

Germany has not yet adopted the final ordinance establishing penalties for failure to meet CO₂ injection obligations under Article 23 (13) of the Net Zero Industry Act. However, the legislative basis is already in place, and the Ministry for Economic Affairs and Energy (BMWE) is currently finalising the implementing regulation. Germany remains one of the most advanced Member States in preparing an enforceable penalty regime.

Legal and institutional framework

Germany's penalty framework is based on the Carbon Dioxide Storage and Transport Act (KSpTG), as amended in 2025 to incorporate Chapter III of the NZIA. Section 25(4) KSpTG authorises the BMWE to issue a federal ordinance (Rechtsverordnung) setting a payment obligation for non-compliance. The penalty will take the form of an administrative fine.

Penalties are designed to eliminate any financial advantage from non-compliance by aligning the fine with the avoided cost of developing injection capacity. To ensure predictability and proportionality, the penalty cap is linked to the German Emissions Trading Act (TEHG), which sets a reference price of approximately €100 per tonne of CO₂, to be adjusted for inflation. The ordinance will define the enforcement mechanisms and actual level applied per year, following these benchmarks.

Assuming continued annual indexation of around 2-2.5%, the reference value would increase to approximately €145-155 per tonne of CO₂ by 2030, providing an indication of the likely future level of the penalty.

Key legal instruments

- Act on the Permanent Storage and Transport of Carbon Dioxide (Kohlendioxid-Speicherung-und-Transport-Gesetz – KSpTG): Amended in 2025 to include the relevant NZIA provisions into German law;⁴⁰

⁴⁰ Carbon Dioxide Storage and Transport Act (2012), available [here](#).

- Greenhouse Gas Emissions Trading Act (*Treibhausgas-Emissionshandelsgesetz – TEHG*): § 46 paragraph 1, sentences 1 and 2 provide the ETS penalty benchmark adopted as the ceiling for NZIA fines.⁴¹

Legislative process for adopting the ordinance

In Germany, an ordinance (*Rechtsverordnung*) is a legally binding regulation issued by the executive branch (Federal Government, a federal minister, or a state government) based on authority delegated by a formal law enacted by Parliament.⁴²

The process to adopt the ordinance under §25(4) KSpTG follows these steps:

- **Drafting:** The BMWF is responsible for preparing the draft ordinance. The ordinance is expected to specify the technical requirements, compliance and enforcement mechanisms, and the applicable fines or penalty framework.
- **Interministerial and stakeholder consultation:** The draft must be circulated among the relevant federal ministries (particularly those whose competences are affected; the KSpTG stipulates agreements with the BMUKN; Federal Ministry for the Environment, Climate Action, Nature Conservation and Nuclear Safety), as well as other stakeholders when the ministry deems this appropriate. Depending on the subject matter, consultations may also involve the Länder, industry associations, and other interested parties such as environmental NGOs.
- **Legal review:** The draft undergoes legal scrutiny within the federal administration to ensure compliance with the enabling statute (KSpTG), EU law, the German Basic Law, and general principles such as proportionality and legal certainty.
- **Consent of the Bundesrat:** §25(4) KSpTG expressly states that the ordinance is to be adopted “with the consent of the Bundesrat”.
- **Adoption and signature:** Once cleared, the ordinance is formally adopted by BMWF and signed by the competent federal minister.
- **Publication and entry into force:** To become legally effective, the ordinance must be promulgated in the Federal Law Gazette ([Bundesgesetzblatt](#)). Unless the ordinance provides otherwise, it enters into force on the day following its promulgation.

Since the statutory basis for the Article 23 penalty regime is already contained in § 25(4) KSpTG, adoption of the implementing ordinance could be expected within approximately 4 to 8 months, subject principally to the preparation of a draft ordinance and agreement among the relevant federal ministries

⁴¹ Greenhouse Gas Emissions Trading Act (2021), available [here](#).

⁴² Basic Law for the Federal Republic of Germany (2025), available [here](#).

as well as the consent of the representatives of the German states (Länder) in the Bundesrat. Once a draft ordinance is submitted for the formal approval process, completion within 3 to 5 months would appear realistic. A shorter timeframe may be possible if implementation of the NZIA penalty regime is treated as a legislative priority.

Hungary

Implementation status

Hungary has not adopted a penalty regime pursuant to Article 23(13) of the NZIA. However, the Hungarian Government's Autumn 2026 Legislative Programme includes a dedicated legislative proposal aimed at ensuring compliance with Regulation (EU) 2024/1735 (NZIA), expressly identifying Article 23(13) among the provisions requiring implementation at national level.⁴³

Legal and institutional framework

Hungary has an established legal framework governing the geological storage of CO₂. The principal statutory basis is Act XLVIII of 1993 on Mining, which expressly covers the exploration, development, operation and closure of geological structures suitable for the storage of energy- and industrial-origin carbon dioxide, as well as the transport of carbon dioxide by pipeline for geological storage purposes.

The detailed CCS regime can be found in the Government Decree 145/2012 on the geological storage of carbon dioxide, which implements Directive 2009/31/EC on the geological storage of carbon dioxide. The Decree regulates, among other matters, exploration and storage permits, monitoring obligations, reporting requirements, corrective measures, financial security arrangements, access to transport and storage infrastructure, site closure and sanctions.

Responsibility for regulatory supervision lies with the Supervisory Authority for Regulated Activities (Szabályozott Tevékenységek Felügyeleti Hatósága - SZTFH). The authority acts as Hungary's mining authority and supervises, among other activities, the underground storage of carbon dioxide and the construction and operation of CO₂ pipelines.

Hungarian law already provides a CCS-specific administrative enforcement regime. Government Decree 145/2012 authorises the mining authority to impose administrative fines for various infringements relating to geological CO₂ storage, including unauthorised exploration or storage

⁴³ Hungarian Government's Fall 2026 Legislative Agenda (2026), available [here](#).

activities, breaches of monitoring and reporting obligations, failures relating to leakage management, and non-compliance with technical requirements governing injected CO₂ streams.

