

Report

Sanctions and measures imposed under AIFMD, BMR, CSDR, ECSPR, EMIR, MAR, MiCA, MiFID II - MiFIR, PR, SFTR and UCITS in 2023

Table of Contents

1	Executive Summary	6
2	Introduction	8
2.1	Relevant regulatory framework for reporting on sanctions and measures for the Report	8
2.2	Information on the sanctions and measures imposed	8
2.3	Guidance for interpretation of sanctions and measures reported	10
3	General overview on sanctions imposed across all sectors	11
3.1	Overview of administrative sanctions and measures imposed in 2023 across all sectors	11
3.2	Trends regarding administrative sanctions and measures	16
4	ANNEX	22
4.1	AIFMD	22
4.2	BMR	28
4.3	CSDR	30
4.4	EMIR	32
4.5	MAR	35
4.6	MiFID II and MiFIR	42
4.7	PR	47
4.8	UCITS	51
4.9	ECSPR, MiCA, SFTR	56

List of figures

Fig. 1 Total amount of administrative fines imposed for each sectoral act in 2023 (in EUR) .	11
Fig. 2 Total number of sanctions and measures issued for each sectoral act (2023)	12
Fig. 3 Number of Member States imposing sanctions and measures in 2023 for each sectoral act.....	13
Fig. 4 Total amount of administrative fines issued by each Member State in 2023	14
Fig. 5 Total number of measures and sanctions issued by each Member State in 2023	14
Fig. 6 total number of measures and sanctions issued by each Member State in 2023, by sectoral act	15
Fig. 7 Total amount of administrative fines imposed between 2013 and 2023 (in EUR), for each sectoral act	17
Fig. 8 Total amount of administrative fines imposed between 2019 and 2023 (in eur), for each sectoral act	18
Fig. 9 Evolution between 2019 and 2023 of the number of administrative sanctions and measures, for all sectoral acts.....	19
Fig. 10 Number of Member States imposing sanctions and measures from 2019 to 2023, for all sectoral acts.....	20
Fig. 11 Breakdown of the number of sanctions issued by each Member State between 2013 and 2023, for all sectoral acts	21
Fig. 12 evolution of the number of administrative sanctions/measures and value of the administrative fines issued under AIFMD between 2019 and 2023	23
Fig. 13 Total number of administrative sanctions/measures imposed by Member States under AIFMD in 2023	24
Fig. 14 Total amount of administrative fines imposed by Member States under AIFMD in 2023	25
Fig. 15 Comparison between the net AIF assets in 2022 and the amount of financial penalties issued under AIFMD in 2023	26
Fig. 16 Articles where the largest numbers of administrative sanctions and measures were imposed under AIFMD in 2023.....	26
Fig. 17 Evolution of the number of administrative sanctions/measures and value of the administrative fines imposed between 2019 and 2023	29
Fig. 18 Total number of administrative sanctions and measures imposed by Member States under CSDR in 2023	30
Fig. 19 Total aggregate amount of administrative fines imposed by Member States under CSDR in 2023	31
Fig. 20 Total number of administrative sanctions and measures imposed by Member States under EMIR in 2023	33
Fig. 21 Total aggregate amount of administrative fines imposed by Member States under EMIR in 2023.....	33

Fig. 22 Total number of administrative sanctions and measures imposed by Member States under MAR in 2023	35
Fig. 23 Number of measures/sanctions imposed under MAR on natural and legal persons, for 2023	36
Fig. 24 Representation of articles where the largest number of administrative sanctions and measures were imposed under MAR, 2023	37
Fig. 25 Total aggregate amount of administrative fines imposed by Member States under MAR in 2023.....	38
Fig. 26 evolution of the number of administrative sanctions/measures and value of the administrative fines imposed by Member States under MAR between 2019 and 2023	39
Fig. 27 Total number of criminal sanctions imposed by Member States under MAR in 2023	40
Fig. 28 Total aggregate amount of criminal fines imposed by Member States under MAR in 2023	41
Fig. 29 Total number of administrative measures and sanctions imposed by Member States under MiFID II and MiFIR in 2023	43
Fig. 30 Total aggregate amount of administrative fines imposed under MiFID II and MiFIR in 2023.....	44
Fig. 31 Evolution of the number of administrative sanctions/measures and value of the administrative fines issued under MiFID II and MiFIR between 2019 and 2023	44
Fig. 32 Total number of criminal fines imposed under MiFID II and MiFIR in 2023	45
Fig. 33 Total value of criminal fines imposed by Member States under MiFID II and MiFIR in 2023	46
Fig. 34 Evolution of the number of administrative sanctions/measures and value of the administrative fines issues between 2020 and 2023.....	47
Fig. 35 Total aggregate amount of administrative fines imposed by Member States under PR in 2023.....	48
Fig. 36 Total number of administrative sanctions and measures imposed by Member States under PR in 2023	49
Fig. 37 Illustration of the approximate number of prospectuses issued in 2023	50
Fig. 38 Evolution of the number of administrative sanctions/measures and value of the administrative fines issued between 2019 and 2023.....	51
Fig. 39 Total number of administrative sanctions and measures imposed by Member States under UCITS in 2023.....	52
Fig. 40 Total aggregate amount of administrative fines imposed by Member States under UCITS in 2023.....	53
Fig. 41 Comparison between the number of UCITS managers and total amount of fines issued by Member States in 2023	54
Fig. 42 Representaton of the articles where the largest number of administrative sanctions and measures were imposed under UCITS, 2023	55

1 Executive Summary

This report on sanctions and measures imposed in 2023 ('Report') provides an overview of the sanctions and measures imposed in Member States under AIFMD¹, BMR², CSDR³, ECSPR⁴, EMIR⁵, MAR⁶, MiCA⁷, MiFID II⁸ - MiFIR⁹, PR¹⁰, SFTR¹¹ and UCITS¹².

ESMA is required¹³ to publish annual reports on administrative sanctions and measures issued in Member States and reported annually by national competent authorities ('NCAs') in these different sectors under ESMA's remit.

Further, regarding BMR, CSDR, ECSPR, MAR, MiCA, MiFID II - MiFIR, PR and SFTR, where Member States have chosen to provide for criminal sanctions, ESMA is also obliged to include data on criminal sanctions.

¹ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 ('AIFMD').

² Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 ('BMR').

³ Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 ('CSDR').

⁴ Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ('ECSPR').

⁵ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ('EMIR').

⁶ Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC ('MAR').

⁷ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 ('MiCA').

⁸ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU ('MiFID II').

⁹ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 ('MiFIR').

¹⁰ Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC ('PR').

¹¹ Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 ('SFTR').

¹² Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities ('UCITS').

¹³ Under Article 48(3) AIFMD, there is no obligation for ESMA to publish a report, but rather to "draw up an annual report". To be noted that this Report does not include information on sanctions issued under PRIIPs. Given the cross-ESAs nature of the topic, the process for reporting on PRIIPs sanctions is harmonised across ESAs, and these are published in a Joint Committee's annual report. See [JC 2024 16 JC annual report 2023 \(europa.eu\)](#).

In line with the ESMA Strategy 2023-2028¹⁴ and its strategic priority to strengthen supervision of EU financial markets, ESMA promotes risk-based, outcome-focused and data driven supervision and enforcement. It provides a forum for discussion and development of an effective common EU enforcement culture, including by enhancing the transparency and visibility of data related to financial sanctions and measures. This Report therefore contributes to supervisory and enforcement convergence and facilitates the goal of more transparent data on sanctions.

Cross-sectoral observations

The data reported for 2023, and included in this Report, shows that the highest number of administrative measures and sanctions and the highest amounts of administrative fines for 2023 were imposed under MAR (299 administrative measures and sanctions of the total value of EUR 45,946,421) and MiFID II (289 administrative measures and sanctions of the total value of EUR 18,258,028). No administrative sanctions and measures were imposed under BMR, ECSPR, SFTR and MiCA in 2023.

While the number of administrative sanctions and measures decreased in recent years (976 administrative sanctions and measures were imposed in Member States in 2023), the number of NCAs imposing administrative sanctions and measures increased and reached the highest level yet in 2023.

In 2023, administrative sanctions and measures were imposed for an aggregated value of EUR 71,259,970.

Next Steps

The information reported to ESMA and included in this Report will, inter alia, inform ESMA's work on fostering supervisory convergence between NCAs in enforcement matters and contribute to ESMA's goal of developing an EU outcome-focused supervisory and enforcement culture.

An annual report will continue to be issued for the future reporting periods.

Further information on public sanctions and measures issued by national competent authorities can be found on the ESMA sanctions register available on the ESMA website.¹⁵

¹⁴ https://www.esma.europa.eu/sites/default/files/library/esma_strategy_2023-2028.pdf

¹⁵ See: <https://registers.esma.europa.eu/publication/searchSanction>

In addition to the Report, ESMA makes the underlying data available for download on its website in excel format¹⁶.

2 Introduction

2.1 Relevant regulatory framework for reporting on sanctions and measures for the Report

1. This Report is drafted pursuant to provisions in the relevant sectoral acts¹⁷, which state that NCAs must provide ESMA, annually, with aggregated information regarding all administrative sanctions and measures. For some of the legal acts, the scope also includes the reporting of criminal sanctions imposed in the relevant Member States¹⁸.

2.2 Information on the sanctions and measures imposed

2. This Report is the first published by ESMA consolidating sanctions and measures imposed under all relevant sectoral acts. It contains information on sanctions and measures imposed in Member States from 1 January 2023 to 31 December 2023 under the relevant sectoral acts. The aggregated information contained in this Report reflects data submitted to ESMA by NCAs¹⁹.
3. This Report does not provide the full picture of the enforcement activities of NCAs. In particular, ESMA notes that this Report focuses on sanctions and measures issued under the current regulatory framework; accordingly, sanctions and measures imposed by NCAs under previous iterations of the regulatory framework are not covered although such regulatory texts may contain obligations which continue in subsequent iterations. Additionally, NCAs may impose sanctions and measures according to their national framework that supplement the European regulatory framework but are not included in the sanctions and measures notified to ESMA. It should also be noted that the data on criminal sanctions are collected on a best effort basis, since certain NCAs do not have direct access to these data, that therefore might be incomplete.

¹⁶ See: ESMA43-1527801302-1508 Consolidated Sanctions Report - Table of Sanctions

¹⁷ Article 48(3) AIFMD, Article 45(5) BMR, Article 61(6) CSDR, Article 43(1) ECSPR, Article 85(5) EMIR, Article 33(1) MAR, Article 115(1) MiCA, Article 71(4) MiFID II, Article 43(1) PR, Article 25(1) SFTR and Article 99e(1) UCITS.

¹⁸ Article 45(5) BMR, Article 61(6) CSDR, Article 43(1) ECSPR, Article 33(2) MAR, Article 115(1) MiCA, Article 71(4) MiFID II, Article 43(1) PR, Article 25(2) SFTR.

¹⁹ NCAs in the European Union (EU) and the European Economic Area (EEA).

4. For the sectoral acts covered by this Report where ESMA has sanctioning powers²⁰, the relevant information is also included, for information, in the Report.
5. The underlying data is also available in excel format and can be downloaded²¹.
6. ESMA underlines that the analysis presented below is based on high level observations of the aggregate administrative fines imposed and does not reflect an analysis of individual decisions to impose sanctions and measures.
7. ESMA acknowledges that imposing sanctions and measures can be complex and that no automatic parallels should necessarily be drawn between the number of sanctions and measures issued, or the amount of administrative fines imposed by an NCA in the relevant Member State, and the effectiveness of NCA's supervisory activity. This can be due for example to differences between national administrative, civil or criminal laws systems when imposing sanctions and the fact that the imposition of a fine depends on a case-by-case assessment performed by NCAs. It is also worth noting that NCAs can also use other instruments in their enforcement activity, such as informal tools (e.g., 'warnings' letters, letters to the management board), which are not covered by this Report. Additionally, NCAs may address supervisory concerns through the use of supervisory tools rather than resorting to enforcement action. Therefore, there is no clear linkage between the effectiveness of NCAs' supervision and the number of enforcement measures imposed as the use of sanctions is just one of multiple tools available to NCAs following supervisory activities. Conclusions regarding the effectiveness of the NCA's supervision should not be drawn based solely on the number or amounts of sanctions imposed in that Member State.
8. Moreover, it is important to bear in mind that the size of the relevant market in the Member State will ordinarily affect the number of administrative sanctions and measures imposed. Where relevant, sector-specific information is included in the Annex regarding the administrative sanctions and measures imposed under the different legal acts in the remit of the Report²². However, the size of the relevant market should be treated only as an indicator as other factors (such as the maturity of the market, or the type and level of expertise of market players) may play a role.

²⁰ Please also note in 2023, ESMA adopted a public notice and imposed a fine of EUR 1,110,000 against a credit rating agency (See [Sanctions and Enforcement \(europa.eu\)](#)). This information is not further detailed in this Report because the Credit rating agency regulation is not within the scope of this Report.

²¹ See: ESMA43-1527801302-1508 Consolidated Sanctions Report - Table of Sanctions

²² The analysis of the size of the relevant market is based on the ESMA statistics on securities and markets available at: https://www.esma.europa.eu/sites/default/files/2024-05/ESMA50-164-3688_ESMA_statistics_on_securities_and_markets.pdf. The Report relies on already available ESMA information on market size, but no separate and detailed analysis of markets size was conducted for the purpose of this Report.

9. However, despite these limitations, there is room for more convergence between NCAs. The sanctioning powers are not equally used among NCAs and the differences are not always related to the different size of the financial industry that NCAs supervise.
10. The purpose of this Report is therefore to foster discussions among NCAs and ultimately enhance a common EU enforcement culture, including by providing more transparent data on sanctions and measures and encouraging NCAs to use the full range of the supervisory and enforcement toolkit they have been provided with under the EU texts. Greater transparency around sanctions and measures also acts as a deterrent by clarifying infringements under the relevant sectorial acts.

2.3 Guidance for interpretation of sanctions and measures reported

11. In the framework of convergence work on enforcement matters, NCAs developed a common understanding of enforcement and sanctioning powers. In line with that and in the context of this Report, enforcement measure (and sanction) is understood as any action taken by the NCAs in response to a breach with formal consequences which may be challenged. In broad terms, an enforcement measure/sanction has formal consequences for the person to which/whom it applies, if it is not complied with. This common understanding forms the basis of the sanctions and measures reported in this Report. Enforcement actions thus include sanctions and measures such as administrative fines, public statements, temporary or permanent bans, suspensions or withdrawals of an authorisation, disgorgements of profits gained or losses avoided, gain-based pecuniary sanctions and orders to cease and desist. This common and agreed understanding should allow for a more helpful comparison of the sanctions reported by different NCAs.
12. NCAs may impose as well other types of tools and measures (such as private warnings), however they are outside of the scope of this Report.

3 General overview on sanctions imposed across all sectors

3.1 Overview of administrative sanctions and measures imposed in 2023 across all sectors

13. 30 NCAs²³ submitted data on the administrative sanctions and measures imposed in their Member States²⁴. In total EUR 71,259,970 of administrative fines were imposed in 2023.²⁵

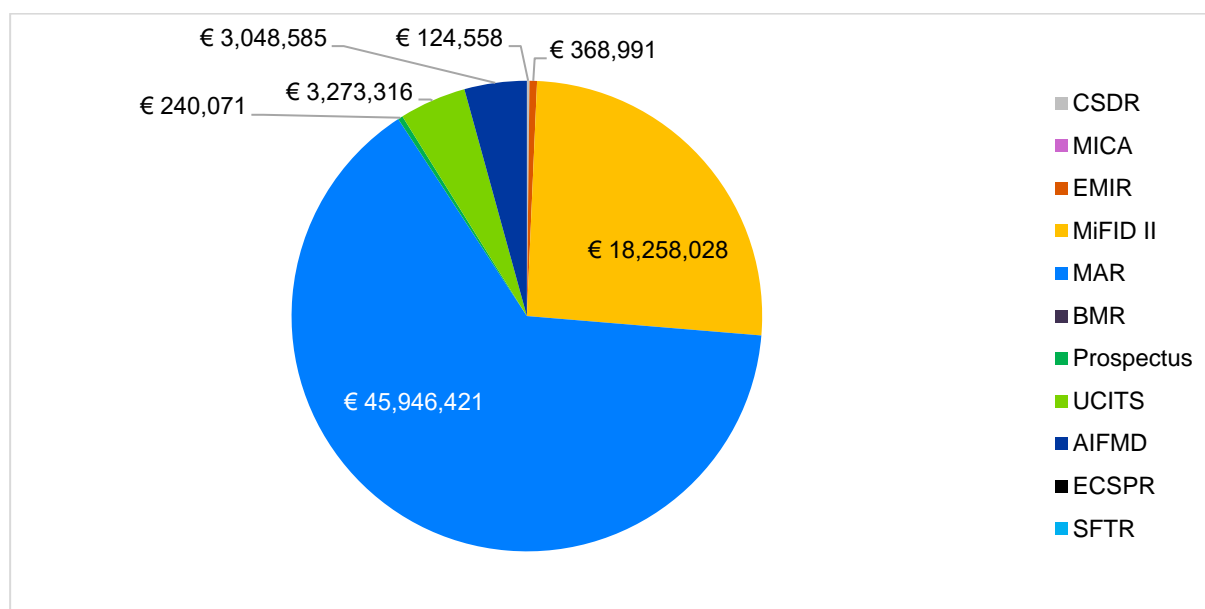


FIG. 1 TOTAL AMOUNT OF ADMINISTRATIVE FINES IMPOSED FOR EACH SECTORAL ACT IN 2023 (IN EUR)

Source: ESMA Staff calculations based on reporting by NCAs

²³ Denmark submitted data only regarding CSDR, MiFID II – MIFIR, AIFMD, Prospectus and UCITS.

²⁴ Based on the information received by ESMA, a total amount of EUR 15,441,438 of criminal fines were imposed in 2023. In relation to the imposition of criminal sanctions, it is important to note that not all Member States chose to lay down criminal sanctions for infringements. Thus, to allow for a comparison across all sectoral acts in the remit, section 3.1 and 3.2 only analyse the imposition of administrative sanctions and measures in Member States. Relevant information on criminal sanctions can be found in the Annex in relation to sanctions and measures imposed under the specific legal acts.

²⁵ In comparison, in 2023, the U.S. Securities and Exchange Commission obtained orders for nearly \$5 billion in financial remedies (<https://www.sec.gov/news/press-release/2023-234>) and the Commodity Futures Trading Commission issued over \$4.3 billion in penalties, restitution and disgorgement (<https://www.cftc.gov/PressRoom/PressReleases/8822-23>). Moreover, the total amount of fines issued in 2023 by the Financial Conduct Authority in the U.K. was approximately EUR 61,000,000 (£53,354,600) (<https://www.fca.org.uk/news/news-stories/2023-fines>).

