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# **Zero tolerance policy: Enforcement in the EU ETS**

## **NGO perspectives on enforcement in the EU ETS**

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## Headline messages

- Enforcement is an unfortunate last step in the relationship between participants and Competent Authorities as well as between Member States and the Commission.
- Confidence underlies stakeholder engagement in the EU ETS. It is built on transparency, uniformity and robust enforcement.
- Robust enforcement practice is essential to uphold good quality Monitoring, Reporting and Verification (MRV).
- Confidence is also a critical element of any proposed linkage with other emission trading schemes and public credibility.
- Member States must provide required information in a timely, transparent and standard template that is publicly accessible.





## Lack of uniformity (Micro level)

<b>Table 1 – differences in Member State maximum fines</b>	Operation without permit	Monitoring and reporting infringements	Omission to notify changes
Estonia	3,195€	3,195€	3,195€
France	150,000€	75,000€	75,000€
Germany	50,000€	?	50,000€
UK	unlimited	unlimited	unlimited





## Solutions (Micro level)

- Legal framework – Amend Article 16 of 2003/87/EC to include point 5.1 which covers penalties:
- Penalties levied by Competent Authorities should cover:
  - i) Monitoring and reporting infringements;
  - ii) Omission to notify a Competent Authority of changes;
  - iii) False reporting, and
  - iv) Late submission.
- Proposed Article 16, 5.2 include table detailing a range of penalties (minimum level) that a Competent Authority can impose on a EU ETS participant.
- A complaint process which could end in a penalty must be initiated immediately and without prejudice. CEO/CFO should be invited to provide a written outline of their actions and corrective measures.
- All penalties and compliance issues should be published and available in all to participants in the EU ETS and the general public.
- General public must be able to instigate complaints in case of suspended MRV violations.





## Good Practice (Marco level)

- No audit process detailing the effectiveness of a Member State's compliance structure, resources and policing of EU ETS operation.
- Should identify common cost and other barriers to enforcement?
- Learning process?
- Need clarification of the legal status of permits!





## Solutions (Macro level)

- Independent research on the effectiveness of a Member State's structure and guidance for Good Practice.
- Review Panel that audits Member States to ensure effective compliance, report to the Commission on Good Practice issues and identify other areas for improvement.
- An enforcement procedure to ensure "Good Practice" is implemented.
- Need clarification of the legal status of permits across Member States and an understanding of implications...





## Conclusions

- Enforcement and a robust Monitoring Protocol are critical to EU ETS and any other scheme with which it links.
- Penalties must be included in the revised Directive to ensure platform.
- All enforcement issues must be available to the public.
- Good Practice and continuous improvement should be encouraged and supported.





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