Accordingly, Hungary already has the institutional and legal mechanisms required for regulated CCS activities and impose administrative sanctions. Nevertheless, the existing CCS-specific penalties apply to infringements of Hungary's domestic storage regime and do not currently address non-compliance with the injection capacity obligation under Article 23 NZIA. A specific legal basis would therefore be required.

Potential enforcement model

Administrative enforcement appears to be the most straightforward implementation option. Hungarian law already contains administrative sanction mechanisms in the CCS field, which could provide an existing basis or model for implementing Article 23. The Mining Act regulates geological CO₂ storage and CO₂ transport activities, while Government Decree on the geological storage of carbon dioxide provides for inspections, corrective measures and sanctions in relation to CCS operations.

The SZTFH could be a potential candidate as the competent enforcement authority, given its existing supervisory functions in respect of geological CO₂ storage and related transport infrastructure.⁴⁴

Alternatively, Hungary could establish a judicial or criminal enforcement mechanism, although this would require a specific statutory basis. While Hungarian law permits criminal-law measures to be imposed on legal entities in connection with criminal offences, there is currently no indication that the Government intends to rely on such an approach for the purposes of Article 23.

Should Hungary choose either an administrative or judicial enforcement model, the implementing legislation would need to define the relevant infringement, identify the persons subject to liability and establish the applicable sanctions.

Key legal instruments

- Hungarian Government 2026 Autumn Legislative Programme (Kormány 2026. évi őszi törvényalkotási programja): expressly identifies a harmonisation amendment linked to Article 23(13) NZIA;
- Act XLVIII of 1993 on Mining (1993. évi XLVIII. törvény a bányászatról):⁴⁵ main statutory framework for mining and geological CO₂ storage;

⁴⁴ SZTFH, Supervision of Mining, available [here](#).

⁴⁵ XLVIII of 1993 law on mining (1993), available [here](#).

- Government Decree 145/2012 (VII.3.) on geological storage of CO₂ (145/2012. (VII. 3.) Kormányrendelet a szén-dioxid geológiai tárolásáról):⁴⁶ Detailed CCS regulatory regime. Section 35 is especially relevant because it establishes existing direct administrative fines for CCS infringements.
- Act XXXII of 2021 on the Supervisory Authority for Regulated Activities (2021. évi XXXII. törvény a Szabályozott Tevékenységek Felügyeleti Hatóságáról):⁴⁷ establishes the SZTFH and its mining-supervision functions.

Legislative process required to adopt the penalty regime

Implementation of Article 23(13) NZIA will require new legislative provisions. The Hungarian Government's Autumn 2026 Legislative Programme includes a legislative harmonisation measure in relation to Regulation (EU) 2024/1735 (NZIA) and expressly identifies Article 23(13) among the provisions requiring national implementation.

The next step is expected to be the preparation of a draft bill by the competent Ministry. The draft will need to determine, among other matters, the applicable enforcement model, the competent authority, the liable entities, the penalty framework and the relationship between the new regime and Hungary's existing CCS legislation.

Pursuant to Act CXXX of 2010 on Legislation (Jogalkotási törvény), the preparation of legislation is ordinarily accompanied by an assessment of the expected impacts of the proposed measures.⁴⁸ The draft would then be subject to the Government's interministerial coordination procedures and, where applicable, public consultation under Act CXXXI of 2010 on Public Participation in the Preparation of Legislation.⁴⁹

Following completion of the Government phase, the bill would be submitted to the Parliament. Parliamentary consideration typically includes committee examination, plenary debate, consideration of amendments and a final vote. The Legislative Committee (Törvényalkotási Bizottság) may also participate in the consolidation and review of amendments before the final parliamentary stages.

Once adopted by the Hungarian Parliament, the text is transmitted to the President of the Republic. Under the Constitution, the President may promulgate the legislation, return it to the National Assembly for reconsideration, or sign it into effect.

Following promulgation in the Hungarian Gazette (Magyar Közlöny), the legislation enters into force in accordance with its commencement provisions. Where the act delegates technical or procedural

⁴⁶ Decree No. 145 of 2012 (VII. 3.) on the geological storage of carbon dioxide (2012), available [here](#).

⁴⁷ Act XXXII of 2021 on the Supervisory Authority for Regulated Activities, available [here](#).

⁴⁸ Act CXXX of 2010 on law-making (2010), available [here](#).

⁴⁹ Act CXXXI of 2010 on public participation in the drafting of legislation (2010), available [here](#).

matters to secondary legislation, additional governmental or regulatory measures may be required before the enforcement regime becomes fully operational.

As Hungary has identified the need for further NZIA-related legislation but has not yet published a proposal establishing the Article 23 penalty regime, adoption could reasonably take approximately 3 to 6 months once the Government has settled on an enforcement model and prepared a legislative draft. Hungarian parliamentary practice suggests that Government bills can progress relatively quickly, potentially within 1 to 2 months of formal introduction. Accordingly, the principal source of uncertainty is likely to be the preparatory phase, including impact assessments, interministerial coordination, and any public consultation requirements.

Ireland

Implementation status

Ireland has not adopted a penalty regime under Article 23(13) of the NZIA, and no proposal establishing such a regime has been identified.

Legal and institutional framework

To date, Ireland does not permit CO₂ storage, and there is no legislation in force that would enable CCS project development. Ireland implemented the CO₂ storage Directive principally through the *European Communities (Geological Storage of Carbon Dioxide) Regulations*, and exercised the option under Article 4 of the Directive not to permit geological CO₂ storage. The 2024 Article 21 report submitted to the European Commission under Article 21(1) of the NZIA explicitly confirms this: "Ireland has exercised its right, in accordance with Article 4 of Directive 2009/31/EC, not to allow for the geological storage of carbon dioxide and there is currently no area of Irish territory that would be free to be used for CO₂ storage, as set out in the European Communities".⁵⁰

Although the Irish Government has acknowledged the potential role of CCS in policy documents such as the *Climate Action Plan 2024*, more concrete policy work has recently begun. A joint CCUS Taskforce has been established by the Department of Climate, Energy and the Environment and the Department of Enterprise, Tourism and Employment, supported by external consultants, and the Government is developing a CCUS Vision Statement with an indicative publication date of the end of 2026. Work is also underway to assess potential CO₂ transport routes and access to international storage sites.