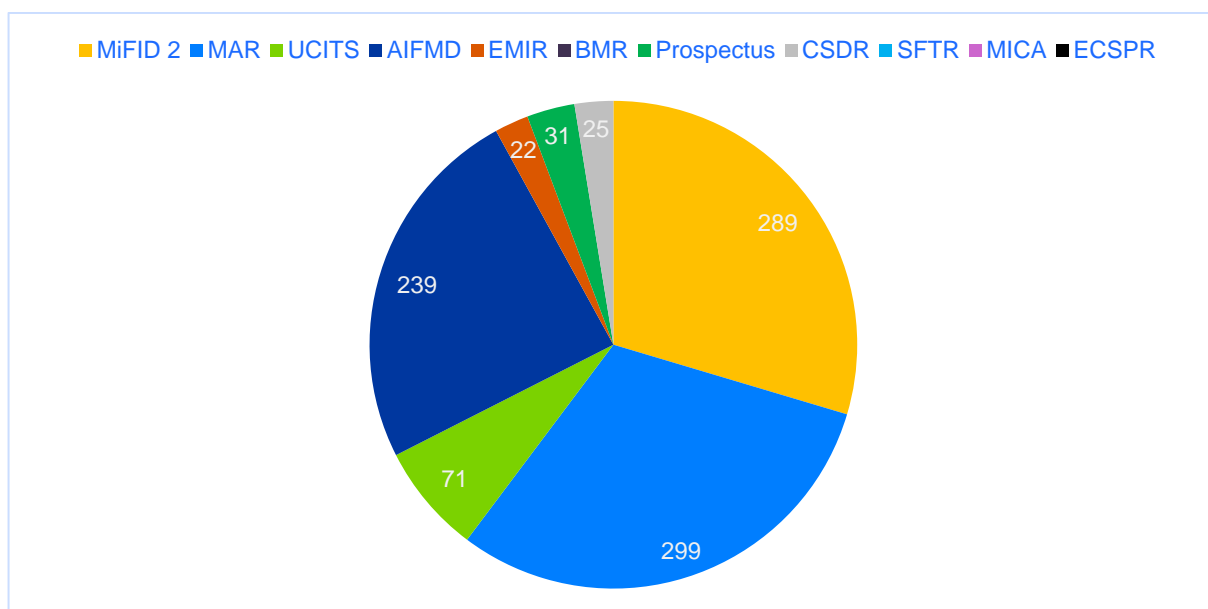


Fig. 2 TOTAL NUMBER OF SANCTIONS AND MEASURES ISSUED FOR EACH SECTORAL ACT (2023)

Source: ESMA Staff calculations based on reporting by NCAs

14. The highest aggregate amounts of administrative fines for 2023 were imposed under MAR (EUR 45,946,421) and MiFID II (EUR 18,258,028), with MAR administrative fines amounting to more than double those for MiFID II. The highest amounts (EUR 27,300,000) were issued for violation of Article 15 MAR by France (two pecuniary sanctions).
15. Regarding the number of administrative measures and sanctions, MAR (299) and MiFID II (289) figures are also the highest, however they are much closer together. In total, 976 administrative sanctions and measures were imposed in Member States in 2023²⁶.

²⁶ In comparison, in 2023, the U.S. Securities and Exchange Commission filed a total of 784 enforcement actions (<https://www.sec.gov/news/press-release/2023-234>) and the Commodity Futures Trading Commission filed 96 enforcement actions (<https://www.cftc.gov/PressRoom/PressReleases/8822-23>). During 2023, the Financial Conduct Authority in the U.K. issued a total of 12 administrative fines (<https://www.fca.org.uk/news/news-stories/2023-fines>).

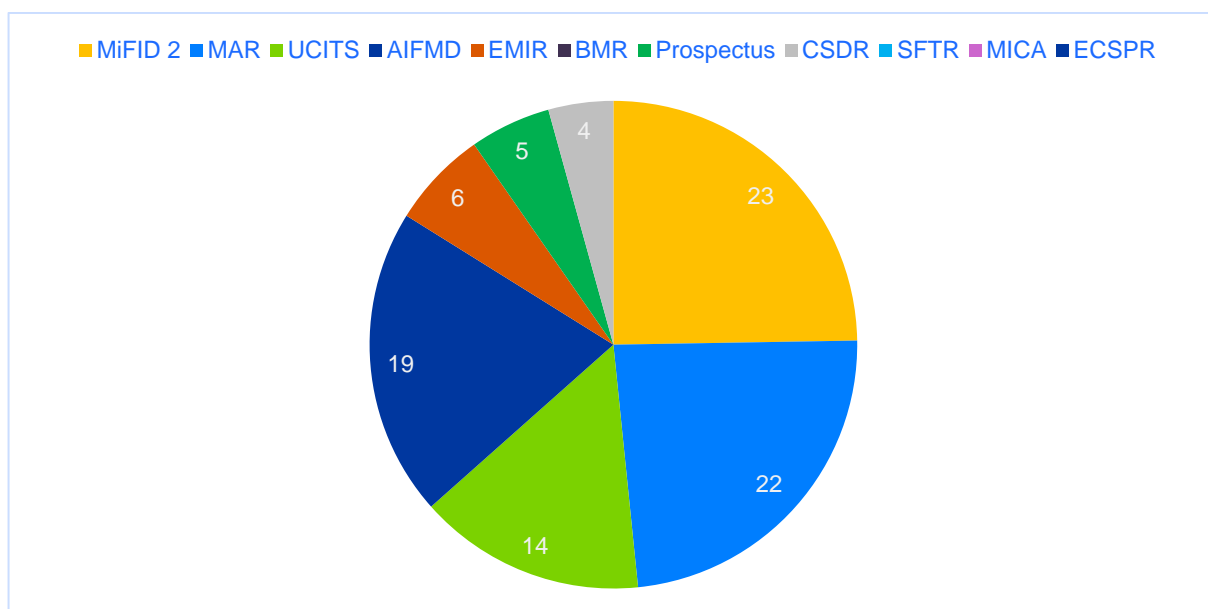


Fig. 3 NUMBER OF MEMBER STATES IMPOSING SANCTIONS AND MEASURES IN 2023 FOR EACH SECTORAL ACT

Source: ESMA Staff calculations based on reporting by NCAs

16. Moreover, in 2023, NCAs were most active in relation to MiFID, MAR and AIFMD, where 23, 22, and 19 different NCAs reported administrative measures and sanctions imposed in their respective Member States. No NCAs imposed administrative sanctions and measures under BMR, ECSPR²⁷, MiCA and SFTR in 2023.

²⁷ Pursuant to the extension of the transitional period set out in the Commission Delegated Regulation (EU) 2022/1988 of 12 July 2022 extending the transitional period for continuing to provide crowdfunding services in accordance with national law as referred to in Article 48(1) of Regulation (EU) 2020/1503, the provision of crowdfunding services under applicable National law was possible until 10 November 2023.

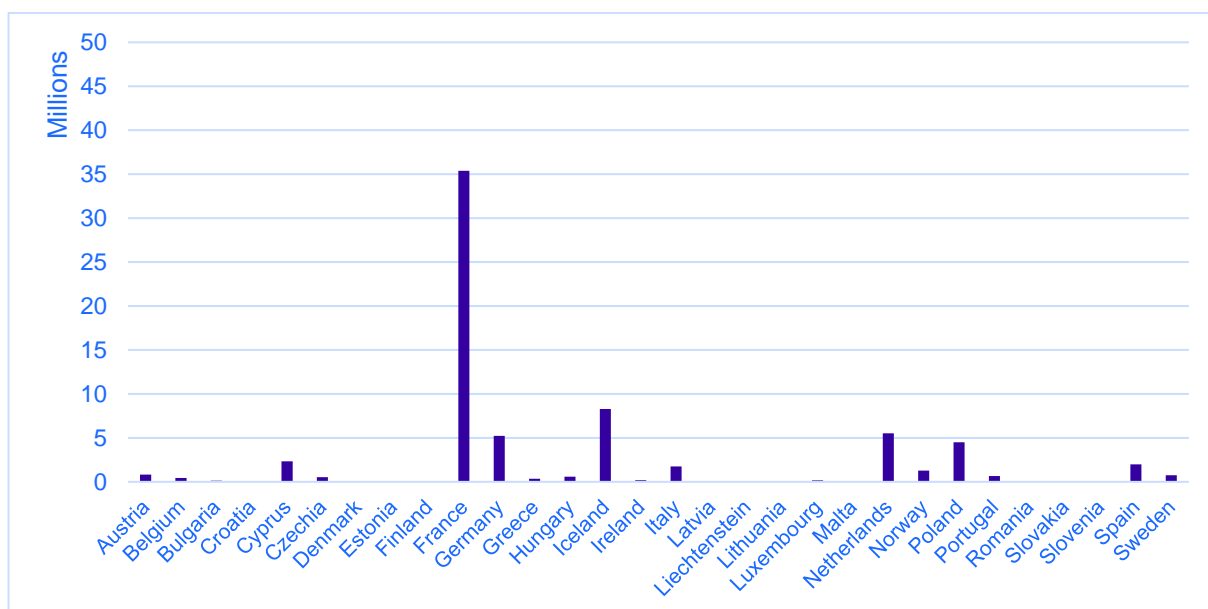


Fig. 4 TOTAL AMOUNT OF ADMINISTRATIVE FINES ISSUED BY EACH MEMBER STATE IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

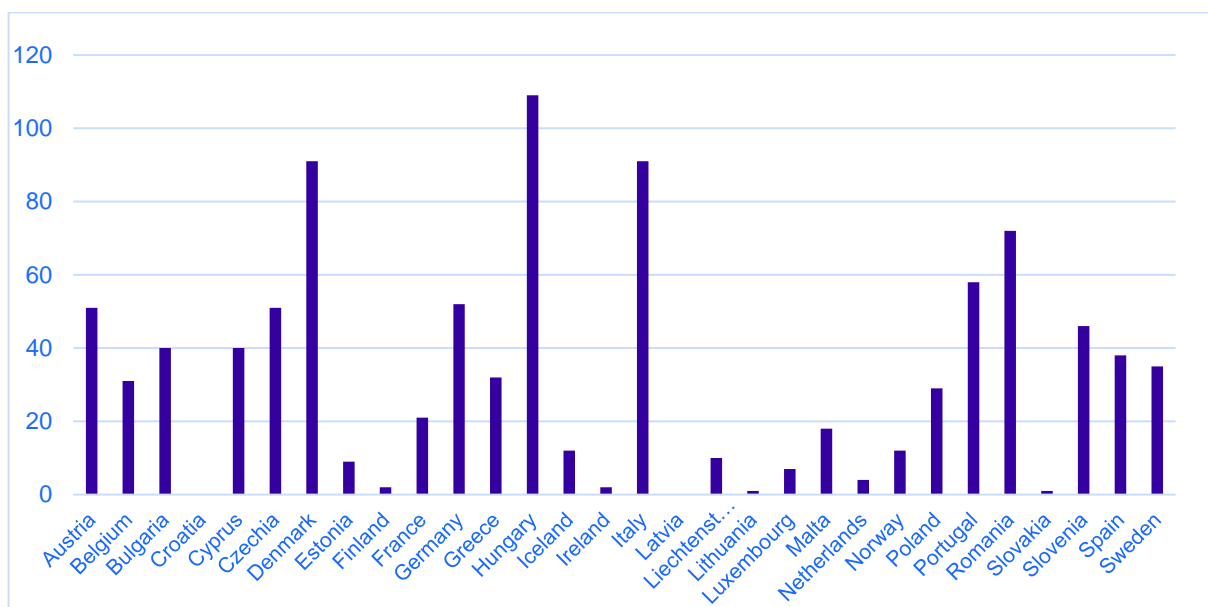


Fig. 5 TOTAL NUMBER OF MEASURES AND SANCTIONS ISSUED BY EACH MEMBER STATE IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

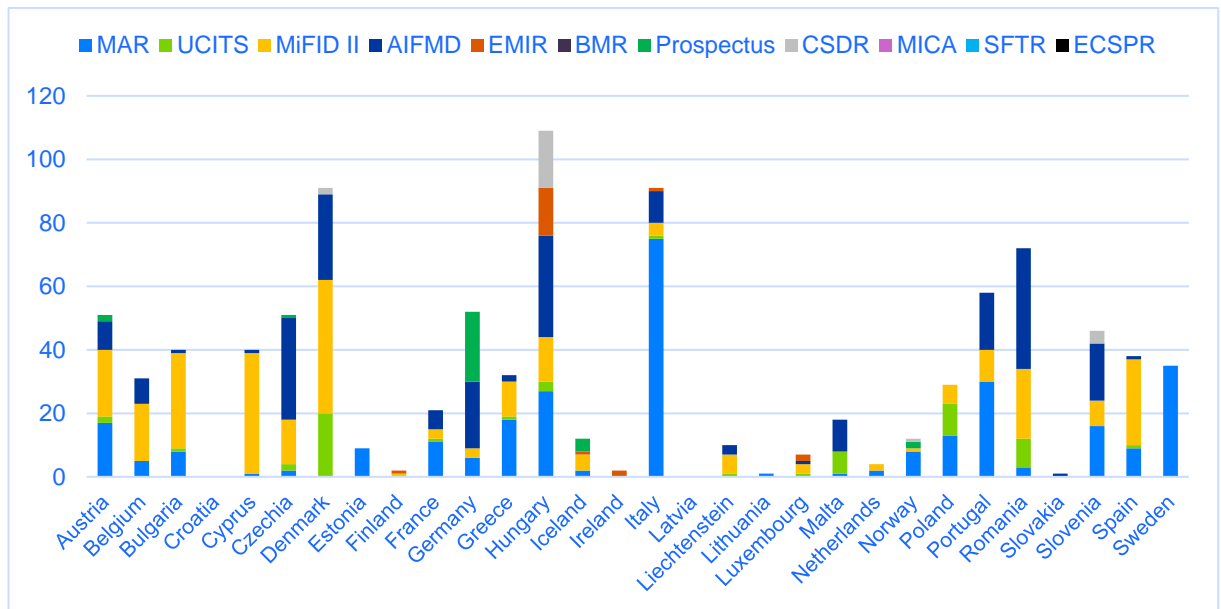


Fig. 6 TOTAL NUMBER OF MEASURES AND SANCTIONS ISSUED BY EACH MEMBER STATE IN 2023, BY SECTORIAL ACT

Source: ESMA Staff calculations based on reporting by NCAs

17. The highest aggregate amounts of administrative fines for 2023 were imposed by France (EUR 35,380,000), whereas Hungary imposed the highest number of sanctions and measures in 2023 (109), followed by Italy (91) and Denmark (91).
18. With regard to the texts under which no administrative measures and sanctions were imposed in 2023, the lag between adoption of a text and establishment of a supervisory and enforcement practice might provide an explanation. Usually when a new text is adopted, it takes several years before administrative sanctions and measures are issued under those texts. This is particularly evident for BMR and ECSPR, applicable from 2018 and 2021 respectively. In addition, MiCA only became applicable very recently. Similarly, while SFTR entered into force in January 2016, the reporting obligations imposed on counterparties were only phased in between 2020 and 2021.
19. To be noted that 2023 was the first year in which administrative sanctions and measures under CSDR were imposed.

3.2 Trends regarding administrative sanctions and measures

20. Based on the data available to ESMA²⁸, from 2013 to 2023, the highest total amounts of administrative fines were imposed under MAR, UCITS and AIFMD. Under MAR, EUR 212,167,889 were imposed, while under UCITS, EUR 189,014,547 and under AIFMD, EUR 103,500,425 were imposed²⁹.

²⁸ In particular, it should be noted that for certain years, the report on administrative and criminal sanctions imposed under the Market Abuse Regulation (MAR) and the report on supervisory measures and penalties under EMIR were deprioritised and hence no data is available for MAR for 2022 and for EMIR for 2021 and 2022. Please see: [ESMA22-439-1185 ESMA Letter from Chair on prioritisation 2023 \(europa.eu\)](#).

²⁹ This is the data available and reported to ESMA since 2013; however, it should be noted that only AIFMD data go back to 2013.

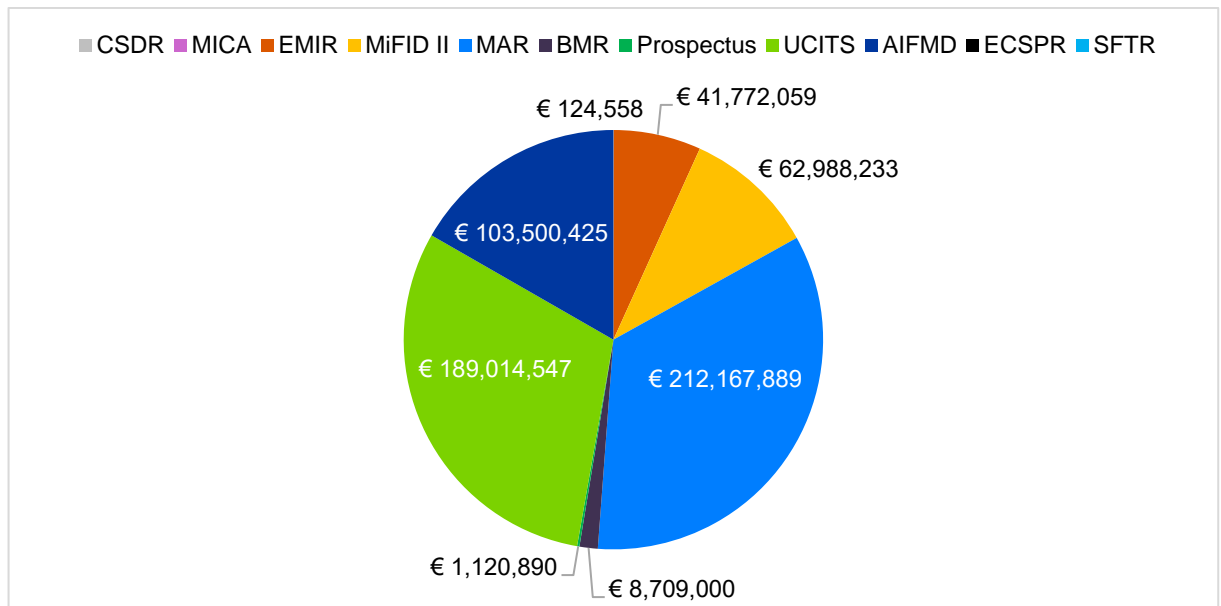


Fig. 7 TOTAL AMOUNT OF ADMINISTRATIVE FINES IMPOSED BETWEEN 2013 AND 2023 (IN EUR), FOR EACH SECTORAL ACT³⁰

Source: ESMA Staff calculations based on reporting by NCAs

³⁰ This Report does not include data on sanctions and measures issued by NCAs in accordance with the MiFID I Directive which may have been significant in a rather limited number of cases. It also does not cover sanctions under Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (MAD). Furthermore, no data is available for MAR for 2022 and for EMIR for 2021 and 2022. Additionally, this Report does not include data on sanctions and measures imposed by NCAs pursuant to their national frameworks that supplement the European regulatory framework. Such data is not reported to ESMA.

21. Based on the data reported to ESMA, and within the scope of this Report, looking at the past five years, after a peak in 2021, the total amounts of administrative fines have stabilised at a lower level despite some outliers (see for example a very high amount of administrative fines issued under MAR in 2019³¹ and a very high amount of administrative fines issued under UCITS in 2022³²).
22. While it appears that some of the highest amounts of administrative fines and generally a high number of administrative measures and sanctions were issued under AIFMD and UCITS, the sanction reports published in this respect³³ so far keep evidencing that the sanctioning powers are not equally used among NCAs and, besides a limited number of NCAs, the number and amount of sanctions issued at national level remain relatively low.