Climate Minister Darragh O'Brien highlighted Ireland's lack of legislation permitting geological CO₂ storage, the limited availability of potentially suitable domestic sites, and the absence of existing CCS projects, a CCS strategy, CO₂ transport plans or agreements with other countries to receive Irish CO₂, while seeking clarification on possible flexibility in meeting the NZIA obligations.⁵¹ As of September 2026, no CCS bill or specific legislative proposal establishing penalties under Article 23(13) has been identified.

⁵⁰ European Commission (2024), Member State Report of Data for the Year 2024 In Accordance with Article. 21 Of Regulation 2024/17351 – Transparency of Co2 Storage Capacity Data, available [here](#).

⁵¹ Irish Times (2026), Doubts raised about companies' ability to meet EU climate targets, available [here](#).

Key legal instruments

- European Communities (Geological Storage of Carbon Dioxide) Regulations 2011, S.I. No. 575/2011;⁵²
- European Communities (Geological Storage of Carbon Dioxide) (Amendment) Regulations 2014, S.I. No. 279/2014;⁵³ supplements the 2011 framework, including provisions on CO₂ streams, infrastructure access and institutional responsibilities.

Legislative process required to adopt penalties

In Ireland, implementation of the penalty requirements in Article 23(13) NZIA would require a legislative basis. Depending on the scope of existing statutory powers, this could require primary legislation by the Oireachtas (Parliament).^{54,55}

If primary legislation were required, a Government Bill would typically be introduced by the responsible minister, pass through the Dáil and Seanad (Houses of the Irish Parliament), and be signed by the President before enactment. Public consultation, a Green Paper, White Paper, or pre-legislative scrutiny may occur but are not mandatory for every Bill. Further Statutory Instruments may then be adopted to implement detailed aspects of the penalty regime.

The national legislation would need, at minimum, to define the infringement covered by Article 23(13), identify the liable obligated entities, designate the enforcement authority, and determine the applicable sanctions.

Ireland is likely to require a longer implementation period, as no proposal establishing the Article 23 penalty regime has yet been published and the appropriate legal basis and enforcement model remain to be determined. If primary legislation is required, adoption could reasonably take approximately 9 to 18 months from the current stage, including policy development, legislative drafting, and passage through the Oireachtas. Once a Government Bill has been formally introduced and accorded legislative priority, the parliamentary process itself could potentially be completed within approximately 2 to 4 months.

Italy

Implementation status

Italy has not adopted a penalty regime pursuant to Article 23(13) of the NZIA. However, Italy has already enacted the legal delegation necessary for the Government to establish such a regime – Law No. 36 of

⁵² European Communities (Geological Storage of Carbon Dioxide) Regulations 2011 (S.I. No. 575/2011), available [here](#).

⁵³ European Communities (Geological Storage of Carbon Dioxide) (Amendment) Regulations 2014 (S.I. No. 279/2014), available [here](#).

⁵⁴ Houses of the Oireachtas, Procedure Guide, available [here](#).

⁵⁵ Citizens information, Legislation, available [here](#).

17 March 2026 (the *Legge di delegazione europea 2025*).⁵⁶ Article 18 specifically delegates the Government to adopt, within six months of the date of entry into force of the law (by 9 October 2026), one or more legislative decrees adapting Italian law to the NZIA. Additionally, under Article 2, the Government is empowered to adopt, within 18 months of the date of entry into force of the law (by 9 October 2027), provisions establishing criminal or administrative sanctions for violations of obligations contained in European Union regulations, for which criminal or administrative sanctions are not already provided.

Legal and institutional framework

Italy transposed the CCS Directive through Legislative Decree No. 162 of 14 September 2011. It provides the principal national framework governing:

- exploration for geological storage complexes;
- storage authorisations;
- operation and monitoring;
- leakage and corrective measures;
- financial security;
- closure and post-closure responsibility;
- access to transport networks and storage sites;
- cross-border matters; and
- enforcement and sanctions for infringements of the domestic storage regime.

Legislative Decree No. 162/2011 already establishes a sanctions regime for infringements of Italy's geological storage framework. Article 33 provides penalties for conduct such as unauthorised storage activities, breaches of storage permit conditions, failures to comply with monitoring obligations, and violations of other requirements imposed under the national CCS regime.

Legislative Delegations Available Under Law No. 36/2026

First, Article 18 of Law No. 36/2026 provides a specific delegation empowering the Government to adopt, within six months of the law's entry into force, one or more legislative decrees implementing and adapting national legislation to Regulation (EU) 2024/1735.

Any decree adopted under Article 18 must comply with the general principles and criteria contained in Article 32 of Law No. 234/2012. Those principles include the possibility of establishing administrative or criminal sanctions where necessary to ensure compliance with obligations arising under EU law.

⁵⁶ Italian Parliament (2026), Law 17 March 2026, n. 36: Delegation to the Government for the implementation of European directives and the implementation of other European Union acts - European Delegation Law 2025 (2574), available here.

Article 18 also contains a number of NZIA-specific implementation instructions, including provisions regarding:

- designation of the *Sportello Unico per le Attività Produttive* (SUAP) as the single point of contact;
- ENEA's supporting role in assessing whether projects qualify as net-zero technology manufacturing projects (National Agency for New Technologies, Energy and Sustainable Economic Development);
- coordination between the Ministry of Enterprises (MIMIT) and the Ministry of the Environment and Energy Security (MASE);
- designation of the Interministerial Committee for Ecological Transition (CITE) as the body responsible for recognising the priority status of strategic projects;
- implementation of strategic net-zero projects;
- treatment of such projects as overriding or public-interest projects; and
- strengthening administrative implementation capacity.

However, Article 18 does not itself establish nor determine the form of the sanctions required under Article 23(13). It does not specify the type of penalty, the competent enforcement authority, or the methodology for calculating fines.

Second, Article 2 of Law No. 36/2026 establishes a broader delegation concerning sanctions for violations of directly applicable EU legal acts. It empowers the Government to introduce criminal or administrative sanctions for breaches of obligations contained in EU regulations that were already published and in force when Law No. 36/2026 entered into force, where no adequate national sanctions currently exist.

Potential enforcement model

Italy has not yet designated the competent authority, adopted the relevant implementing legislation, or publicly confirmed the enforcement model that will apply to Article 23 of Regulation (EU) 2024/1735. Under the delegations contained in Law No. 36/2026, Italy could establish an administrative monetary penalty; a criminal sanction; or a combination of administrative and criminal measures. At this stage, no option has been formally selected.

Moreover, no authority has yet been formally designated to enforce Article 23.

The most likely institutional candidates are:

- MASE (Ministry of Environment and Energy Security), which is responsible for CO₂ storage regulation, storage authorisations, and the broader geological storage framework; and

- MIMIT (Ministry of Enterprises and Made in Italy), which has a coordination role in the implementation of the Net-Zero Industry Act under Article 18 of Law No. 36/2026.

A further issue concerns the sanction levels that may be available under the delegation framework. Article 18 of Law No. 36/2026 refers to the general principles set out in Article 32 of Law No. 234/2012, which provide for administrative sanctions ranging from €150 to €150,000 and criminal fines up to €150,000. Unlike certain other delegations under the same legislative framework, Article 18 does not expressly authorise derogation from those limits. It remains unclear whether those general thresholds would apply to Article 23 sanctions or whether Italy will rely on another legal basis to establish penalties capable of meeting the NZIA requirement that sanctions be effective, proportionate and dissuasive.

Key Legal Instruments

- Law No. 36 of 17 March 2026 (*Legge di delegazione europea 2025*):⁵⁷ Particularly Article 18 - specific delegation for NZIA, and Article 2 - general delegation to introduce criminal or administrative sanctions for EU-law obligations;
- Law No. 234/2012, Articles 31–33 (*Legge 24 dicembre 2012, n. 234, Norme generali sulla partecipazione dell'Italia alla formazione e all'attuazione della normativa e delle politiche dell'Unione europea*):⁵⁸ for exercising the legislative delegations conferred on the Government by the European delegation law; and
- Legislative Decree No. 162/2011 (*Decreto legislativo 14 settembre 2011, n. 162, Attuazione della direttiva 2009/31/CE in materia di stoccaggio geologico del biossido di carbonio*):⁵⁹ Principal Italian law on geological CO₂ storage.

Legislative process required to adopt the penalty regime

Italy has already completed the primary legislative step necessary to enable implementation of the NZIA through Law No. 36/2026, which delegates authority to the Government to adopt the measures required for its national implementation. Accordingly, the introduction of Article 23 penalties now depends on the adoption of one or more legislative decrees by the Government.

⁵⁷ Italian Senat (2026), Authorization to the Government for the transposition of European directives and the implementation of other acts of the European Union - European Delegation Act 2025, available [here](#).

⁵⁸ Law 24 December 2012, n. 234 (2013), General rules on Italy's participation in the formation and implementation of European Union law and policies, available [here](#).

⁵⁹ Ministry of Environment and Energy Security (2011), Legislative Decree 14 September 2011, n. 162, available [here](#).

Italy currently has two potential legal bases for introducing Article 23 penalties:

- Article 18 of Law No. 36/2026, which provides a specific delegation for implementation of Regulation (EU) 2024/1735; and
- Article 2 of Law No. 36/2026 which provides a broader delegation for introducing sanctions necessary to enforce EU legal acts where national penalties do not already exist.

The legislative decree procedure generally requires the following steps.⁶⁰

Drafting of the Decree

The competent ministries prepare a draft legislative decree. Where sanctions are included, the Ministry of Justice would ordinarily also be involved. Under Article 33 of Law No. 234/2012, sanctions decrees are proposed by the President of the Council of Ministers or the Minister for European Affairs together with the Minister of Justice and the competent sectoral ministers.

Preliminary Approval by the Council of Ministers

The draft legislative decree would ordinarily receive preliminary approval by the Council of Ministers before being transmitted for the opinions required by the delegation framework. At that stage, the draft generally becomes publicly identifiable as a draft legislative decree.

Consultation and Parliamentary Opinions

Law No. 36/2026 requires draft legislative decrees adopted under the delegation to be transmitted to the Chamber of Deputies and the Senate after the other required opinions have been received.

Under the framework established by Law No. 234/2012, the competent committees ordinarily have 40 days to issue their opinions. If the period expires without an opinion, the Government may proceed in accordance with the delegation procedure.

Extension of the Delegation Period

A potentially important procedural feature is contained in Article 31(3) of Law No. 234/2012. Where the period available for parliamentary scrutiny expires during the final 30 days of the delegation period or after that period has expired, the delegation period is extended by three months.

Final Adoption and Entry into Force

Once parliamentary scrutiny has been completed and any observations considered, the Council of Ministers may approve the final text of the legislative decree.

The decree is then issued by the President of the Republic and published in the Official Gazette (Gazzetta Ufficiale). It enters into force on the date specified in the decree or, absent a specific provision, following the ordinary period applicable under Italian law.

⁶⁰ Law 24 December 2012, no. 234 General rules on Italy's participation in training and implementation of European Union legislation and policies (2012), available [here](#).

If the Article 23 penalty regime is implemented through the NZIA-specific delegation set out in Article 18 of the Law No. 36/2026, adoption could reasonably be expected within approximately 1 to 4 months from the current stage, subject to completion of the legislative decree procedure and any extension of the delegation period for parliamentary scrutiny. Once a draft legislative decree has received preliminary approval from the Council of Ministers, a further 2 to 4 months may be required to obtain the relevant parliamentary opinions and adopt the final text.

The Netherlands

Implementation status

The Netherlands has not adopted a penalty regime pursuant to Article 23(13) of the NZIA. However, the Dutch Government's 2025 legislative programme provides for the adoption of legislation implementing the NZIA, under the responsibility of the Ministry of Climate and Green Growth. The legislation is expected to enter into force on 1 January 2027.

It is not confirmed whether the Act will contain the Article 23(13) penalty regime; whether the Netherlands will use an administrative fine, criminal enforcement or both; which authority will supervise compliance; how a fine will be calculated; or whether the intended entry into force of 1 January 2027 remains achievable.