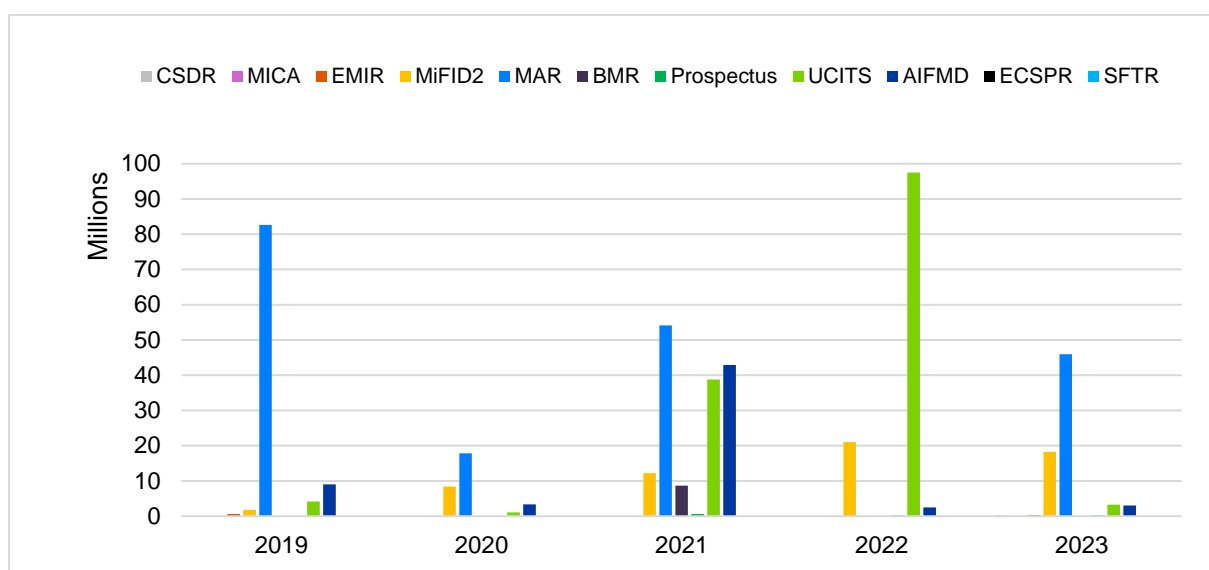


Fig. 8 TOTAL AMOUNT OF ADMINISTRATIVE FINES IMPOSED BETWEEN 2019 AND 2023 (IN EUR), FOR EACH SECTORAL ACT³⁴

Source: ESMA Staff calculations based on reporting by NCAs

³¹ See Section 4.5 of this Report.

³² See Section 4.8 of this Report.

³³ Please see the [2023 AIFMD Sanctions Report](#) and the [2023 UCITS Sanctions Report](#).

³⁴ No data is available for MAR for 2022 and for EMIR for 2021 and 2022.

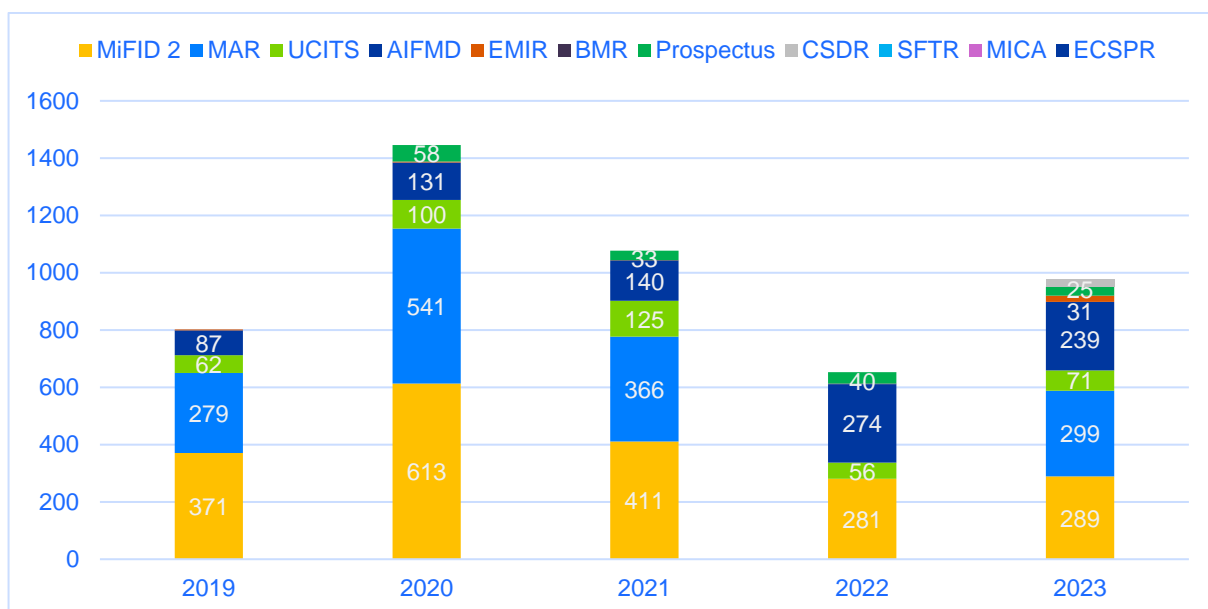


Fig. 9 EVOLUTION BETWEEN 2019 AND 2023 OF THE NUMBER OF ADMINISTRATIVE SANCTIONS AND MEASURES, FOR ALL SECTORAL ACTS³⁵

Source: ESMA Staff calculations based on reporting by NCAs

³⁵ No data is available for MAR for 2022 and for EMIR for 2021 and 2022.

23. The number of administrative measures and sanctions have stabilised over the last five years³⁶. Moreover, over the past five years, a relatively stable number of NCAs have issued administrative sanctions and measures.

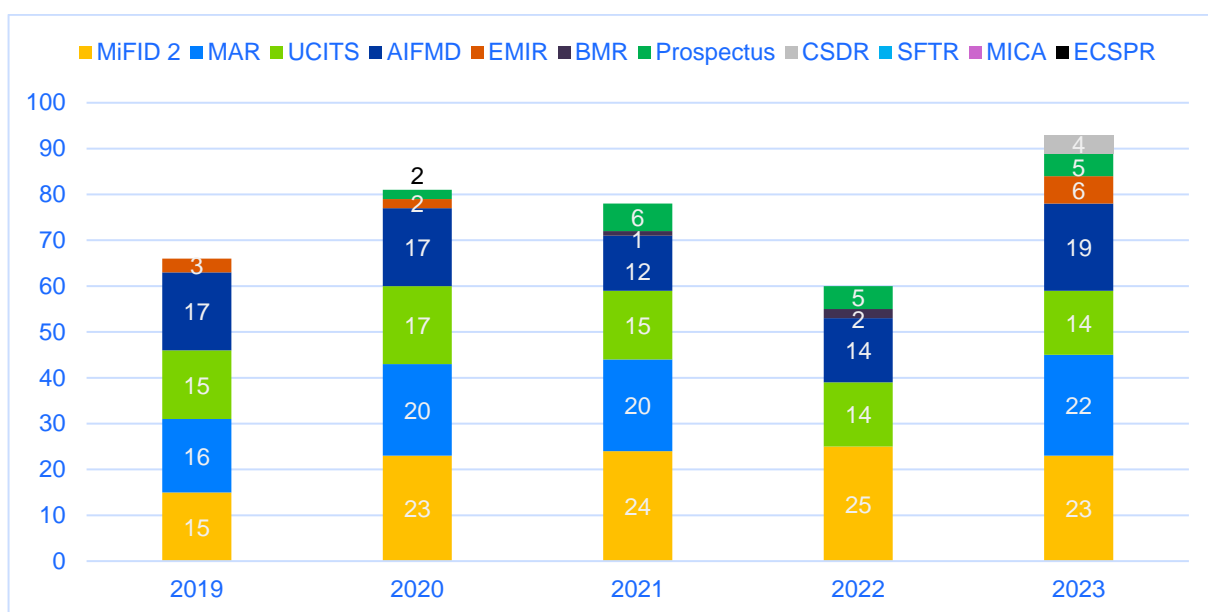


Fig. 10 NUMBER OF MEMBER STATES IMPOSING SANCTIONS AND MEASURES FROM 2019 TO 2023, FOR ALL SECTORAL ACTS³⁷

Source: ESMA Staff calculations based on reporting by NCAs

³⁶ No data available for MAR for 2022 and for EMIR for 2021 and 2022.

³⁷ No data is available for MAR for 2022 and for EMIR for 2021 and 2022.

24. Since 2013, all NCAs have issued at least a few administrative sanctions and measures within the scope of this Report. 2023 is also the year with the highest number of NCAs issuing sanctions within the remit of this Report so far (94 across all legal texts).

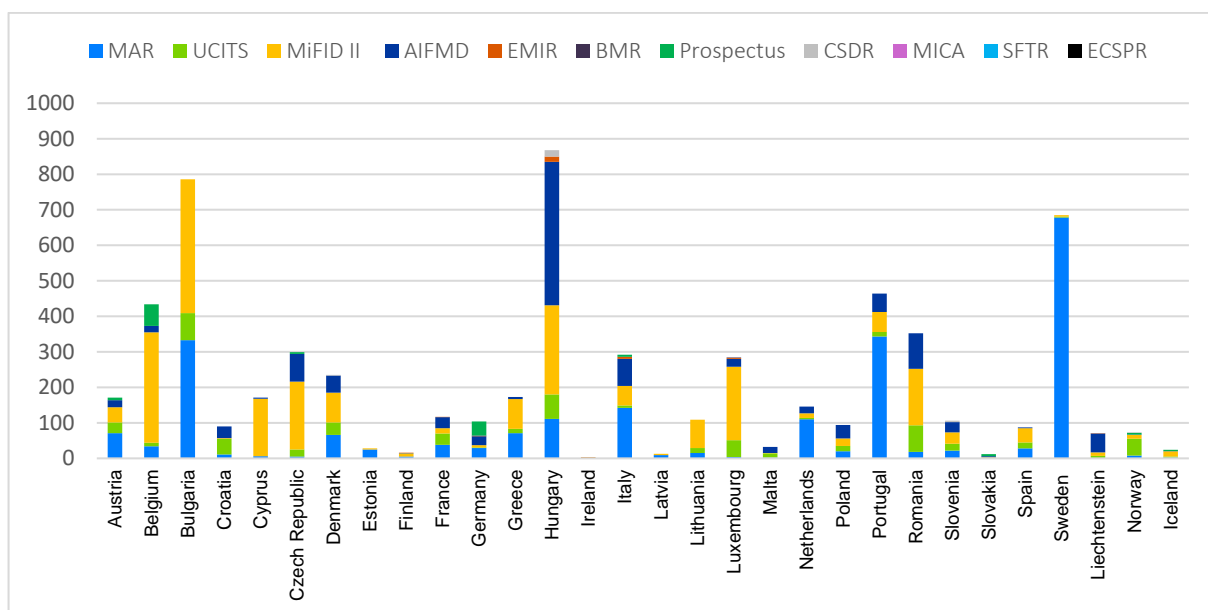


Fig. 11 BREAKDOWN OF THE NUMBER OF SANCTIONS ISSUED BY EACH MEMBER STATE BETWEEN 2013 AND 2023, FOR ALL SECTORAL ACTS

Source: ESMA Staff calculations based on reporting by NCAs

25. While there are differences in the number of administrative sanctions and measures imposed across Member States, with some Member States reporting a relatively low number, the fact that administrative sanctions and measures are issued in all Member States indicates at least a minimal level of convergence across Europe as the legislative bases for administrative sanctions and measures are all integrated in the national supervision.

26. As set out above, the lag in the set-up of a supervisory practice and the size of the industry can also impact the number of administrative sanctions and measures imposed.

4 ANNEX

4.1 AIFMD

27. To date, four reports pursuant to Article 48(3) of AIFMD³⁸ were published by ESMA³⁹. The data in these reports covers administrative sanctions and measures applicable to all infringements under AIFMD. AIFMD has been in force since 2013 and sanctions have been issued every year since.

28. In the period between 2013 and 2023, a total of 1,190 administrative sanctions and measures were imposed, with a total amount of administrative fines of EUR 103,500,425. During this period, the highest total aggregate amount of administrative fines under AIFMD was issued by France in 2021, amounting to EUR 38,070,000.

³⁸ Directive 2011/61/EU on Alternative Investment Fund Managers.

³⁹ Previous AIFMD reports published by ESMA are available at the following links:

Administrative sanctions and measures report imposed in 2018 – 2019 under AIFMD:

[esma34-32-548_2018-2019_aifmd_sanctions_report.pdf \(europa.eu\)](#)

Administrative sanctions and measures report imposed in 2020 under AIFMD:

[esma34-32-865_2020_aifmd_sanctions_report.pdf \(europa.eu\)](#)

Administrative sanctions and measures report imposed in 2021 under AIFMD:

[esma34-463-941_2021_aifmd_sanctions_report.pdf \(europa.eu\)](#)

Administrative sanctions and measures report imposed in 2022 under AIFMD:

[ESMA34-1985693317-1074 Report on penalties and measures imposed under the AIFMD in 2022 \(europa.eu\)](#).

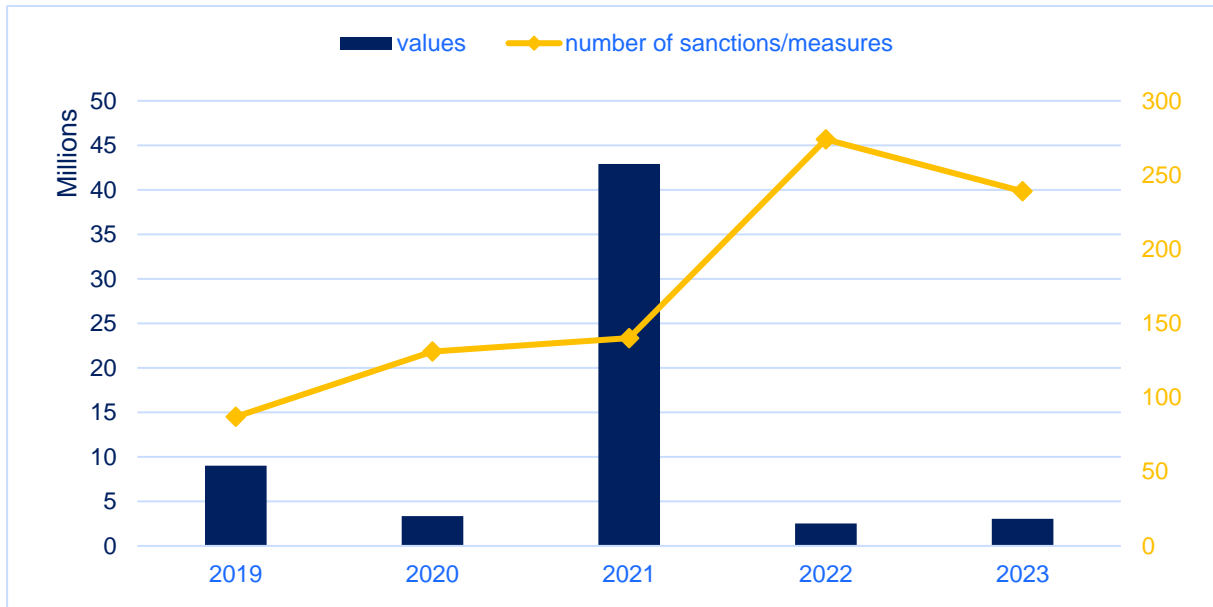


Fig. 12 EVOLUTION OF THE NUMBER OF ADMINISTRATIVE SANCTIONS/MEASURES AND VALUE OF THE ADMINISTRATIVE FINES ISSUED UNDER AIFMD BETWEEN 2019 AND 2023

Source: ESMA Staff calculations based on reporting by NCAs

29. In 2023, 239 sanctions and measures were issued under AIFMD in 19 Member States. The total aggregate value of the administrative fines imposed was EUR 3,048,585. This represents a decrease in the number of administrative measures and sanctions, compared to the year 2022, where 274 administrative measures and sanctions were imposed.

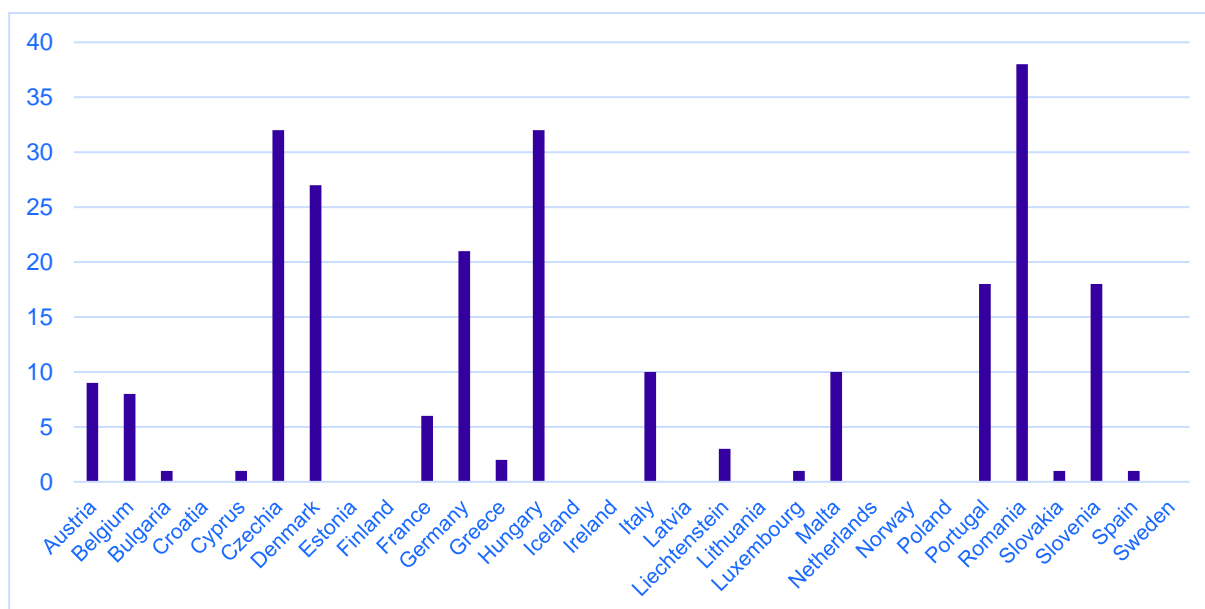


FIG. 13 TOTAL NUMBER OF ADMINISTRATIVE SANCTIONS/MEASURES IMPOSED BY MEMBER STATES UNDER AIFMD IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

30. At the same time, in 2023 there was an increase in the aggregate value of administrative fines imposed in Member States, compared to the total aggregate amount of financial penalties issued in 2022 of ~EUR 2,514,157. Compared to the peak in 2021⁴⁰, however, the value of AIFMD administrative fines has significantly declined.