Legal and institutional framework

Geological storage of CO₂ is principally governed by the Mining Act. The Act implements the EU CO₂ Storage Directive and regulates, among other matters: exploration for potential storage complexes; the storage permit; storage plans; monitoring and corrective measures; financial security; closure of storage sites; transfer of responsibility following closure; access to transport networks and storage sites; and the respective responsibilities of operators and public authorities.

The principal mining supervisory authority is the State Supervision of Mines (*Staatstoezicht op de Mijnen* - SodM). SodM supervises compliance with the Mining Act and advises the responsible minister on underground-storage matters, including storage plans.

The Mining Act does not currently contain provisions specifically enabling an authority to impose a penalty for failure to fulfil the injection-capacity contribution under Article 23(3) NZIA. The most likely legislative route is the planned regulation implementing the Net-Zero Industry Act. Article 5:4 of the General Administrative Law Act requires that any power to impose an administrative sanction be granted by or pursuant to legislation. It also requires that the conduct constituting the infringement be defined in advance.

Potential enforcement model

The Netherlands has not yet specified how the penalty regime required by Article 23(13) NZIA will be implemented. One possibility is an administrative-enforcement model. The draft Implementation Act for Regulation (EU) 2024/1787 (Methane Regulation) is relevant in this regard, as it would introduce an administrative enforcement regime, including administrative fines, for certain infringements within the Mining Act framework and designate competent authorities for supervision and enforcement.⁶¹ This suggests that an administrative-fine model could also be used for Article 23 NZIA, although additional legislation would be required as the proposed methane-related enforcement powers apply specifically to infringements of the Methane Regulation.

Alternatively, the Netherlands could enforce Article 23 through the system of economic offences, which is already used for certain infringements related to activities regulated under the Mining Act. Under such an approach, a failure to comply with Article 23 could be designated as an economic offence, allowing enforcement through the criminal law system. Supervision and investigation could be carried out by the relevant regulatory authorities, with cases subsequently referred to the public prosecution service. When prosecuted, criminal courts would then determine liability and impose any sanctions.

A further possibility would be a mixed model combining administrative and criminal enforcement. At present, however, no public indication has been identified that the Dutch government has selected a specific enforcement model for Article 23 NZIA.

Key legal instruments

- Implementation Act for the NZIA:⁶² identified by the Government as a formal Act, currently in preparation, with intended entry into force on 1 January 2027.
- Mining Act (Mijnbouwwet):⁶³ principal national legal framework for oil and gas production and geological CO₂ storage.
- General Administrative Law Act (Algemene wet bestuursrecht)⁶⁴: establishes the general requirements and procedures applicable to administrative sanctions and administrative fines.

⁶¹ House of Representatives of The Netherlands (2026), Explanatory Memorandum – Amendment of the Mining Act and some other laws in connection with the implementation of the Regulation (EU) 2024/1787 on the reduction of methane emissions in the energy sector (Methane Regulation Implementation Act), available [here](#).

⁶² Ministry of Climate & Green Growth (2025), Climate and Energy White Paper 2025, available [here](#); Legislative Program (2025), available [here](#).

⁶³ Mining Act of the Netherlands (2003), available [here](#).

⁶⁴ General Administrative Law Act, available [here](#).

- Economic Offences Act (Wet op de economische delicten):⁶⁵ provides the principal criminal-enforcement framework for breaches of environmental, energy and mining legislation.

Legislative process required to adopt the penalty regime

The responsible Ministry, in this case the Ministry of Climate and Green Growth, would first need to develop a policy proposal addressing the enforcement model, competent authority, sanctions and procedural safeguards. The proposal would normally undergo interdepartmental coordination, consultation with relevant authorities and stakeholders, and review by the Advisory Division of the Council of State. It would then have to be adopted by the Council of Ministers, approved by both chambers of Parliament and published in the *Staatsblad* (Dutch Official Gazette) before entering into force.^{66,67,68}

If the legislation delegated matters such as fine calculation or procedural details to secondary legislation, further implementing measures could also be required. The duration of this process will depend on the extent of the proposed enforcement regime and the priority accorded to the legislation by the Government and Parliament.

Given the absence of a finalised NZIA implementation framework, adoption could reasonably take approximately 9–18 months from the current stage. Comparable Dutch EU implementation acts suggest that, once a bill is formally introduced in the Tweede Kamer, completion of parliamentary consideration and promulgation may itself require approximately 6–12 months. It also remains unclear whether the Article 23 penalty regime will form part of the NZIA implementing legislation currently under preparation, which may affect the overall timeframe.

Poland

Implementation status

Poland has not adopted a penalty regime pursuant to Article 23(13) of the NZIA. Poland has nevertheless taken further steps to develop its domestic CO₂-storage framework, and a broad amendment to the Geological and Mining Law had entered the Government's legislative programme. Neither measure, however, establishes an Article 23(13) penalty regime.

⁶⁵ Economic Offences Act, available [here](#).

⁶⁶ Dutch Constitution (2023), available [here](#).

⁶⁷ Laws on the Council of State (1973), available [here](#).

⁶⁸ Dutch Government's legislative drafting manual (2024), Regulatory guidance, available [here](#).

Legal and Institutional Framework

Existing legal framework for CO₂ storage

Poland already has a legal framework permitting geological CO₂ storage and therefore does not face the legal barriers that exist in certain Member States where CCS remains prohibited.

The principal legislation governing CO₂ storage is the Geological and Mining Law – *Prawo geologiczne i górnictwo (PGG)*. The Act establishes the regulatory framework for the exploration and use of geological formations, including:

- exploration of geological structures suitable for CO₂ storage;
- storage permits and concessions;
- geological documentation requirements;
- operation, monitoring and closure of storage sites;
- financial security obligations; and
- administrative and criminal sanctions for breaches of mining legislation.

In June 2026, the Minister of Climate and Environment designated 18 areas potentially available for CO₂ storage within Poland's exclusive economic zone (Regulation of 8 June 2026, Dz.U. 2026 poz. 761). Importantly, designation of these areas does not itself constitute approval to store CO₂. The Ministry expressly states that exploration of potential sites requires a decision approving the relevant geological-work plan, and that this recognition does not constitute authorisation for underground storage.

Planned reform of the CCS regulatory framework

Poland is preparing a dedicated CCUS Act (ustawa CCUS) together with a package of amendments to related acts. The Ministry of Climate and Environment has structured the intervention around six regulatory-impact-assessment areas and has developed it with a stakeholder Working Group on Regulation and Financing (Grupa Robocza ds. Regulacji i Finansowania) convened at the Ministry, which met between 3 June and 19 August 2026. The reform is expected to address:⁶⁹

- CO₂ storage and the coordination of access to storage sites;
- CO₂ transport, including access to transport infrastructure and transshipment terminals;
- procedural simplifications under the NZIA, strategic projects and regulatory sandboxes;
- CO₂ quality parameters, technical requirements and safety standards;
- a government strategy for the CCS/CCU value chain; and
- amendments to related acts.

At the time of writing, no publicly available draft legislation or consultation document identified through the Polish Government Legislative Centre (RCL), legislative database or the Ministry's published CCUS

⁶⁹ Ministry of Climate, Letter of intent regarding the development of CO₂ capture, storage and utilization technologies (2025), available [here](#).

materials specifies the implementation of the NZIA Article 23 injection-capacity contribution obligation or the penalties required under Article 23(13) NZIA.

The ongoing legislative initiative

The Draft Act amending the Geological and Mining Law and certain other acts (UD419) was added to the Government's legislative programme on 16 June 2026. The Ministry of Climate and Environment is responsible for the proposal, with adoption by the Council of Ministers currently planned in Q4 2026.

The draft law is not primarily an NZIA implementation measure. Its principal objectives are to simplify and accelerate geological and mining procedures, implement recommendations of the Supreme Audit Office (NIK), reduce regulatory burdens, increase legal certainty and support the digitalisation of administrative processes.

The draft is expected to revise a broad range of issues under the Geological and Mining Law, including:

- licensing and concession procedures;
- mining usufruct arrangements;
- geological information and documentation requirements;
- protection of mineral deposits;
- fees and financial obligations;
- mining supervision and administrative competences;
- underground CO₂ storage activities; and
- sanctions for infringements of the Geological and Mining Law.

The draft law therefore has potential relevance for CCS development and may affect parts of the regulatory framework applicable to CO₂ storage projects. However, the Government's published description does not identify Article 23 of NZIA as an objective of the reform and does not indicate that the proposal will establish penalties for failure to comply with the Article 23 obligations.

Potential enforcement model

Under Article 175 of the PGG, the President of the Higher Mining Authority may impose administrative monetary penalties for specified infringements of mining legislation. In the case of certain infringements committed by entrepreneurs, such penalties may amount to up to 3% of the undertaking's revenues in the preceding calendar year. However, the existing administrative sanctions regime does not currently extend to obligations under Article 23 NZIA. Because the obligation falls outside the existing regime, primary legislative amendments would be required to designate the relevant infringement, identify the liable entity, confer enforcement powers on the competent authority, and establish an appropriate penalty framework.

Which authority that would be is not settled. In the current sector debate on the market dimension of CO₂ storage, most industry stakeholders favour the President of the Energy Regulatory Office (Prezes URE), while the Ministry of Climate and Environment has questioned extending that office's competence into an area embedded in the Geological and Mining Law and in the powers of the geological administration. That choice would determine where any Article 23 enforcement power ultimately sits.

In addition to administrative enforcement, the Geological and Mining Law contains criminal and petty-offence provisions addressing certain breaches of mining legislation. Poland could therefore, in principle, choose to enforce Article 23 NZIA through a judicial or criminal mechanism. Nevertheless, no existing offence currently covers a failure to comply with the injection capacity contribution obligation. Consequently, legislative amendments would also be necessary should Poland decide to pursue this enforcement model.

Key Legal Instruments

- Geological and Mining Law (Prawo geologiczne i górnicze - PGG);⁷⁰
- PGG amendment UD419 (*Prawo geologiczne i górnicze oraz niektórych innych ustaw*);⁷¹
- Regulation of 8 June 2026 amending the Regulation on areas in which underground carbon dioxide storage complexes may be located (*Rozporządzenie dnia 8 czerwca 2026 r. zmieniające rozporządzenie w sprawie obszarów, na których dopuszcza się lokalizowanie kompleksu podziemnego składowania dwutlenku węgla*)⁷²

Legislative process required to adopt the penalty regime

Implementation of an enforcement regime for Article 23 NZIA would require primary legislation, as neither the Geological and Mining Law nor other currently applicable legislation contains a mechanism for enforcing the injection capacity contribution obligation. The legislative process would generally proceed as follows:

⁷⁰ Geological and Mining Law (2011), available [here](#).

⁷¹ Draft act amending the Geological and Mining Law and certain other acts (2026), available [here](#).

⁷² Ministry of Climate, Amended regulations regarding the identification of potential underground CO₂ storage sites, available [here](#).

Government Phase

The legislative proposal would normally be included in the Council of Ministers' legislative and programme work list, identifying the responsible ministry, the purpose of the proposal and the planned timetable for its adoption by the Council of Ministers.⁷³

The responsible ministry would then prepare the draft legislation together with the accompanying explanatory memorandum, regulatory impact assessment, EU-law compatibility analysis and supporting documentation. In the context of Article 23, the draft would need to specify the competent authority, the liable entities, the applicable sanctions, and the relevant procedural framework.

The draft would subsequently undergo interministerial coordination, public consultation and institutional consultation. Comments received during these stages may result in revisions to the draft and accompanying documentation.⁷⁴

Following completion of these consultations, the proposal would be examined within the Government's legislative framework, including review by the Standing Committee of the Council of Ministers (*Stały Komitet Rady Ministrów*) and, where required, legislative scrutiny by the Government Legislation Centre's Legal Committee (*Komisja Prawnicza*).

The final draft would then be submitted to the Council of Ministers. Upon approval, the Government would formally transmit the bill to the Sejm.

Parliamentary Phase

Legislative proposals are considered by the Sejm in three readings. Following the first reading, a proposal is normally referred to the relevant parliamentary committee or committees for detailed examination and preparation of a committee report. The second reading is based on that report and may result in further amendments. The third reading concludes with a vote on the bill.⁷⁵

Once adopted by the Sejm, the text is transmitted to the Senate. The Senate may approve, propose amendments or reject it. Any Senate amendments or rejection are subsequently considered by the Sejm in accordance with the constitutional legislative procedure.