⁴⁰ The total aggregated value of financial penalties imposed in 2021 under AIFMD amounted to EUR 42,902,420, including the highest aggregated sanction of EUR 38,070,000 imposed by France. For further information on the administrative sanctions and measures imposed in 2021, please refer to the 2021 AIFMD Sanctions Report https://www.esma.europa.eu/sites/default/files/library/esma34-463-941_2021_aifmd_sanctions_report.pdf.

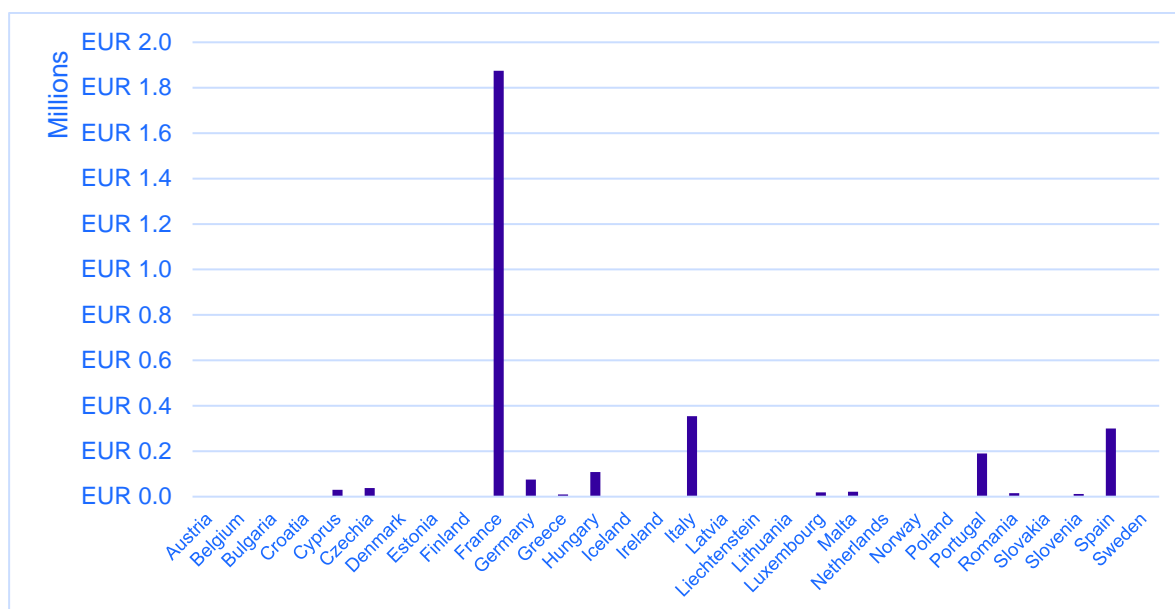


Fig. 14 TOTAL AMOUNT OF ADMINISTRATIVE FINES IMPOSED BY MEMBER STATES UNDER AIFMD IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

31. Since 2013, Estonia, Iceland, Ireland, Latvia, Lithuania and Sweden have imposed no sanctions under AIFMD. Some (but not all) of these Member States have a comparatively small market for alternative investment funds, when measured by net asset value.
32. In order to put the data gathered into context⁴¹, the below chart provides a combined representation of the proportion of the net assets of the EU AIF industry per Member State in 2022 and the proportion of the total amount of financial penalties issued under AIFMD in 2023 per Member State.

⁴¹ For more details, please see ESMA statistics on market securities:
[ESMA50-164-3688 ESMA statistics on securities and markets \(europa.eu\)](https://www.esma.europa.eu/press-room/164-3688-esma-statistics-on-securities-and-markets)



FIG. 15 COMPARISON BETWEEN THE NET AIF ASSETS IN 2022 AND THE AMOUNT OF FINANCIAL PENALTIES ISSUED UNDER AIFMD IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

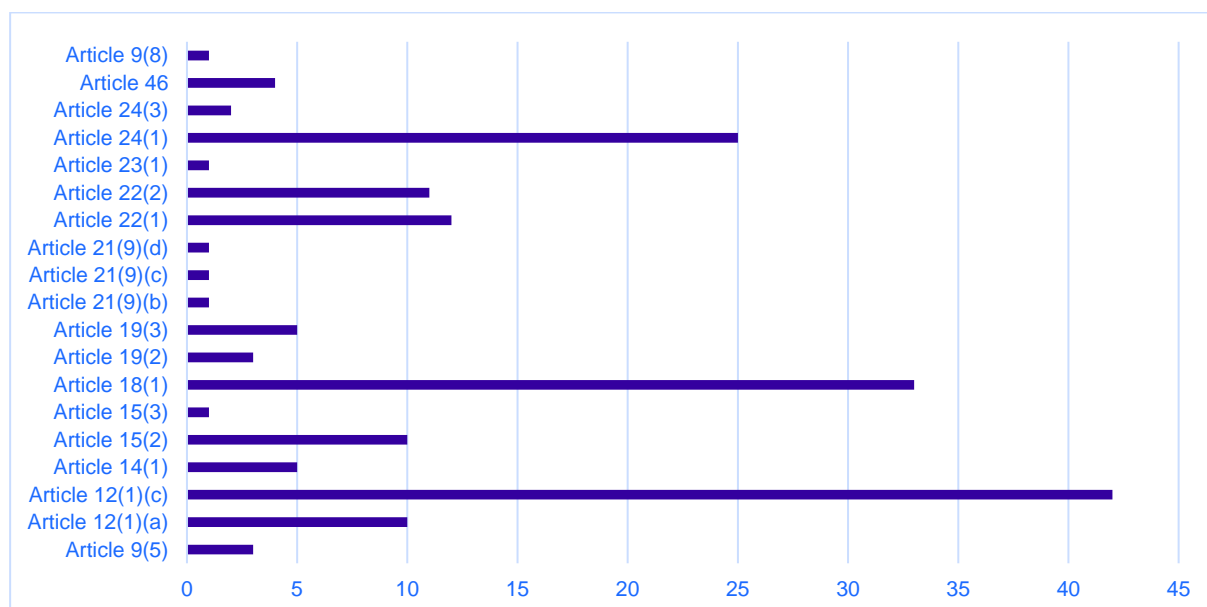


FIG. 16 ARTICLES WHERE THE LARGEST NUMBERS OF ADMINISTRATIVE SANCTIONS AND MEASURES WERE IMPOSED UNDER AIFMD IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

33. In 2023, France issued the highest aggregated administrative fines under AIFMD amounting to EUR 1,875,000. During the said reporting period, France issued an aggregated penalty of EUR 1,100,000 under article 12(1)(a) of AIFMD, concerning alternative investment funds managers' obligation to act honestly, with due skill, care and diligence and fairly in conducting their activities. France has one of the biggest markets for alternative investment funds when measured by net asset value.⁴²
34. In 2023, the highest number of administrative measures and sanctions (42) were issued under article 12(1)(c) of AIFMD, on the effective employment of the resources and procedures that are necessary for the proper performance of business activities.
35. To conclude, as seen in previous years, the data gathered keeps evidencing that the sanctioning powers are not equally used among NCAs and, besides a limited number of NCAs, the number and amount of sanctions issued under AIFMD at the national level remain relatively low.

⁴² For more details, please see ESMA statistics on market securities:
[ESMA50-164-3688 ESMA statistics on securities and markets \(europa.eu\)](#)

4.2 BMR

36. To date, two reports pursuant to Article 45 of BMR⁴³ were published by ESMA, in 2022 and 2023⁴⁴, respectively. BMR entered into force on 30 June 2016 and most of the provisions applied as of January 2018, so there is limited scope for an observation of clear trends in the imposition of sanctions and measures. For EU benchmark administrators there was also a transitional period until 1 January 2020 while for EU critical benchmark administrators this transitional period was extended to 31 December 2021. Furthermore, for third country benchmarks administrators, the transitional period has been extended until 31 December 2025⁴⁵.
37. In the period between 2021 and 2022, a total of EUR 8,709,000 administrative fines were imposed. In 2021⁴⁶, Germany issued two administrative sanctions and measures for a total aggregate amount of EUR 8,663,200⁴⁷. In 2022, Germany issued one measure which was not published as the competent authority regarded a publication as disproportionate (Article 45(2) BMR)⁴⁸. Additionally, in 2022, Luxembourg issued one sanction and measure amounting to EUR 45,800⁴⁹. Finally, no criminal sanctions were imposed in the period 2021 and 2022.
38. In 2023, no sanctions and measures under BMR were imposed in Member States. As in 2021 and 2022, no criminal sanctions were imposed in 2023.
39. Finally, since taking up supervisory tasks in January 2022, ESMA as the supervisor of administrators of EU critical benchmarks and of third-country administrators recognised in the EU has not yet imposed any sanctions on these entities.

⁴³ Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds.

⁴⁴ Previous BMR reports published by ESMA are available at the following links:

Report on administrative sanctions and measures and criminal sanctions imposed under the Benchmarks Regulation in 2021: https://www.esma.europa.eu/sites/default/files/library/esma81-393-570_bmr_sanction_report_2021.pdf

Report on administrative sanctions and measures and criminal sanctions imposed under the Benchmarks Regulation in 2022: [ESMA81-168987738-671 Report on administrative sanctions and measures and criminal sanctions imposed under the Benchmarks Regulation in 2022 \(europa.eu\)](https://www.esma.europa.eu/sites/default/files/library/esma81-393-570_bmr_sanction_report_2021.pdf)

⁴⁵ [Commission Delegated Regulation \(EU\) 2023/2222 of 14 July 2023 extending the transitional period laid down for third-country benchmarks in Article 51\(5\) of Regulation \(EU\) 2016/1011 of the European Parliament and the Council](#)

⁴⁶ https://www.esma.europa.eu/sites/default/files/library/esma81-393-570_bmr_sanction_report_2021.pdf

⁴⁷ For more details please see: [BaFin - Measures & sanctions - Deutsche Bank AG: BaFin imposes administrative fine](#)

⁴⁸ No administrative fine was issued.

⁴⁹ For more details see the following publication:

[S 56 GFI FundRock Management Company S.A. 2022.11.30 en.pdf \(cssf.lu\)](#)

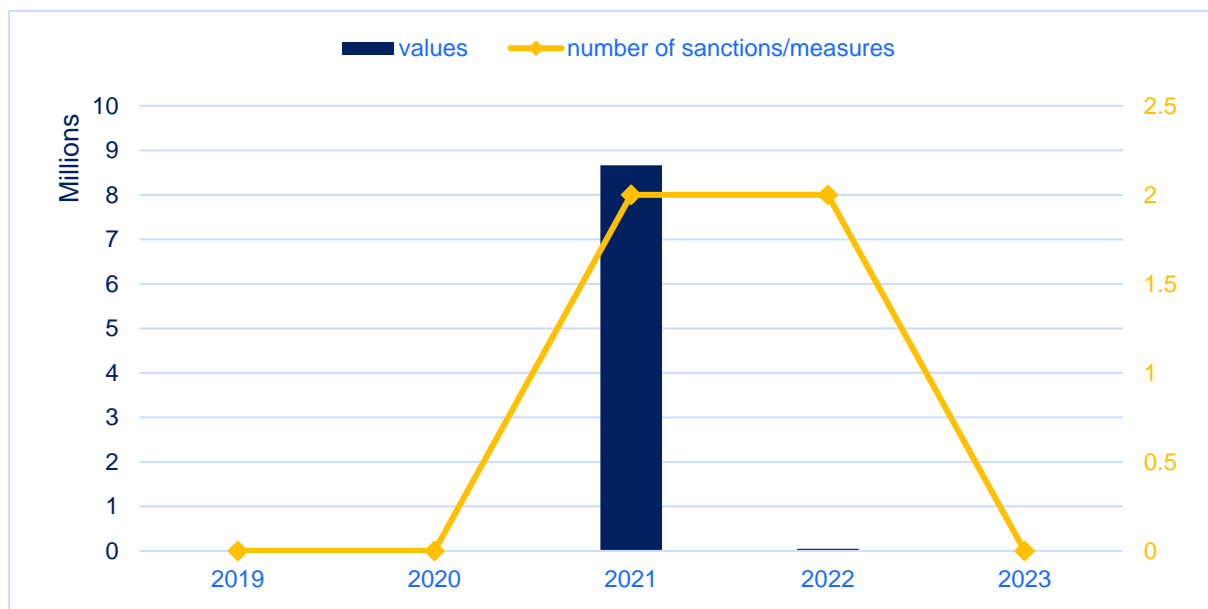


Fig. 17 EVOLUTION OF THE NUMBER OF ADMINISTRATIVE SANCTIONS/MEASURES AND VALUE OF THE ADMINISTRATIVE FINES IMPOSED BETWEEN 2019 AND 2023

Source: ESMA Staff calculations based on reporting by NCAs

4.3 CSDR

40. To date, ESMA has not issued a report pursuant to Article 61 of CSDR⁵⁰.

41. In 2023, 25 administrative sanctions and measures were imposed under CSDR in four Member States (Hungary, Norway, Slovenia and Denmark). During this period, the total aggregate amount of administrative fines imposed was of EUR 124,558. During 2023 the highest administrative fine was imposed in Norway and amounted to EUR 88,968⁵¹.

42. No criminal sanctions were imposed in the reporting period.

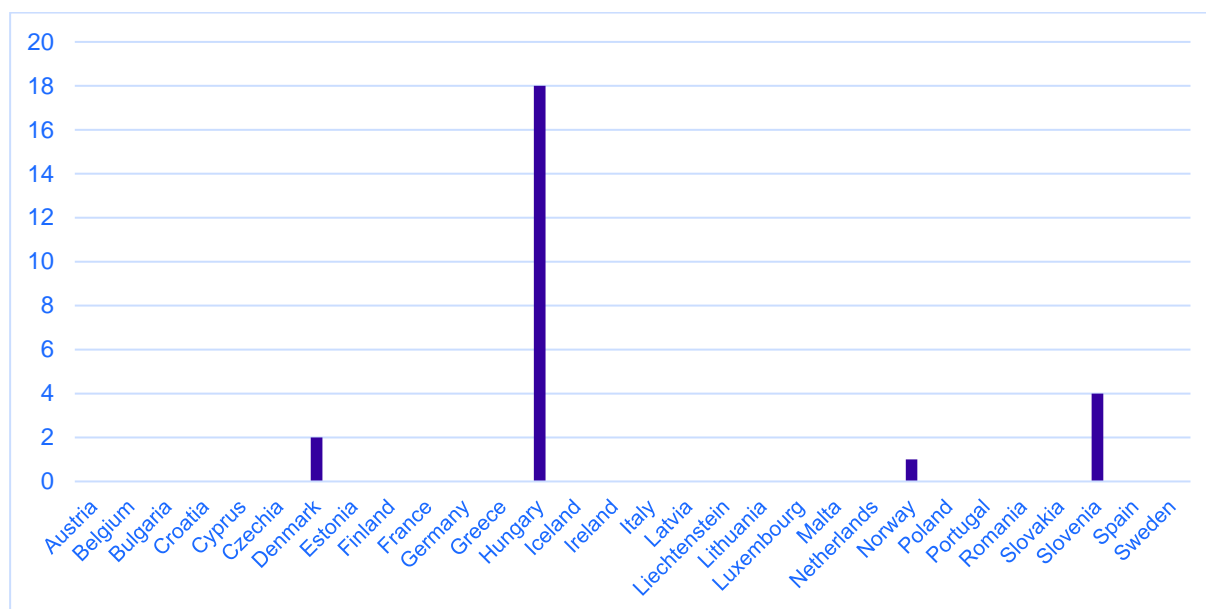


FIG. 18 TOTAL NUMBER OF ADMINISTRATIVE SANCTIONS AND MEASURES IMPOSED BY MEMBER STATES UNDER CSDR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

⁵⁰ Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories.

⁵¹ The fine is subject to an appeal before national courts.

43. In 2023, the highest number (18) of administrative sanctions and measures under CSDR were imposed in Hungary. Four further administrative sanctions and measures were imposed in Slovenia. Denmark imposed two measures under the CSDR during 2023.

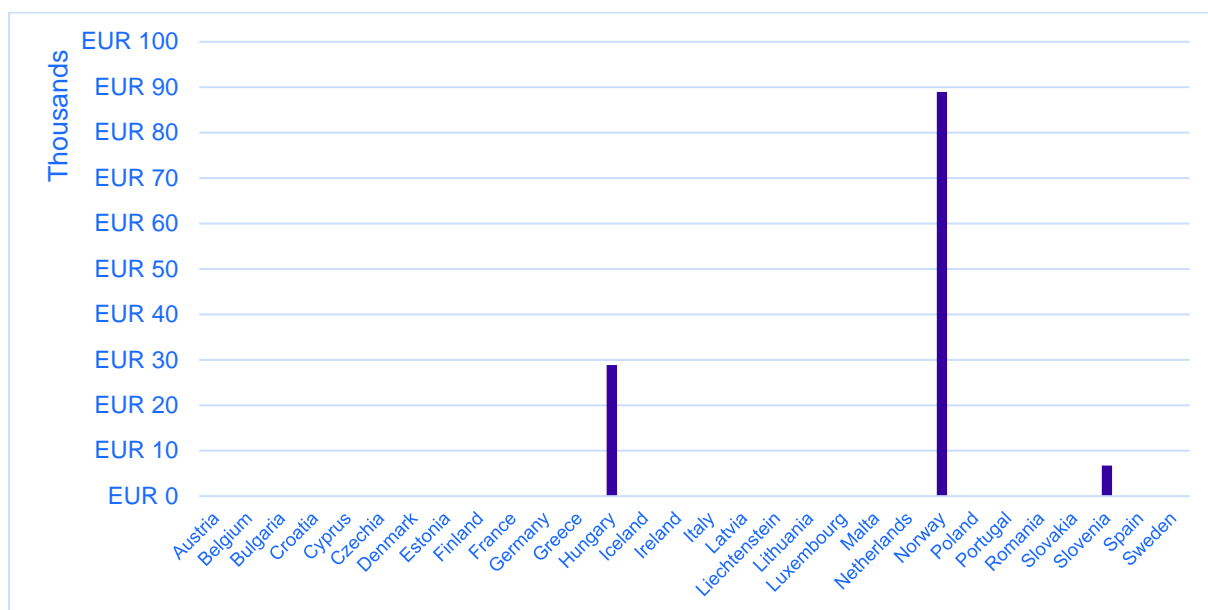


Fig. 19 TOTAL AGGREGATE AMOUNT OF ADMINISTRATIVE FINES IMPOSED BY MEMBER STATES UNDER CSDR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

44. As this is the first time when sanctions and measures were reported under CSDR, there is limited scope for further observations.

4.4 EMIR

45. To date, three reports pursuant to Article 85(5) of EMIR⁵² were published by ESMA: in 2018, 2019 and 2021⁵³.
46. From 2017 till 2020, a total of 9 administrative sanctions and measures were reported, amounting to a total aggregate value of EUR 41,772,059.
47. In 2023, 22 administrative sanctions and measures were issued under EMIR in six Member States (Finland, Hungary, Iceland, Ireland, Italy, Luxembourg). This is a significant increase compared to previous years (2017-2020). It is interesting to note this increase since ESMA had identified market data quality as a Union Strategic Supervisory Priority for the years 2020 to 2023.
48. The aggregate amount of administrative fines imposed under EMIR in 2023 were of an aggregated value of EUR 368,991. In 2023, Ireland issued the highest administrative fine under EMIR amounting to EUR 192,500⁵⁴. No periodic penalty payments were issued in the reporting period.
49. During this period, Hungary issued the highest number of administrative sanctions and measures (15).
50. Seven sanctions were imposed under Article 9 of EMIR regarding reporting obligations and three sanctions were imposed under Article 11 of EMIR regarding risk-mitigation for OTC derivative contracts not cleared by a CCP.
51. In 2023, Hungary was the only Member State to issue a sanction against a CCP. The CCP was fined an aggregated amount of approximately EUR 20,576⁵⁵ for breaches under Articles 16(2), 34, 37(1), 44(1) and 49(1) of EMIR.

⁵² Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories.

⁵³ Previous EMIR reports published by ESMA are available at the following links:

Supervisory Measures and Penalties under Articles 4, 9, 10 and 11 of EMIR imposed up to December 2017:

[esma70-151-1400_report_on_supervisory_measures_and_penalties_emir.pdf \(europa.eu\)](#)

Supervisory Measures and Penalties under Articles 4, 9, 10 and 11 of EMIR imposed in 2018:

[esma70-151-2820_2nd_annual_report_on_supervisory_measures_and_penalties_under_emir.pdf \(europa.eu\)](#)

Supervisory Measures and Penalties under Articles 4, 9, 10 and 11 of EMIR imposed from January 2019 to December 2020:

[esma70-156-4563_3rd_annual_report_on_supervisory_measures_and_penalties.pdf \(europa.eu\)](#)

⁵⁴ For more detail see the following publication:

[Enforcement Action: GlobalReach Multi-Strategy ICAV fined €192,500 and reprimanded by the Central Bank of Ireland for breach of its reporting obligation under EMIR](#)

⁵⁵ HUF 8,000,000.

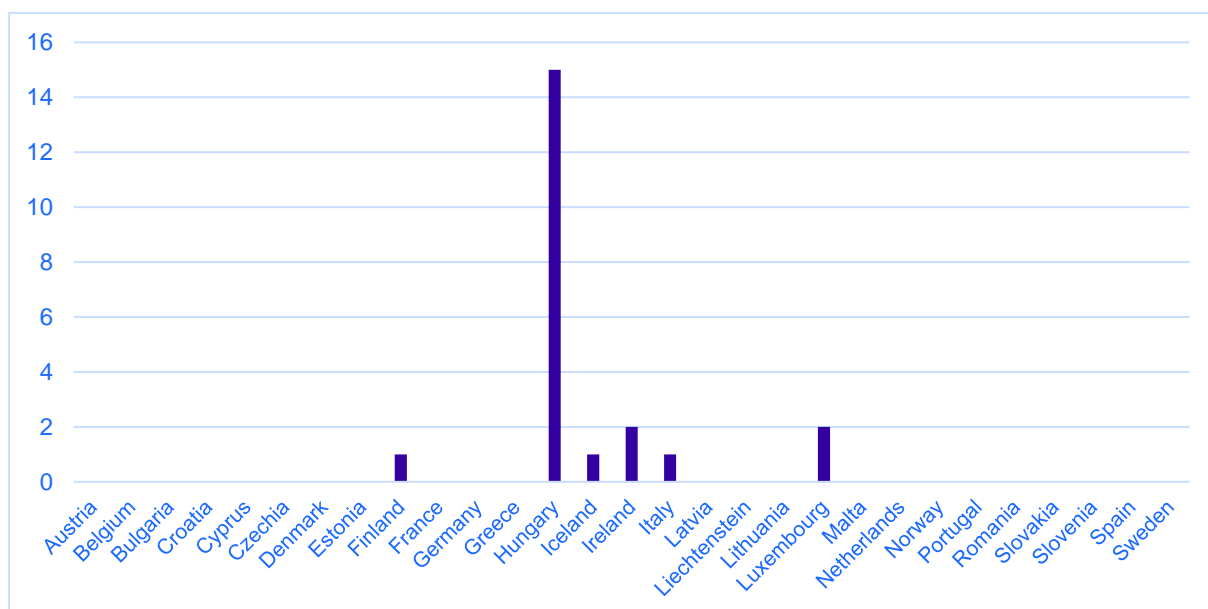


Fig. 20 TOTAL NUMBER OF ADMINISTRATIVE SANCTIONS AND MEASURES IMPOSED BY MEMBER STATES UNDER EMIR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

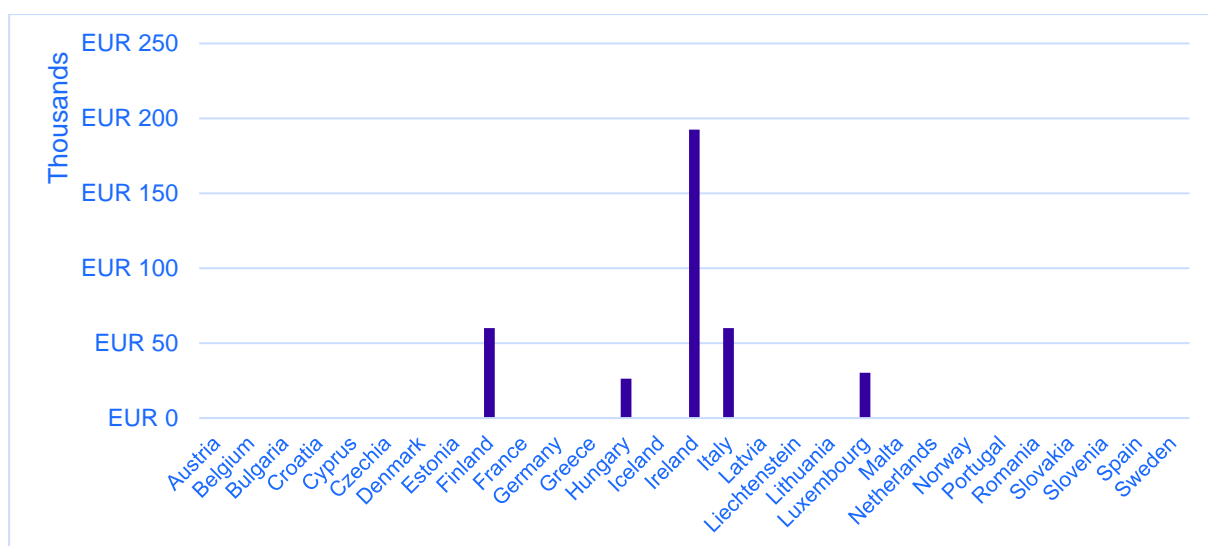


Fig. 21 TOTAL AGGREGATE AMOUNT OF ADMINISTRATIVE FINES IMPOSED BY MEMBER STATES UNDER EMIR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

52. Based on the information available to ESMA⁵⁶, since the beginning of the reporting in 2017 to 2023, a total of 31 administrative sanctions and measures were reported.
53. Finally, in 2023, ESMA as the supervisor of trade repositories registered under EMIR did not impose any sanctions on these entities.

⁵⁶ Please note that the report on supervisory measures and penalties under EMIR were deprioritised and hence no data is available for EMIR for 2021 and 2022. Please see: [ESMA22-439-1185 ESMA Letter from Chair on prioritisation 2023 \(europa.eu\)](#).

4.5 MAR

54. To date, five reports pursuant to Article 33 of MAR were published by ESMA between 2018 and 2022⁵⁷. In this period, a total of EUR 212,167,889 in administrative fines were imposed.

55. For the year 2023, NCAs reported a total of 299 administrative measures and sanctions. This is a decrease compared to the 366 administrative sanctions and measures imposed in 2021⁵⁸. The highest number of administrative measures and sanctions was imposed in Italy (75) followed by Sweden (35).

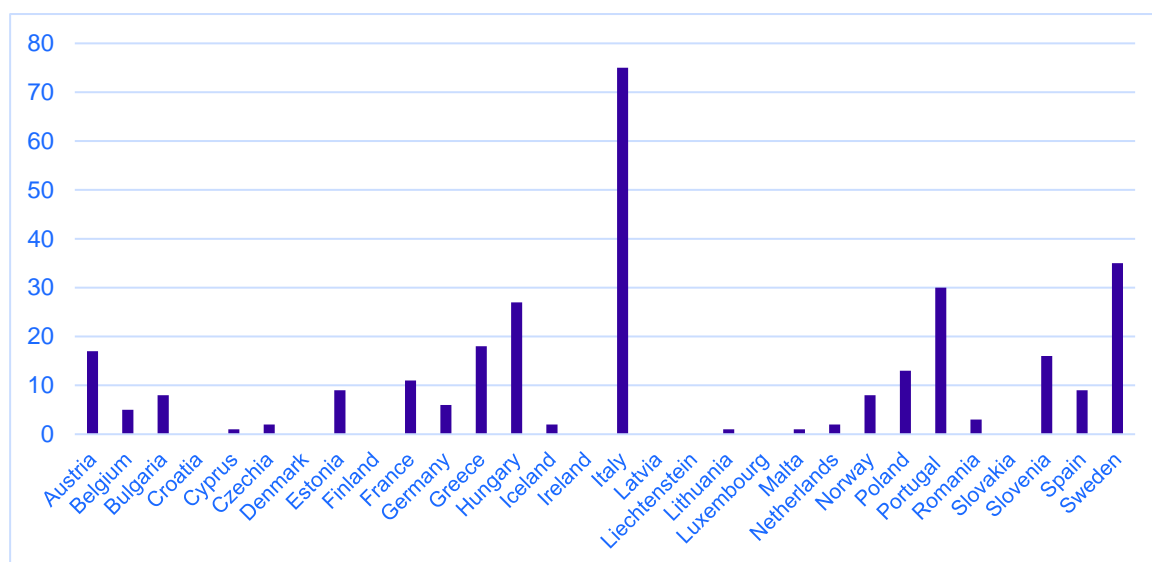


Fig. 22 TOTAL NUMBER OF ADMINISTRATIVE SANCTIONS AND MEASURES IMPOSED BY MEMBER STATES UNDER MAR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

⁵⁷ Previous MAR reports published by ESMA are available at the following links:

Annual report on administrative and criminal sanctions and other administrative measures under MAR imposed in 2017:

[esma70-145-1081_mar_article_33_report_sanctions.pdf \(europa.eu\)](#)

Annual report on administrative and criminal sanctions and other administrative measures under MAR imposed in 2018:

[esma70-156-2005_mar_article_33_report_sanctions.pdf \(europa.eu\)](#)

Administrative and criminal sanctions and other administrative measures imposed under MAR in 2019:

[esma70-156-3537_annual_report_on_mar_administrative_and_criminal_sanctions_2020.pdf \(europa.eu\)](#)

Administrative and criminal sanctions and other administrative measures imposed under Mar in 2020:

[esma70-156-4673_annual_report_on_mar_administrative_and_criminal_sanctions_2021.pdf \(europa.eu\)](#)

Administrative and criminal sanctions and other administrative measures imposed under Mar in 2021:

[ESMA70-449-673 Annual Report on MAR administrative and criminal sanctions 2022 \(europa.eu\)](#)

⁵⁸ No available data for 2022.

56. Regarding the total number of persons concerned by the measures and sanctions in 2023, they were imposed on 129 natural persons and 94 legal persons.

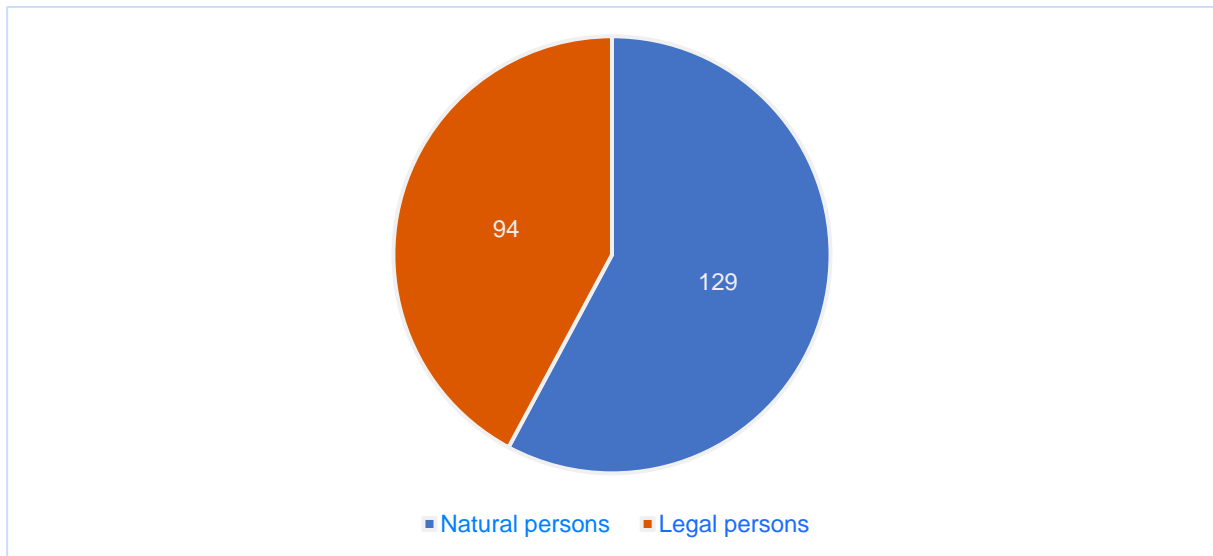


Fig. 23 NUMBER OF MEASURES/SANCTIONS IMPOSED UNDER MAR ON NATURAL AND LEGAL PERSONS, FOR 2023

Source: ESMA Staff calculations based on reporting by NCAs

57. The measures and sanctions were mainly imposed for infringement of Article 14 MAR on prohibition of insider dealing and of unlawful disclosure of inside information, Article 17(1) MAR which requires an issuer to inform the public as soon as possible of inside information which directly concerns that issuer, Article 19(1) MAR requiring persons discharging managerial responsibilities, as well as persons closely associated with them to notify the issuer or the emission allowance market participant and the competent authority (a) in respect of issuers, of every transaction conducted on their own account relating to the shares or debt instruments of that issuer or to derivatives or other financial instruments linked thereto; (b) in respect of emission allowance market participants, of every transaction conducted on their own account relating to emission allowances, to auction products based thereon or to derivatives relating thereto, and Article 15 MAR on prohibition of market manipulation.

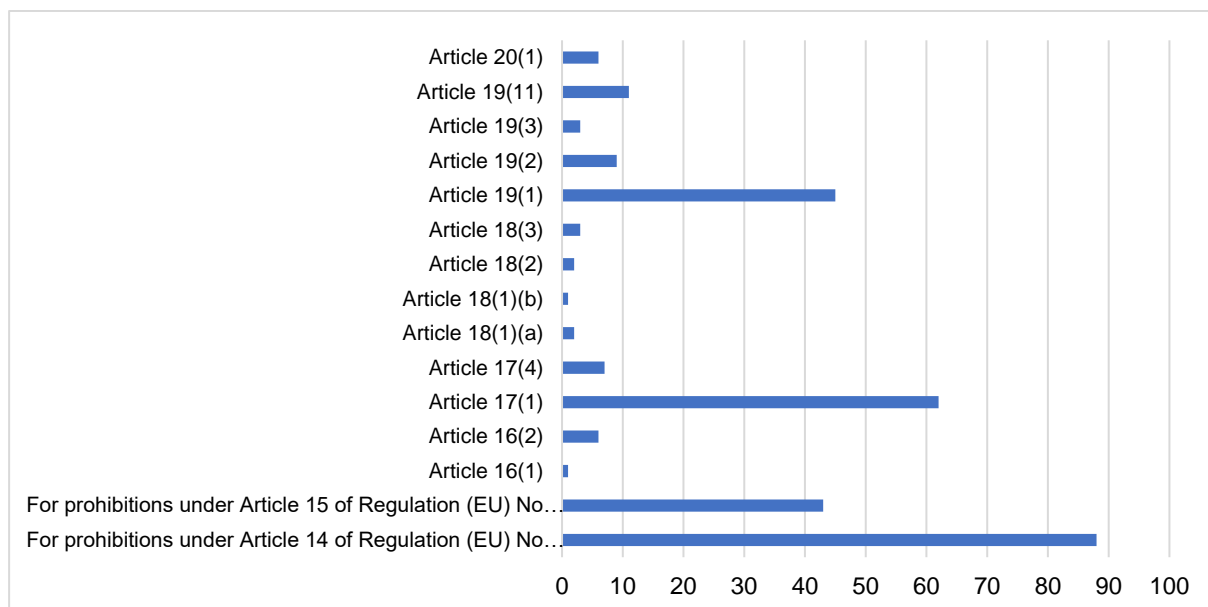


FIG. 24 REPRESENTATION OF ARTICLES WHERE THE LARGEST NUMBER OF ADMINISTRATIVE SANCTIONS AND MEASURES WERE IMPOSED UNDER MAR, 2023

Source: ESMA Staff calculations based on reporting by NCAs

58. The total value of the administrative fines imposed in 2023 amounted to EUR 45,946,420. This is slightly lower than the administrative fines issued in 2021 (EUR 54,273,687) and significantly lower than the peak value of administrative fines issued in 2019 (EUR 82,824,945).

59. The highest administrative aggregate fines were imposed in France (EUR 31,720,000) and smaller amounts were issued in the Netherlands (EUR 5,000,000) and in Germany (EUR 2,152,000).