Presidential Approval and Entry into Force

After completion of the parliamentary process, the bill is transmitted to the President of the Republic. The President may sign the bill, exercise the constitutional veto, or refer it for constitutional review in the circumstances provided by the Constitution. Once signed, the act must be promulgated in the *Dziennik Ustaw* (Polish Official Gazette) before it can enter into force.

As Poland is currently reforming its CCUS regulatory framework, adoption of the Article 23 penalty regime could reasonably take approximately 4 to 8 months if incorporated into the forthcoming CCUS

⁷³ Government legislative process, available [here](#).

⁷⁴ Consultation process, available [here](#).

⁷⁵ Legislative procedure, available [here](#).

Act or the current amendments to the Geological and Mining Law, or up to 6 to 12 months if separate legislation is required. The CCUS Act is the more likely vehicle, as it is the instrument through which Poland is addressing NZIA-related matters. Its timing remains uncertain: the sector's directional input reached the Ministry only on 20 August 2026, and consultation on the accompanying CCUS strategy is expected in the fourth quarter of 2026.

Romania

Implementation status

Romania has not adopted a penalty regime pursuant to Article 23(13) of the NZIA. Romania nevertheless began preparing a national instrument for the implementation of Regulation (EU) 2024/1735 prior to the applicable deadline. On 19 December 2025, the Ministry of Economy published for consultation a draft Government Emergency Ordinance intended to establish the national framework for the application of the NZIA.⁷⁶

In addition, the Government's 2026 climate-policy planning documents identified the finalisation, approval and adoption of the national NZIA implementation measure as a priority for the fourth quarter of 2026.⁷⁷

However, the draft measure does not appear to contain specific provisions establishing penalties or an enforcement regime for infringements of Article 23(13). As currently drafted, it is therefore unclear whether Romania intends to implement the sanctioning requirements of Article 23(13) through the proposed ordinance itself or through separate legislative measures.

Legal and institutional framework

Romania already has a dedicated legal framework for geological CO₂ storage. The principal legislation is the Government Emergency Ordinance No 64/2011 on the geological storage of carbon dioxide (OUG 64/2011), which transposed Directive 2009/31/EC and regulates exploration, storage permitting, operation, monitoring, closure and post-closure responsibility for geological CO₂ storage sites.

The framework was substantially updated by the Government Emergency Ordinance No. 139 of 4 December 2024, which amended OUG 64/2011 with the objective of strengthening the legal and institutional framework for CO₂ transport and geological storage and facilitating deployment of CCS

⁷⁶ Draft Government Emergency Ordinance on the Establishment of the National Framework for the Implementation of Regulation (EU) 2024/1735 of the European Parliament and of the Council of June 13, 2024, establishing a framework of measures to strengthen the European ecosystem for the production of "net-zero" technologies and amending Regulation (EU) 2018/1724 (2025), available [here](#).

⁷⁷ Romanian Government (2026), Set of Priorities in the Area of Climate Change for 2026, available [here](#).

infrastructure. The reform also sought to accelerate the development of storage projects, including by enabling, in certain circumstances, the conversion of depleted petroleum reservoirs into CO₂ storage sites by existing petroleum concession holders.

Institutionally, OUG 81/2024 established the National Regulatory Authority for Mining, Petroleum and Geological Storage of Carbon Dioxide (ANRMPSG). ANRMPSG is the specialised authority responsible for regulating activities in the mining, petroleum and geological CO₂ storage sectors and therefore already performs functions closely connected to CCS licensing and oversight.

Romanian law also already provides for administrative sanctions in the CCS sector. Under Article 24 OUG 64/2011, breaches of specified storage-related obligations constitute administrative contraventions punishable by fines, including fines imposed directly on legal persons of up to RON 100,000. The infringements concern matters such as compliance with regulatory authorisations, monitoring obligations and the management of leakage or significant irregularities.

However, these existing sanctions apply to infringements defined in OUG 64/2011 and do not currently include failure to comply with the storage-capacity obligations imposed on oil and gas producers under Article 23 NZIA.

Potential enforcement model

Romanian administrative sanctions are generally implemented through the system of *contravenții* (administrative offences) governed by Government Ordinance No 2/2001 on the legal regime of contraventions (OG 2/2001). Under that framework, a contravention and its associated sanction must be established by laws, ordinances or decisions of the Government, and legal entities may be held directly liable where the relevant legislation so provides.

This model is already used in the CCS sector. Article 24 of OUG 64/2011 establishes contraventions and administrative fines for breaches of specified geological CO₂ storage obligations. The existing sanctions regime does not, however, cover non-compliance with the injection capacity obligations imposed on oil and gas producers under Article 23 of the NZIA.

Consistent with the principle of legality applicable to Romanian contravention law, an administrative penalty may only be imposed where the relevant conduct has been expressly established as an offence, and a corresponding sanction has been prescribed by law.

Romanian law recognises criminal liability of legal persons under the Criminal Code. However, no publicly available Romanian legislative proposal indicates an intention to implement Article 23 through a dedicated criminal-law regime.

Romania therefore possesses an existing legal and institutional structure capable of supporting Article 23 enforcement, but the specific NZIA penalty regime has not yet been proposed.