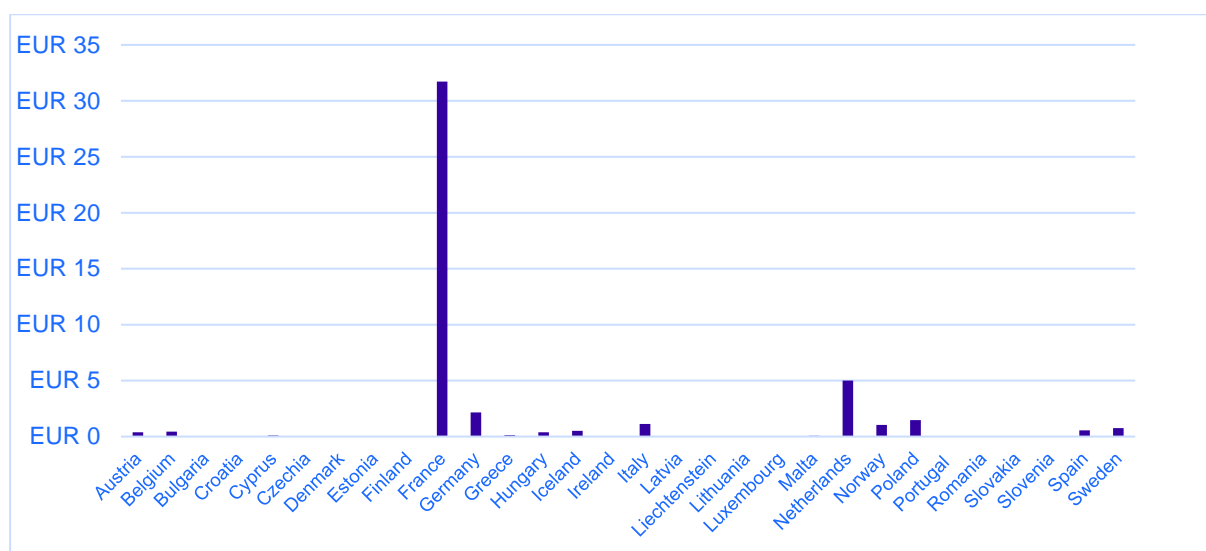


Fig. 25 TOTAL AGGREGATE AMOUNT OF ADMINISTRATIVE FINES IMPOSED BY MEMBER STATES UNDER MAR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

60. In 2023, in eight Member States (Croatia, Denmark, Finland, Ireland, Latvia, Liechtenstein, Luxembourg, Slovakia), no administrative sanctions or measures were imposed under MAR⁵⁹. When considering the entire period since the entry into application of MAR⁶⁰, there are only two Member States (Ireland and Slovakia) in which no administrative sanctions or measures were imposed as of 31 December 2023. In this respect, looking at the relative market size, Ireland has a mid-sized market by trading volume of shares, while Slovakia has one of the smallest markets⁶¹.

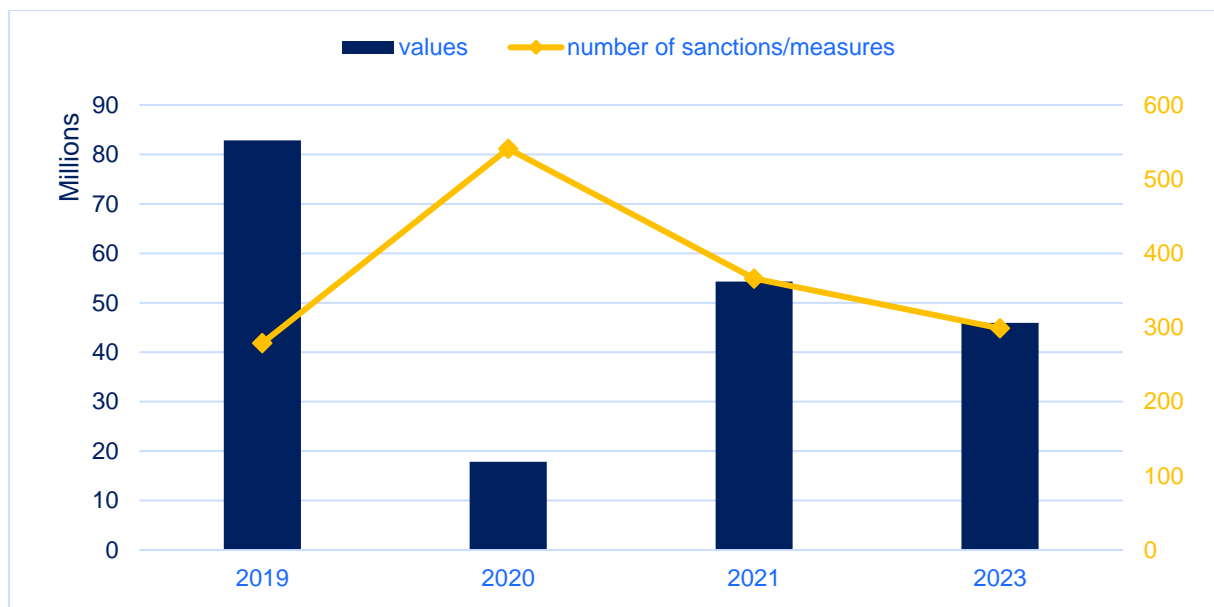


Fig. 26 EVOLUTION OF THE NUMBER OF ADMINISTRATIVE SANCTIONS/MEASURES AND VALUE OF THE ADMINISTRATIVE FINES IMPOSED BY MEMBER STATES UNDER MAR BETWEEN 2019 AND 2023

Source: ESMA Staff calculations based on reporting by NCAs

61. In 2023, a total of 76 criminal sanctions⁶² were imposed. During this period, the total value of criminal fines imposed for infringements of MAR amounted to EUR 14,904,080. During this period, France imposed the highest aggregate amount of criminal penalties: EUR 14,157,464. They were imposed for infringements of Article 14 MAR on insider

⁵⁹ The scope of this report does not include data on sanctions issued and measures imposed by NCAs under MAD.

⁶⁰ No available data for MAR for 2022.

⁶¹ For more details, please see ESMA statistics on market securities:
[ESMA50-164-3688 ESMA statistics on securities and markets \(europa.eu\)](https://esma.europa.eu/press-material/press-news/esma-news/esma50-164-3688-ESMA-statistics-on-securities-and-markets)

dealing and the unlawful disclosure of inside information and Article 15 MAR on market manipulation.

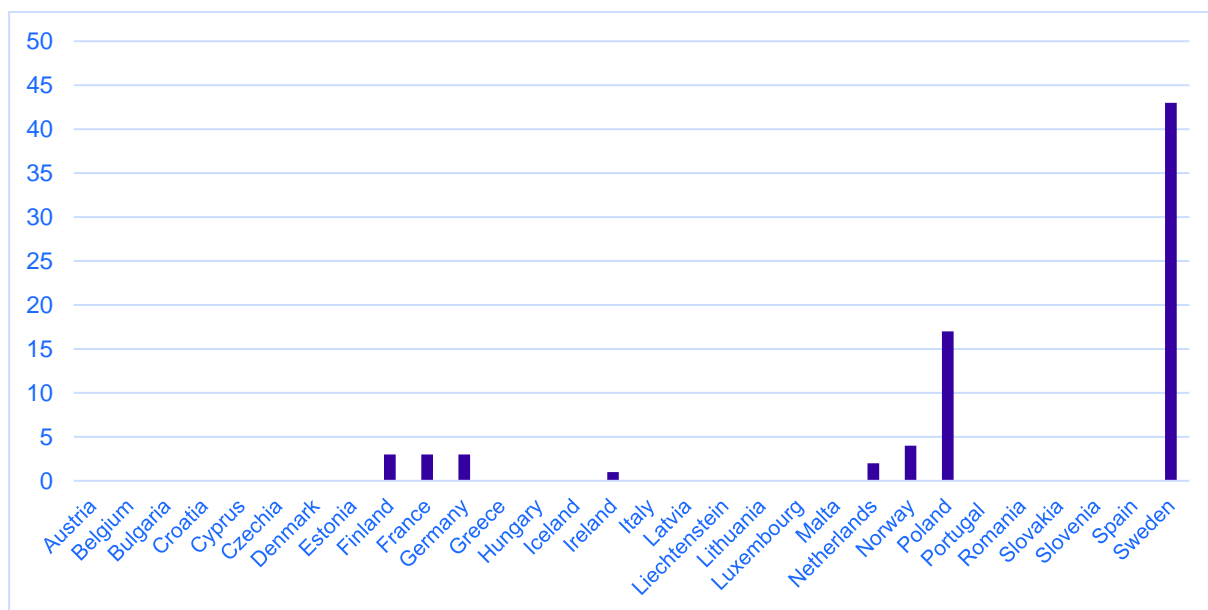


Fig. 27 TOTAL NUMBER OF CRIMINAL SANCTIONS IMPOSED BY MEMBER STATES UNDER MAR IN 2023⁶³

Source: ESMA Staff calculations based on reporting by NCAs

⁶² As regards the administrative or criminal nature of the sanctions, Article 30(1), second subparagraph of MAR provides that a Member State could decide to not lay down rules for administrative sanctions where the infringements referred to in the same provision were already subject to criminal sanctions in their national law by 3 July 2016.

⁶³ The total number of criminal sanctions imposed under MAR in 2023 includes both criminal fines and other types of criminal sanctions issued in the reporting period.

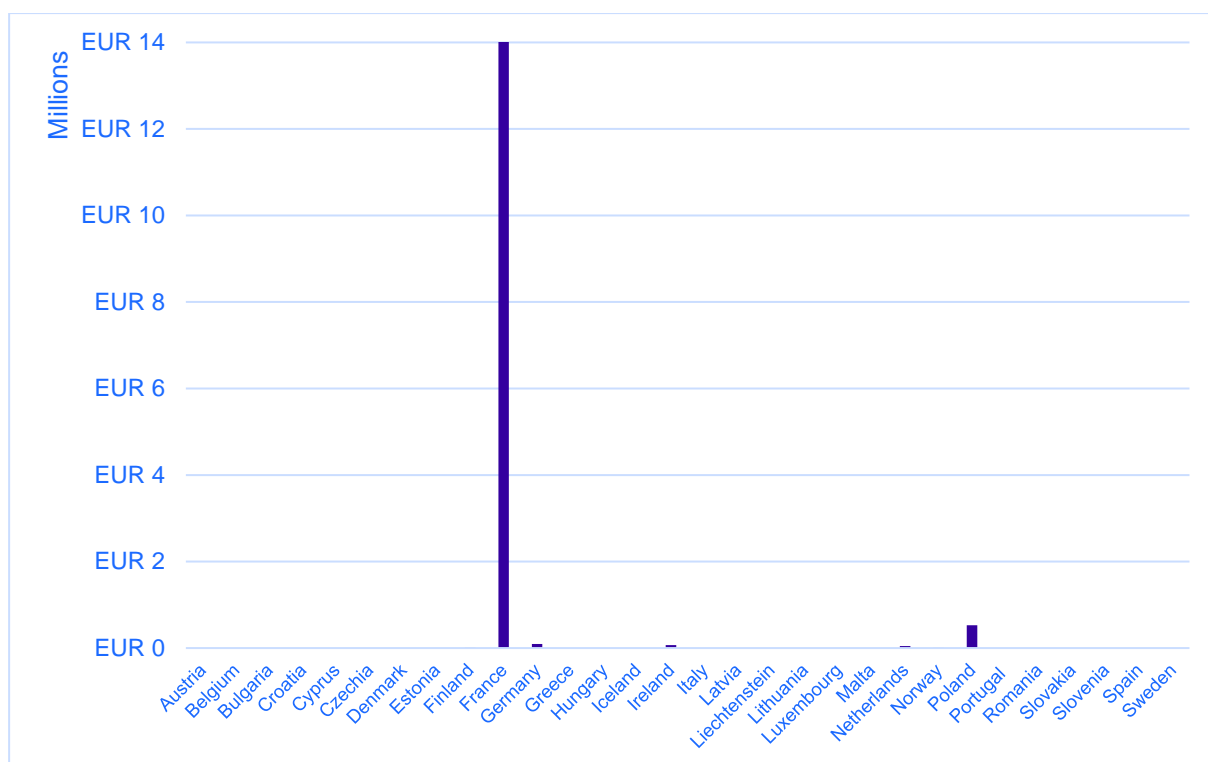


Fig. 28 TOTAL AGGREGATE AMOUNT OF CRIMINAL FINES IMPOSED BY MEMBER STATES UNDER MAR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

4.6 MiFID II and MiFIR

62. To date, ESMA has published five reports between 2019 and 2023⁶⁴ pursuant to Article 71(4) of MiFID II⁶⁵. The data in these reports (and this current Report) covers administrative sanctions and measures applicable to all infringements of MiFID II and MiFIR⁶⁶.
63. Where Member States have chosen, in accordance with Article 70, to provide for criminal sanctions, these are also included in this Report.
64. In 2023, 289 administrative sanctions and measures were issued in 23 Member States. Denmark imposed the highest number of administrative measures and sanctions (42), followed by Cyprus (38) and Bulgaria (30).

⁶⁴Previous MiFID reports published by ESMA are available at the following links:

Report on sanctions and measures imposed under MiFID II in 2018:

[Microsoft Word - 2019-ESMA35-36-1711-Report on MiFID II sanctions measures investigations \(europa.eu\)](#)

Sanctions and measures imposed under MiFID II in 2019:

https://www.esma.europa.eu/sites/default/files/library/35-43-2427_report_mifid_ii_sanctions_2019.pdf

Sanctions and measures imposed under MiFID II in 2020:

[Microsoft Word - ESMA35-43-2751 Report - MiFID II sanctions-measures 2020 \(europa.eu\)](#)

Sanctions and measures imposed under MiFID II in 2021:

[esma35-43-3301_report_mifid_ii_sanctions_2021.pdf \(europa.eu\)](#)

Sanctions and measures imposed under MiFID II in 2022:

[Microsoft Word - ESMA35-335435667-4321 Report MiFID II sanctions 2022 \(europa.eu\)](#)

⁶⁵ Directive (EU) No 2014/65/EU on Markets in Financial Instruments. This Report does not include data on sanctions and measures issued in Member States in accordance with MiFID I.

⁶⁶ Regulation (EU) No 600/2014/EU on Markets in Financial Instruments.

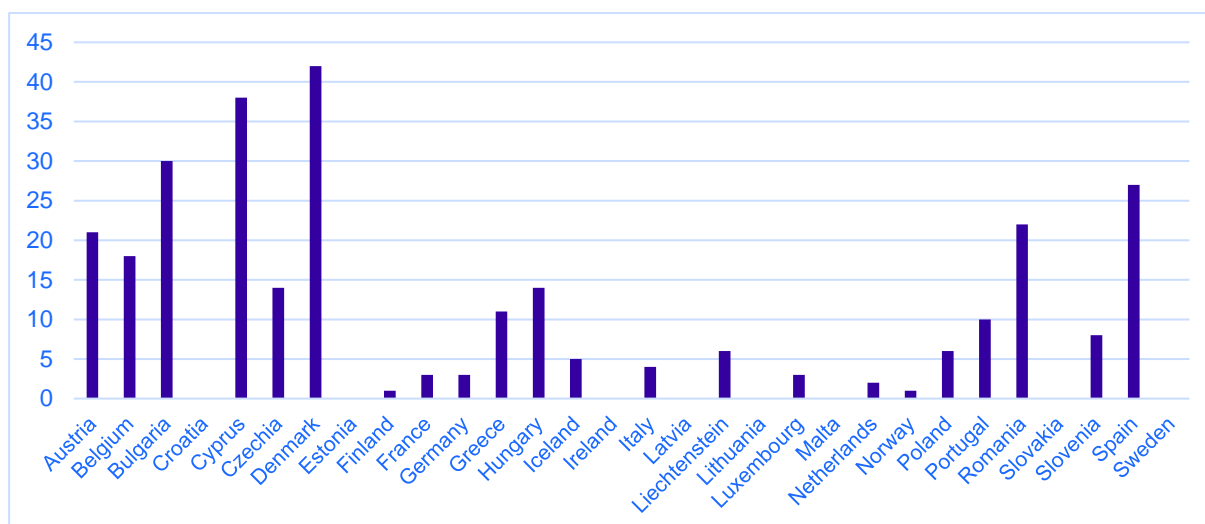


Fig. 29 TOTAL NUMBER OF ADMINISTRATIVE MEASURES AND SANCTIONS IMPOSED BY MEMBER STATES UNDER MiFID II AND MiFIR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

65. The total value of administrative fines imposed were of an aggregated value of EUR 18,258,028.

66. In 2023, the highest total administrative fine was a fine of EUR 7,760,000 issued in Iceland⁶⁷ for breaches of conflicts of interest requirements and general investor protection principles and the provision of information to clients.

⁶⁷ For more information, please see <https://en.fme.is/>.

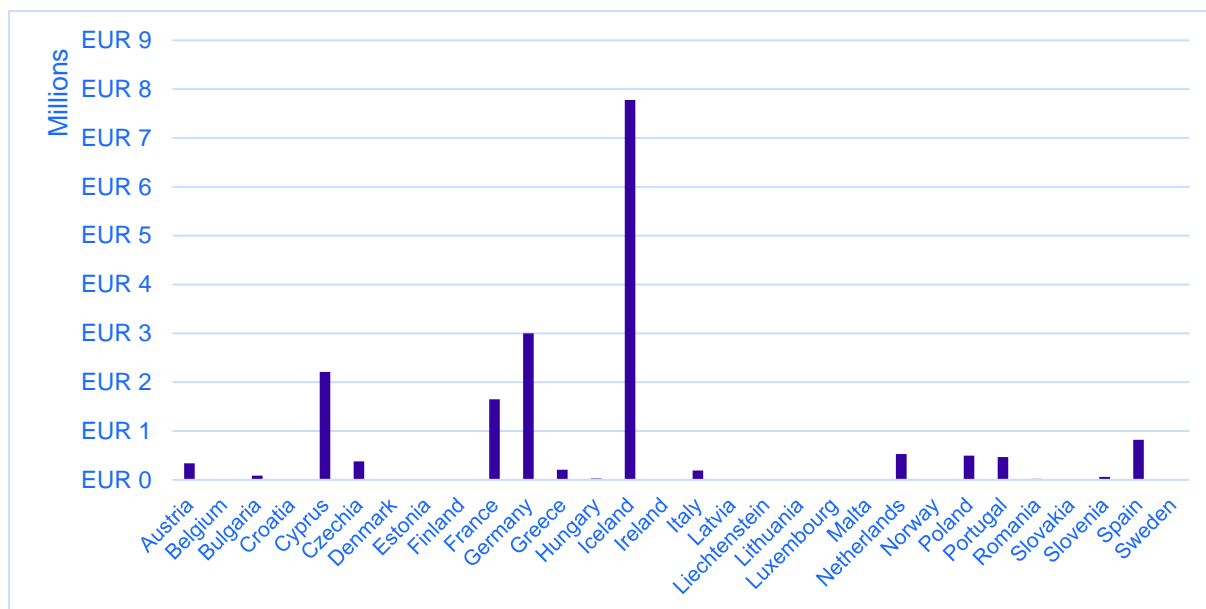


Fig. 30 TOTAL AGGREGATE AMOUNT OF ADMINISTRATIVE FINES IMPOSED UNDER MiFID II AND MiFIR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

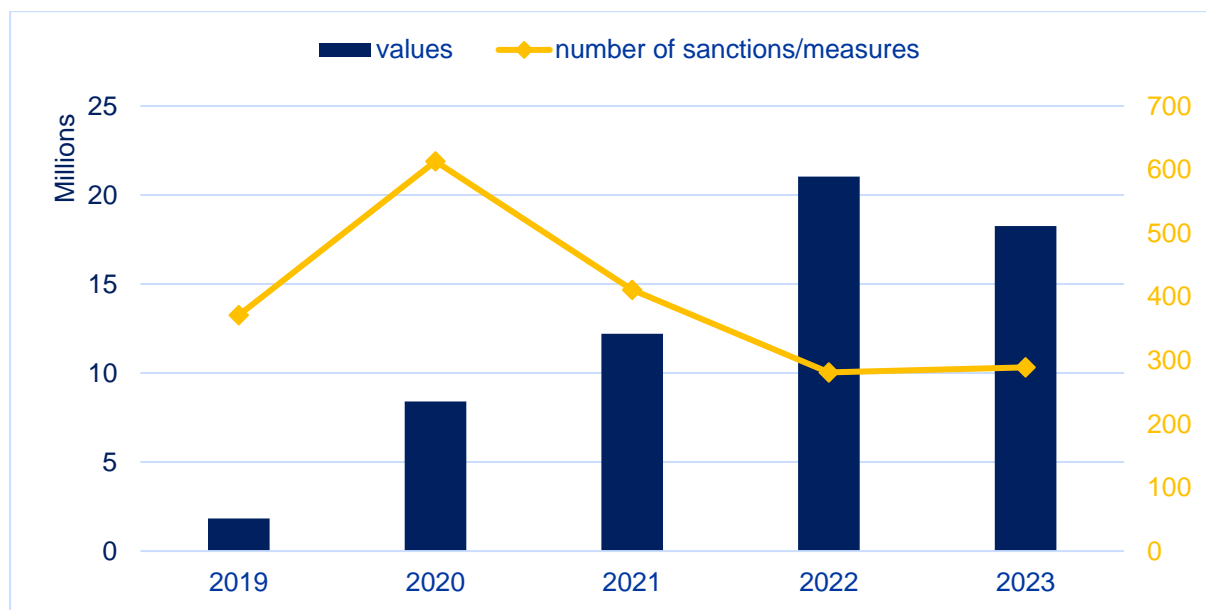


Fig. 31 EVOLUTION OF THE NUMBER OF ADMINISTRATIVE SANCTIONS/MEASURES AND VALUE OF THE ADMINISTRATIVE FINES ISSUED UNDER MiFID II AND MiFIR BETWEEN 2019 AND 2023

Source: ESMA Staff calculations based on reporting by NCAs

67. In 2023, almost a third of the administrative sanctions and measures (92 out of 289) were issued in relation to organisational requirements under Article 16 of MiFID II.

68. Since 2018, no administrative sanctions or measures under MiFID II were issued in Ireland⁶⁸. In this respect, looking at market size, Ireland has a mid-sized market in terms of investment firms located in the State, whereas it is a major player in relation to the number of financial instruments (particularly equity and ETFs) available for trading.⁶⁹

69. ESMA notes that this Report focuses on sanctions and measures issued under the MiFID II framework; accordingly, sanctions and measures imposed by NCAs under MiFID I are not covered. NCAs may also impose sanctions and measures according to their national framework that are excluded from the sanctions and measures notified to ESMA, due to national provisions going beyond the implementation of the MiFID II framework in their jurisdictions.

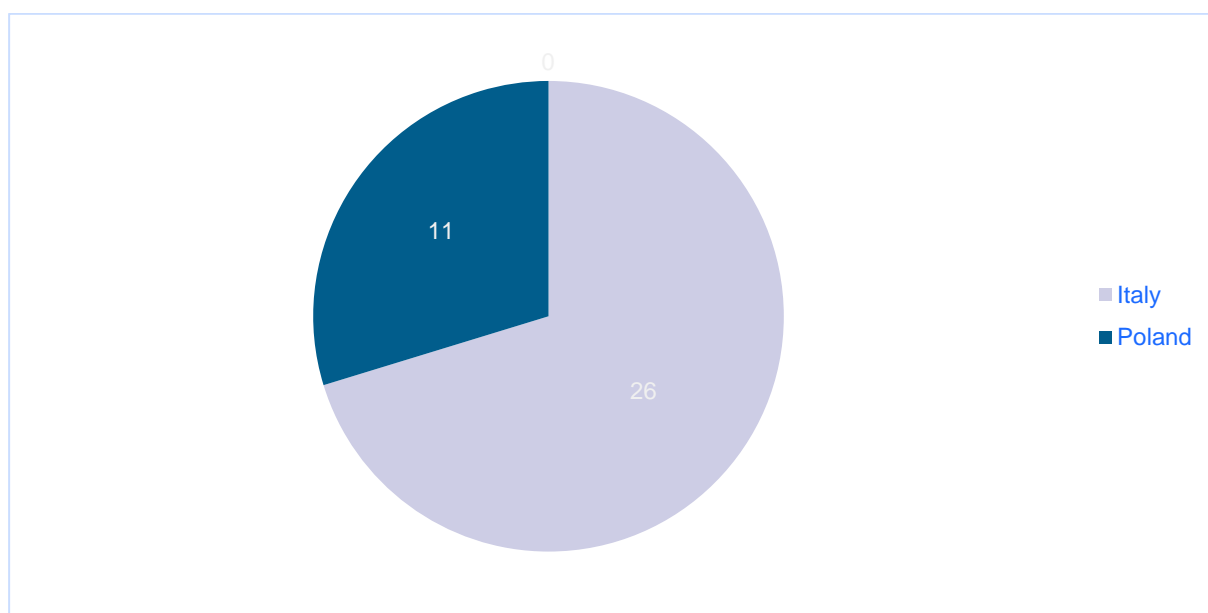


Fig. 32 TOTAL NUMBER OF CRIMINAL FINES IMPOSED UNDER MiFID II AND MiFIR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

⁶⁸ According to the information provided by the Central Bank of Ireland (CBol), it has undertaken noteworthy sanctioning activity under MiFID I, including in respect of obligations which continue under MiFID II, which is outside the scope of this Report.

⁶⁹ For more details, please see ESMA statistics on market securities: [ESMA50-164-3688 ESMA statistics on securities and markets \(europa.eu\)](https://esma.europa.eu/press-material/press-events/presentation-esma-statistics-on-market-securities).

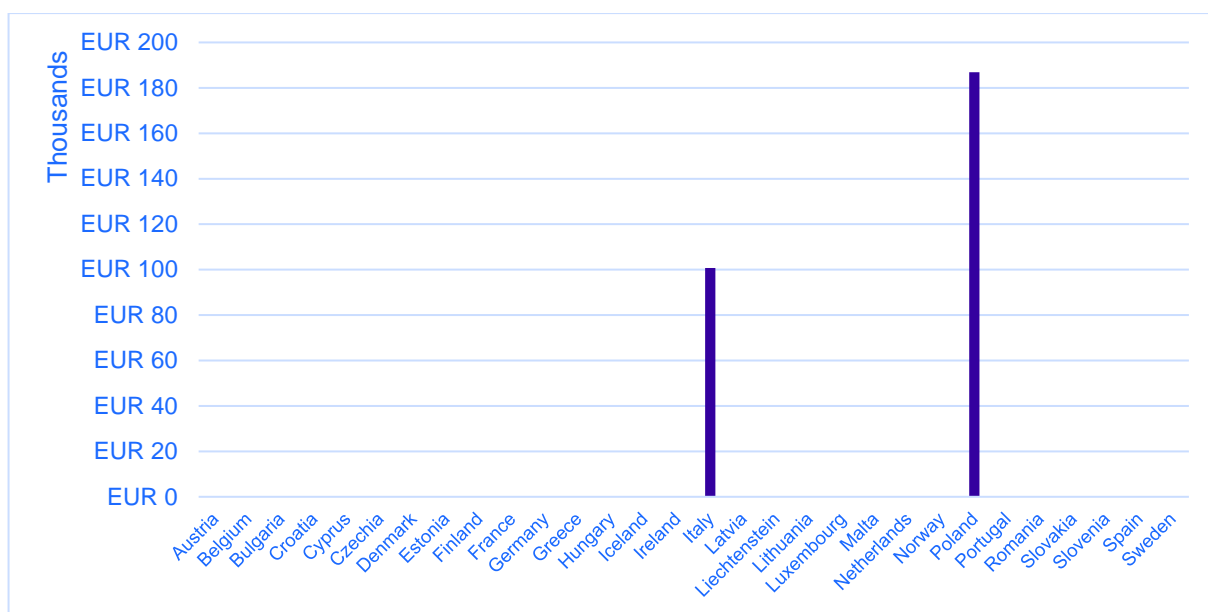


Fig. 33 TOTAL VALUE OF CRIMINAL FINES IMPOSED BY MEMBER STATES UNDER MiFID II AND MiFIR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

70. ESMA also includes in the Report data on criminal sanctions imposed under MiFID II (provided Member States have chosen, in accordance with Article 70 of MiFID II, to lay down criminal sanctions for MiFID II/MiFIR infringements). Regarding criminal sanctions, 37 criminal sanctions were issued. In this regard, only two Member States, Italy and Poland were active in 2023. Additionally, in 2023, the total value of criminal fines imposed was for a total of EUR 287,608.

71. Finally, concerning data reporting service providers (DRSPs), under Title IVa of MiFIR, ESMA has the power to take appropriate enforcement action where a breach is established. These actions can include, among others, the imposition of fines. In 2023, ESMA did not issue any sanctions regarding DRSPs.

4.7 PR

72. To date, ESMA published three reports (in 2021, 2022 and 2023)⁷⁰ which incorporated a section containing information about sanctions issued in Member States pursuant to Article 43(1) of the PR⁷¹.

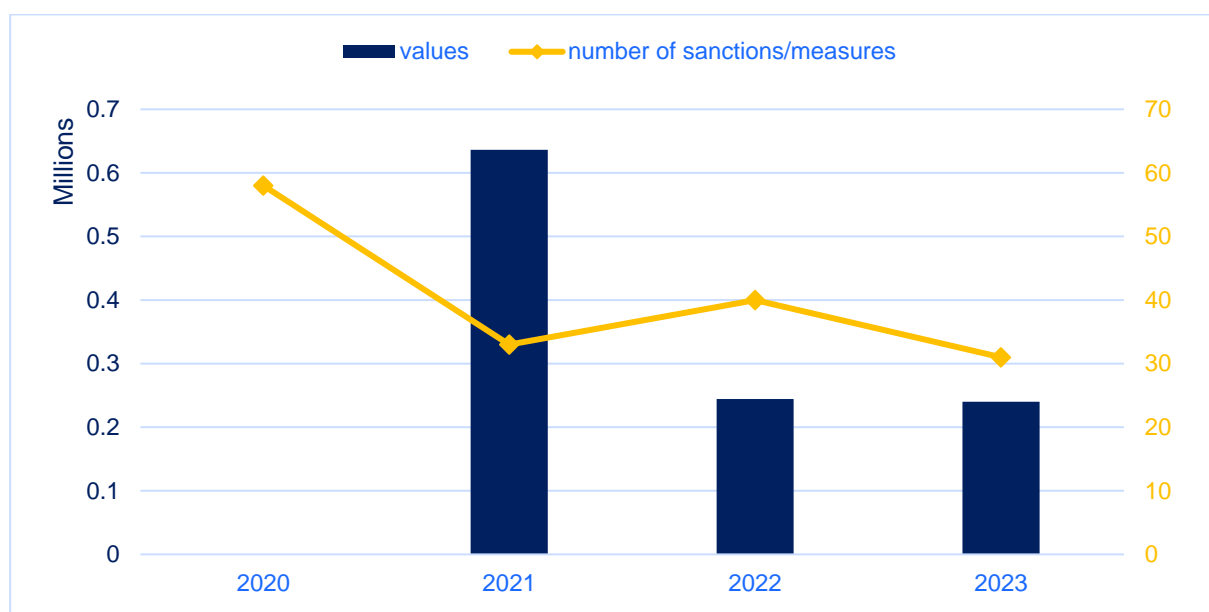


FIG. 34 EVOLUTION OF THE NUMBER OF ADMINISTRATIVE SANCTIONS/MEASURES AND VALUE OF THE ADMINISTRATIVE FINES ISSUES BETWEEN 2020 AND 2023

Source: ESMA Staff calculations based on reporting by NCAs

73. During 2023, 31 administrative sanctions and measures were imposed[□] across five Member States (Austria, Czech Republic, Germany, Iceland and Norway). Three Member States, namely Austria, Czech Republic and Norway, issued administrative fines during this period totalling an aggregate amount of EUR 240,071. In 2022, 40 administrative sanctions and measures were issued across five Member States. In 2022, three Member States issued administrative fines with the total amount of EUR 224,403. Hence, in 2023

⁷⁰ Previous PR reports published by ESMA are available at the following links:

EEA prospectus activity and sanctions in 2020:

[esma32-382-1153_prospectus_activity_and_sanctions_report_2020.pdf \(europa.eu\)](#)

EU Prospectuses (ESMA Statistical Report) outlining the administrative sanctions and other measures issued in 2021:

[esma50-165-2336_esma_statistical_report_-_eu_prospectuses.pdf \(europa.eu\)](#)

EU Prospectuses 2023 outlining the administrative sanctions and other measures issued in 2022:

[ESMA50-524821-3029_ESMA_Market_Report_-_EU_prospectuses_2023.pdf \(europa.eu\)](#)

⁷¹ Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market.

compared to 2022, there were fewer administrative sanctions and measures issued but at a higher total monetary amount.

74. No criminal sanctions were issued in Member States during 2023.

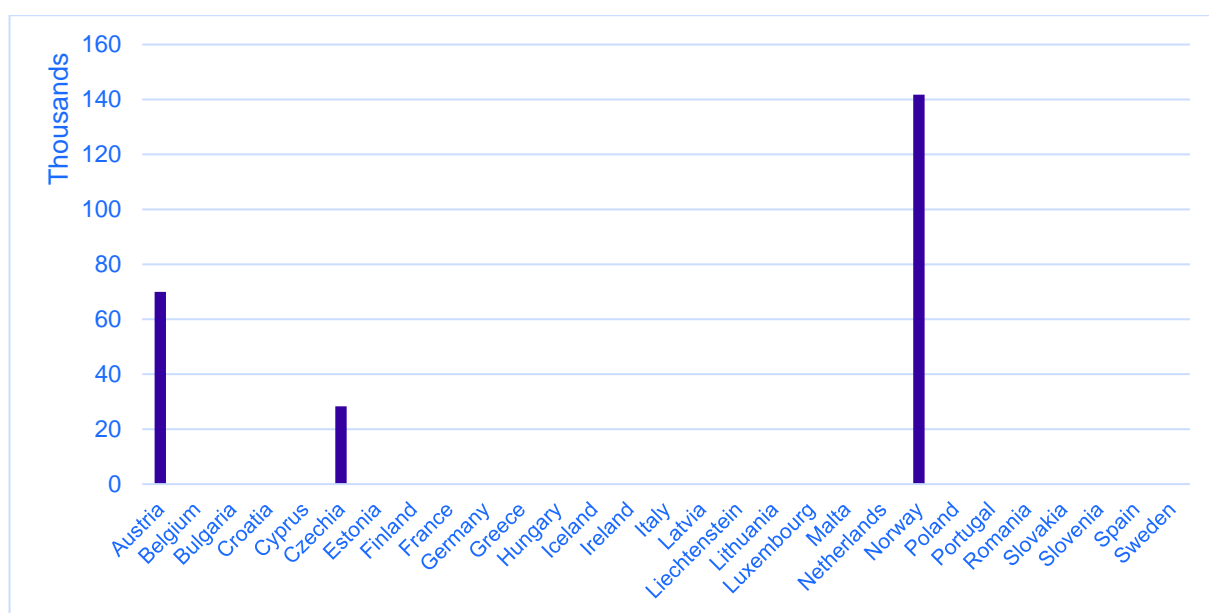


FIG. 35 TOTAL AGGREGATE AMOUNT OF ADMINISTRATIVE FINES IMPOSED BY MEMBER STATES UNDER PR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

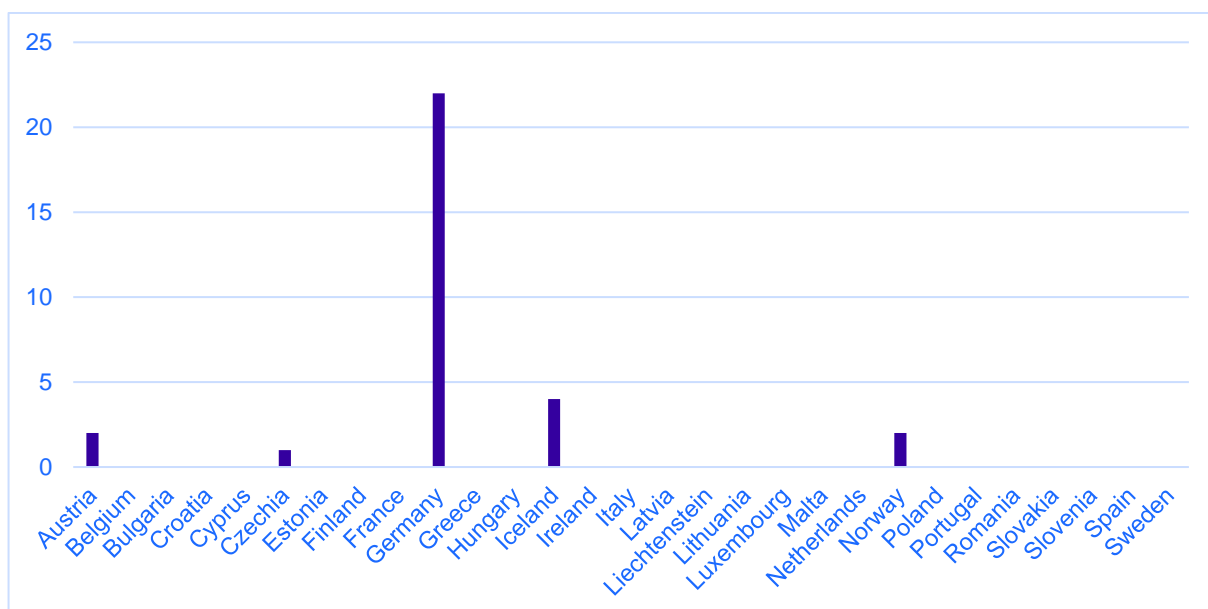


Fig. 36 TOTAL NUMBER OF ADMINISTRATIVE SANCTIONS AND MEASURES IMPOSED BY MEMBER STATES UNDER PR IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

75. Since 2020, the Member States that imposed sanctions under the PR were Austria, Belgium, Czech Republic, Germany, Italy, Iceland, Norway and Slovakia.

76. In 2023, the Member States approving the highest number of prospectuses were Luxembourg, Ireland and Sweden⁷²; no administrative sanctions and measures have been issued in these Member States since 2020. It is understood that the number of administrative sanctions and measures imposed under the PR may also depend on the maturity of the market and degree of expertise / type of market players.