Key legal instruments

- Government Emergency Ordinance No. 64 of 29 June 2011 – OUG 64/2011 on geological storage of carbon dioxide (Ordonanța de urgență nr. 64 din 29 iunie 2011 privind stocarea geologică a dioxidului de carbon):⁷⁸ Principal Romanian CCS legislation. Article 24 contains the existing CCS contravention/fine regime, but not an Article 23(3) offence.
- Government Emergency Ordinance No. 139 of 4 December 2024 – OUG 139/2024 (Ordonanța de urgență nr. 139 din 4 decembrie 2024 pentru modificarea și completarea Ordonanței de urgență a Guvernului nr. 64/2011 privind stocarea geologică a dioxidului de carbon):⁷⁹ reform designed to facilitate development of Romanian CO₂ storage infrastructure.
- Government Emergency Ordinance No. 81 of 28 June 2024 – OUG 81/2024 (Ordonanța de urgență nr. 81 din 28 iunie 2024 pentru înființarea Autorității Naționale de Reglementare în Domeniul Minier, Petrolier și al Stocării Geologice a Dioxidului de Carbon):⁸⁰ Establishes ANRMPSG, the specialised authority for mining, petroleum and geological CO₂ storage.
- Government Ordinance No. 2 of 12 July 2001 – OG 2/2001 (Ordonanța Guvernului nr. 2/2001 privind regimul juridic al contravențiilor):⁸¹ General framework governing Romanian administrative/contravention penalties, including direct liability of legal persons, requirements for defining offences and sanctions, administrative fines, enforcement and judicial challenge.
- Draft Government Emergency Ordinance establishing the national framework for Regulation (EU) 2024/1735 (Proiect de Ordonanță de urgență a Guvernului privind stabilirea cadrului național de aplicare a Regulamentului (UE) 2024/1735).⁸²

⁷⁸ Romanian Government (2011), EMERGENCY ORDINANCE No. 64 of 29 June 2011 on the geological storage of carbon dioxide, available [here](#).

⁷⁹ Romanian Government (2024), EMERGENCY ORDINANCE No. 139 of 4 December 2024 amending and supplementing Government Emergency Ordinance No. 64/2011 on the geological storage of carbon dioxide, available [here](#).

⁸⁰ Romanian Government (2024), EMERGENCY ORDINANCE No. 81 of 28 June 2024 establishing the National Regulatory Authority for Mining, Oil and the Geological Storage of Carbon Dioxide, and amending and supplementing certain legislative acts in the field of mineral resources, oil and the geological storage of carbon dioxide, available [here](#).

⁸¹ Romanian Government (2001), ORDINANCE No. 2 of 12 July 2001 on the legal regime governing administrative offences, available [here](#).

⁸² *Ibid.*, available [here](#).

Legislative process required to adopt the penalty regime

The Romanian Government has already chosen a Government Emergency Ordinance as the legislative vehicle for the broader implementation of the Net-Zero Industry Act. Under Romanian law, draft emergency ordinances are prepared by the responsible ministry, subject to interinstitutional consultation and endorsement, including review by the Legislative Council, before adoption by the Government.⁸³ Draft normative acts are generally also subject to the public consultation requirements set out in Law No 52/2003 on decision-making transparency in public administration.

A Government Emergency Ordinance has legislative force and may enter into effect before completion of the parliamentary approval procedure. Under Article 115 of the Romanian Constitution, an emergency ordinance enters into force following its publication in the Official Gazette (Monitorul Oficial) and submission to the Parliament for consideration under an accelerated procedure. This mechanism has recently been used for OUG 139/2024 amending the geological CO₂ storage framework, which entered into force upon publication while its parliamentary approval process continued.

Under Government Ordinance No 2/2001 on contraventions, newly introduced contraventional offences and penalties do not necessarily become enforceable immediately upon publication, as specific entry-into-force rules may apply.

Following adoption, any emergency ordinance must still be submitted to Parliament for approval. Parliament may subsequently approve, amend or reject the ordinance through a law. However, the ordinance remains in force during that process unless and until Parliament decides otherwise.

At present, no publicly available Romanian legislative text establishes the penalties required by Article 23(13) NZIA.

If the Article 23 penalty regime is incorporated into the planned NZIA Government Emergency Ordinance (OUG), Romania could establish an enforceable regime within approximately 1 to 4 months from the current stage. However, if the Government chooses not to address Article 23 through the OUG and instead proceeds through separate legislation, implementation could take approximately 6 to 12 months.

⁸³ DECISION no. 561 of 10 May 2009 for the approval of the Regulation on the procedures, at the level of the Government, for the elaboration, approval and presentation of draft public policy documents, draft normative acts, as well as other documents, in order to adopt/approve (2009), available [here](#).

Conclusion

The results of this assessment reveal that none of the eleven Member States with obligated entities had adopted an enforceable penalty regime by the 30 June 2026 deadline. Moreover, Member States have progressed at considerably different speeds and those having made the most progress are pursuing varying approaches to the design of penalty regimes. Based on the regimes emerging so far, these differences may create an uneven playing field across the EU, with obligated entities facing different incentives to comply and develop CO₂ storage capacity depending on the Member State in which they are registered. In practice, this could influence where and how quickly the required storage capacity is developed.

To avoid substantial differences in national penalty regimes resulting in uneven incentives for compliance, it is recommended that:

Member States improve coordination and sharing of information on penalty implementation and enforcement. As Member States design their Article 23(13) penalty regimes, closer coordination between the relevant national authorities can help build a more consistent approach to enforcement. Sharing thinking on penalty design, including the treatment of mitigating and aggravating circumstances, would be particularly valuable given the novelty of the obligation and the limited precedent available. Such exchanges could also help Member States develop a more common understanding of the basic principles of effectiveness, proportionality and dissuasiveness, while identifying significant differences in approach early enough to allow for course correction.

In addition to greater coordination between Member States, **further guidance from the European Commission in particular on common principles for designing penalties could usefully support a more consistent approach.** Commission guidance can help clarify how the NZIA requirements for penalties to be effective, proportionate and dissuasive should apply in practice. The [Article23Watch project](#) has previously explored approaches to designing penalties that support compliance with the EU CO₂ storage obligation, available [here](#).

While a consistent EU-wide penalty regime could have provided greater consistency, Member States have their own established legal frameworks and practices for sanctioning economic players. Some variation in national approaches is therefore to be expected. However, these approaches should provide broadly comparable incentives for compliance, to avoid market distortions, preserve a level playing field for CO₂ storage development and support the objectives of Article 23. Most importantly, each regime must give practical effect to the NZIA's requirements that penalties be **effective, proportionate and dissuasive**, providing a strong and credible investment signal to obligated entities and the wider industrial carbon management market. The purpose of Article 23 is ultimately not to penalise oil and gas producers, but to ensure the timely delivery of CO₂ injection capacity and help kick-start a functioning European CO₂ storage market.



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