⁷² For more details, please see ESMA statistics on market securities:
[ESMA50-164-3688 ESMA statistics on securities and markets \(europa.eu\)](https://esma.europa.eu/press-material/press-release/ESMA50-164-3688)

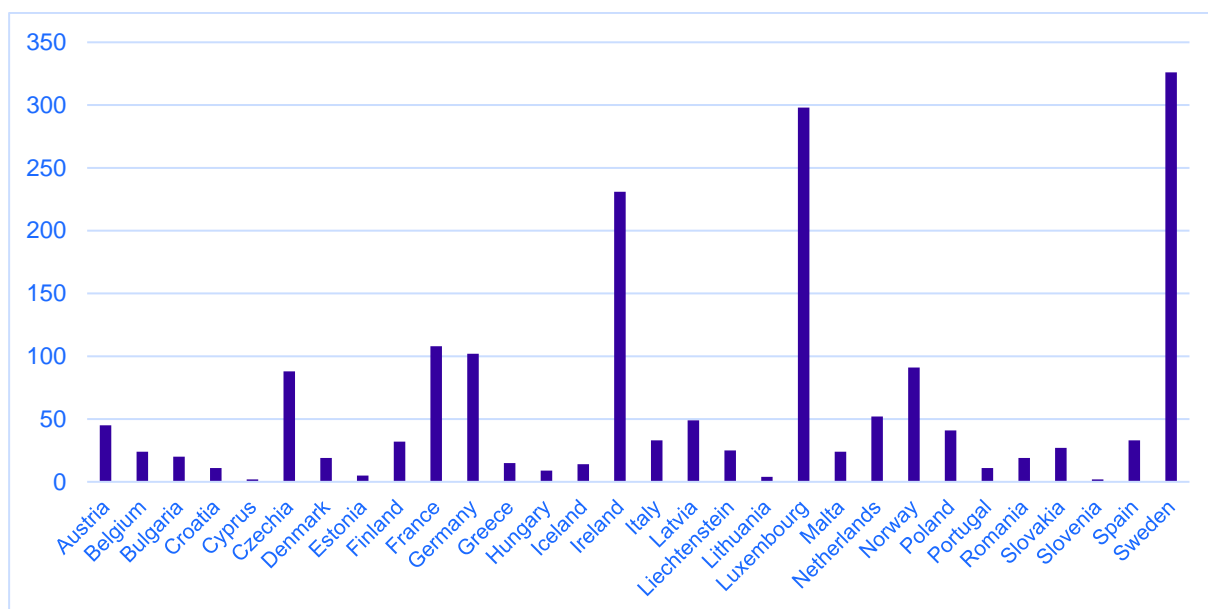


FIG. 37 ILLUSTRATION OF THE APPROXIMATE NUMBER OF PROSPECTUSES ISSUED IN 2023⁷³

Source: ESMA Staff calculations based on reporting by NCAs

⁷³ The figures used in the graph illustrating the number of prospectuses approved is an approximation of the number of issuers reported to the Prospectus Register, please see footnote 75 above. In this regard, there may be some discrepancies between number of issuers and the number of prospectuses approved in year ending 2023.

4.8 UCITS

77. To date, ESMA has published six reports pursuant to article 99e(1) of UCITS⁷⁴. The data in these reports covers administrative sanctions and measures applicable to all infringements under UCITS. UCITS has been in force since 2016 and sanctions have been issued every year since.

78. In the period between 2016 and 2023, a total of 610 administrative sanctions and measures were imposed under UCITS, with a total amount of administrative fines of EUR 189,014,545.

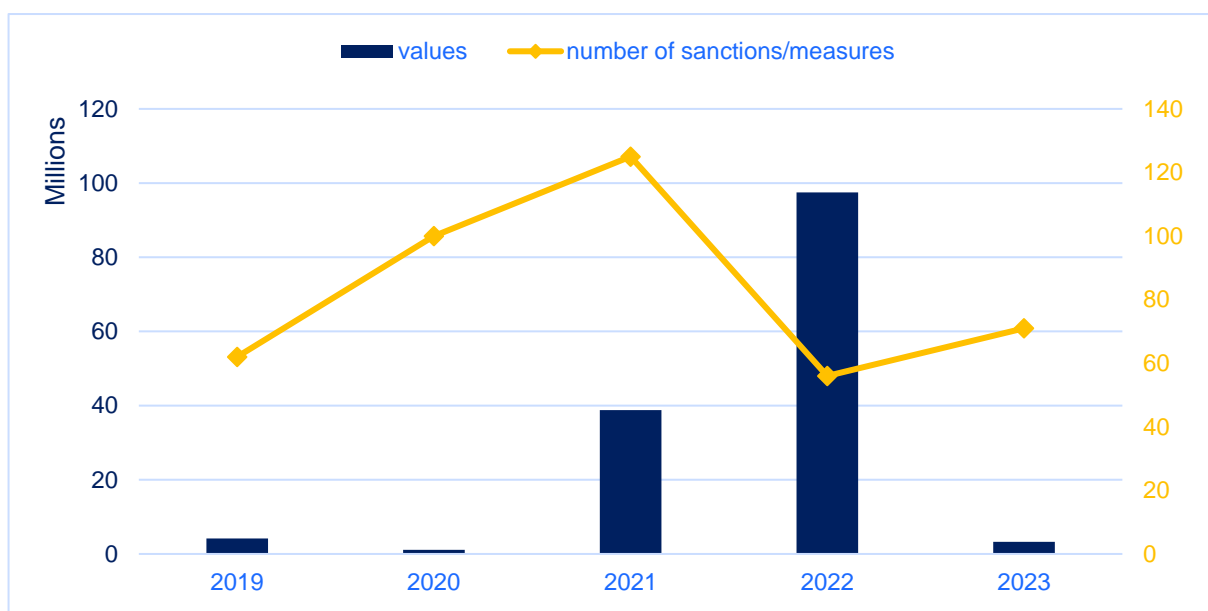


FIG. 38 EVOLUTION OF THE NUMBER OF ADMINISTRATIVE SANCTIONS/MEASURES AND VALUE OF THE ADMINISTRATIVE FINES ISSUED BETWEEN 2019 AND 2023

Source: ESMA Staff calculations based on reporting by NCAs

⁷⁴ Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities.

79. In 2023, 71 administrative sanctions and measures were issued in 14 Member States.

80. In all 14 Member States, administrative fines were issued, totalling an aggregate of EUR 3,273,316. While this constitutes a sharp decrease compared to the previous year's total of EUR 97,468,202, it should be noted that in 2022, the AMF (France) imposed an exceptionally large fine of EUR 93,000,000⁷⁵ which made up the overwhelming majority of said amount.

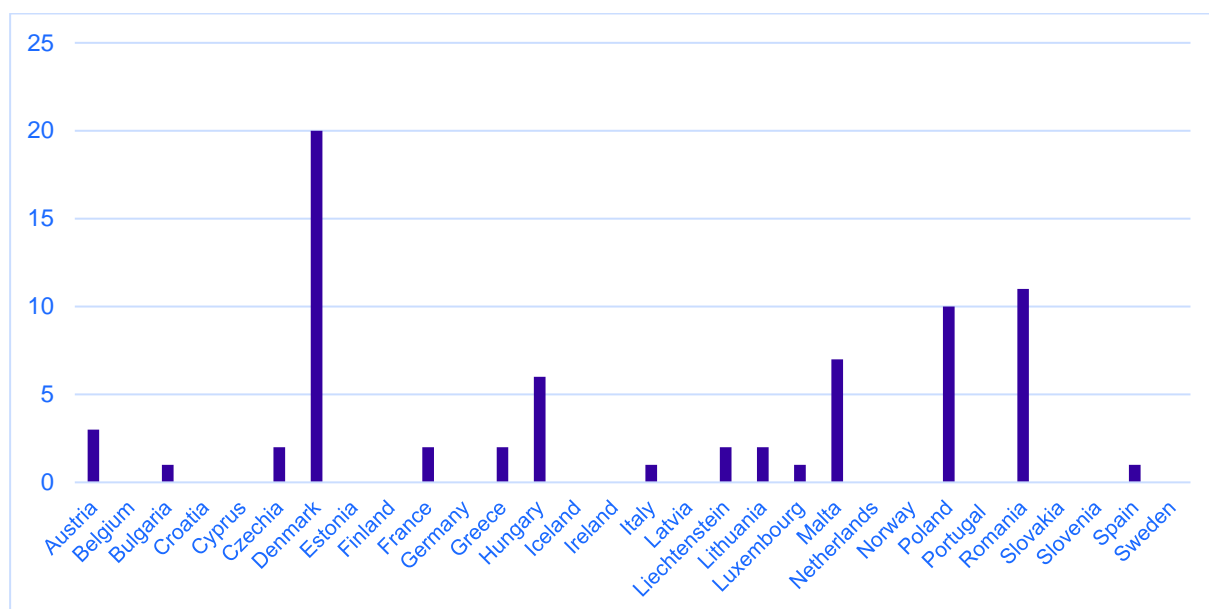


Fig. 39 TOTAL NUMBER OF ADMINISTRATIVE SANCTIONS AND MEASURES IMPOSED BY MEMBER STATES UNDER UCITS IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

⁷⁵ Please see the annual sanction report for 2022 and the decision at https://www.amf-france.org/sites/institutionnel/files/private/2023-01/d%C3%A9cision_pub_0.pdf

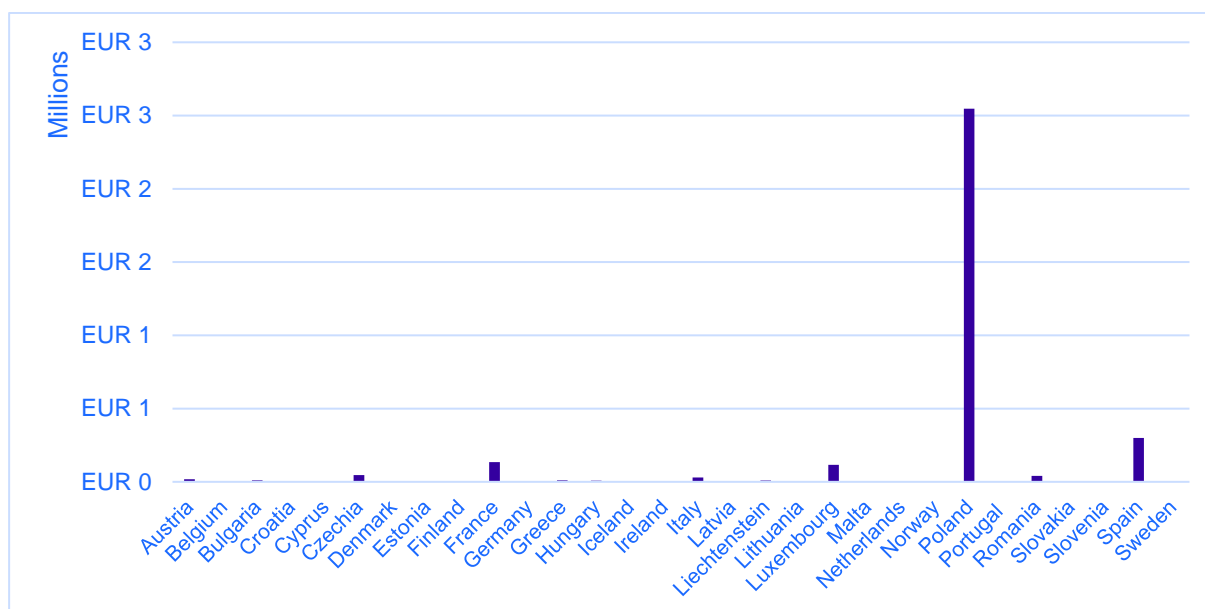


Fig. 40 TOTAL AGGREGATE AMOUNT OF ADMINISTRATIVE FINES IMPOSED BY MEMBER STATES UNDER UCITS IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

81. Since 2016, there have not been any administrative sanctions and measures imposed under UCITS in Cyprus, Estonia, Finland, Latvia, Slovakia.
82. Most managers of UCITS funds are found in France, Luxembourg, and Spain. The Member States where no sanctions were issued since UCITS entered into force have a very low number of UCITS managers⁷⁶.
83. In order to put the data gathered into context, the below chart provides an overview of the proportion of the UCITS managers per Member State and the total amount of financial penalties issued under the UCITS in 2023 per Member State.

⁷⁶ For more details, please see ESMA statistics on market securities:
[ESMA50-164-3688 ESMA statistics on securities and markets \(europa.eu\)](https://esma.europa.eu/press-material/press-release/ESMA50-164-3688)

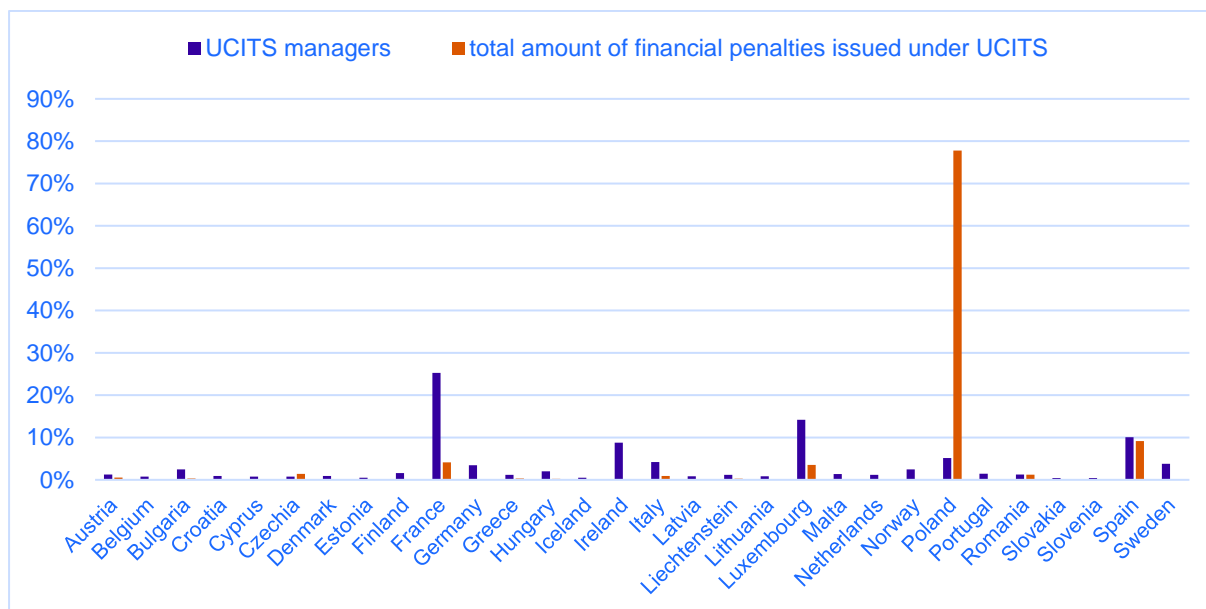


Fig. 41 COMPARISON BETWEEN THE NUMBER OF UCITS MANAGERS AND TOTAL AMOUNT OF FINES ISSUED BY MEMBER STATES IN 2023

Source: ESMA Staff calculations based on reporting by NCAs

84. The largest number of sanctions (15) and measures were imposed under Article 14(1)(d) UCITS on the obligation to avoid conflicts of interest, followed by Article 68(1)(c) UCITS regarding the obligation to publish a half-yearly report covering the first six months of the financial year (12).

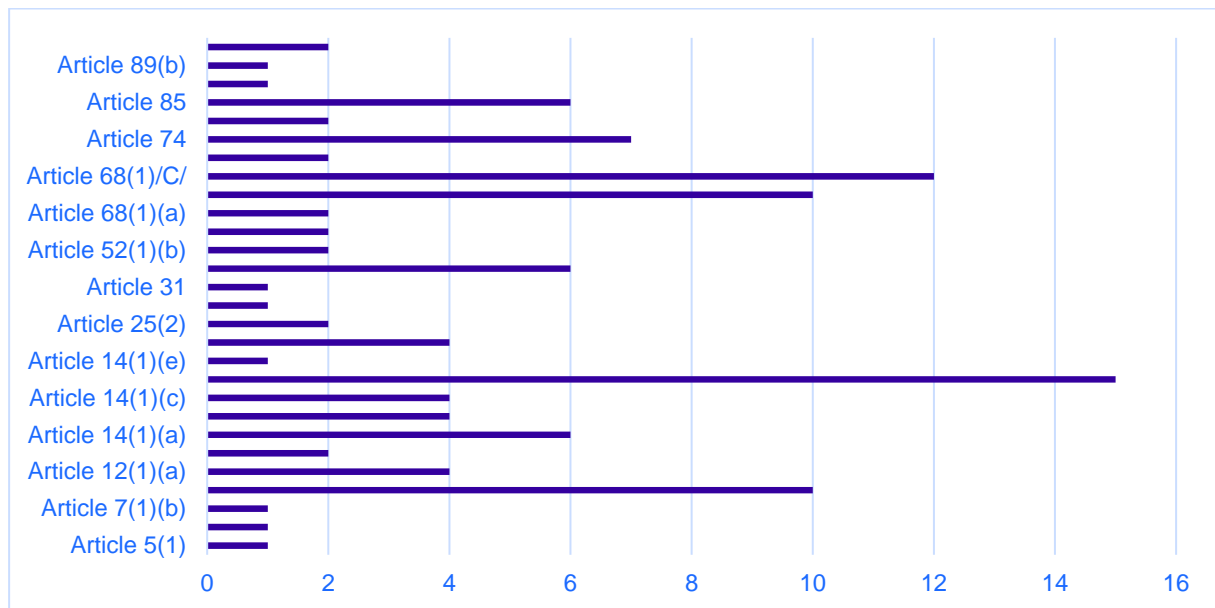


Fig. 42 REPRESENTATION OF THE ARTICLES WHERE THE LARGEST NUMBER OF ADMINISTRATIVE SANCTIONS AND MEASURES WERE IMPOSED UNDER UCITS, 2023

Source: ESMA Staff calculations based on reporting by NCAs

85. In 2023, the highest administrative fine was issued in Poland⁷⁷ for a total of EUR 1,674,009, under Article 85 regarding the rules for valuation of assets.

86. To conclude, as in previous years, the sanctioning powers are not equally used among NCAs and, besides a limited number of NCAs, the number and amount of sanctions issued under UCITS at the national level remain relatively low.

⁷⁷ For more information on supervision and enforcement in Poland, please see <https://www.knf.gov.pl/en/>.

4.9 ECSPR, MiCA, SFTR

87. This Report is the first to be issued pursuant to Article 43(1) of ECSPR⁷⁸, Article 115(1) of MiCA⁷⁹, and Article 25(1) of SFTR⁸⁰.

88. In 2023, no administrative sanctions and measures were issued in relation to ECSPR⁸¹.

89. In addition, no administrative sanctions and measures were issued under MiCA in 2023. As detailed above, MiCA only became applicable very recently.

90. Similarly, there were no administrative sanctions and measures imposed under SFTR. While SFTR entered into force in January 2016, the reporting obligations imposed on counterparties were only phased in between 2020 and 2021.

91. Finally, while ESMA has the power to issue sanctions against trade repositories registered under SFTR, it has not done so in 2023.

92. ECSPR, MiCA and SFTR are not yet applicable in Iceland, Liechtenstein and Norway⁸².

⁷⁸ Regulation (EU) 2020/1503 on European crowdfunding service providers for business.

⁷⁹ Regulation (EU) 2023/1114 on markets in crypto-assets.

⁸⁰ Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse.

⁸¹ Pursuant to the extension of the transitional period set out in the Commission Delegated Regulation (EU) 2022/1988 of 12 July 2022 extending the transitional period for continuing to provide crowdfunding services in accordance with national law as referred to in Article 48(1) of Regulation (EU) 2020/1503, the provision of crowdfunding services under applicable National law was possible until 10 November 2023.

⁸² Please see [313545 | European Free Trade Association \(efta.int\)](#), [319139 | European Free Trade Association \(efta.int\)](#) and [321746 | European Free Trade Association \(efta.int\)](#).