



DLA Piper GDPR fines and data breach survey: January 2021

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Por Ross McKean | Ewa Kurowska-Tober | Heidi Waem

EUR272.5 million (about USD332.4 million / GBP245.3 million) of fines have been imposed for a wide range of infringements of Europe's tough data protection laws according to international law firm DLA Piper. The figure is taken from the law firm's latest annual General Data Protection Regulation (GDPR) fines and data breach report of the 27 European Union Member States plus the UK, Norway, Iceland and Liechtenstein.

Italy's regulator tops the rankings for aggregate fines having imposed more than EUR69.3 million (about USD84.5 million / GBP62.4 million) since the application of GDPR on 25 May 2018. Germany and France came second and third with aggregate fines of EUR69.1 million and EUR54.4 million respectively.

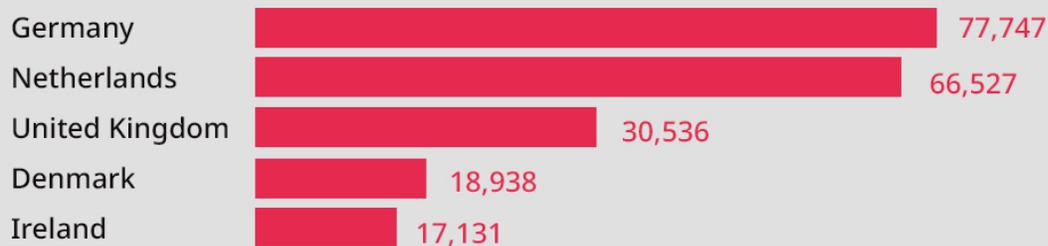
Total value of GDPR fines imposed from 25th May 2018 to date



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In aggregate there have been more than 281,000 data breach notifications since the application of GDPR on 25 May 2018 with Germany (77,747), The Netherlands (66,527) and the UK (30,536) topping the table for the number of data breaches notified to regulators. France and Italy, countries with populations over 67 million and 62 million people respectively, only recorded 5389 and 3460 data breach notifications for the same period illustrating the cultural differences in approach to breach notification.

Total number of personal data breaches notified per jurisdiction for the period from 25 May 2018 to 27 January 2021 inclusive



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The aggregate daily rate of breach notifications in Europe experienced double digit growth for the second year running with 331 notifications per day since 28 January 2020, a 19% increase compared to 278 breach notifications per day for the previous year.

Weighting the results against country populations, Denmark takes pole position this year ahead of The Netherlands with 155.6 and 150 reported breaches per 100,000 people respectively. Ireland is in third place with 127.8 reported breaches per 100,000 people. Greece, Italy and Croatia reported the fewest number of breaches per capita since 28 January 2020.

The highest GDPR fine to date remains the EUR50 million (about USD61 million / GBP45 million) imposed by the French data protection regulator on Google, for alleged infringements of GDPR's transparency principle and lack of valid consent.

Following two high profile data breaches, the UK Information Commissioner's Office (ICO) published two notices of intent to fine in July 2019 totaling GBP282 million (about EUR313 million / USD382 million).

However in a significant climbdown by the UK regulator, the final fines imposed in October 2020 were greatly reduced to GBP20 million (about EUR22.2 million / USD27.1 million) and GBP18.4 million (about EUR20.4 million / USD25 million). The Austrian supervisory authority suffered a setback when its EUR18 million fine (about GBP16.2 million / USD22 million) was successfully appealed in December 2020.

Commenting on the report, Ross McKean, Chair of DLA Piper's UK Data Protection & Security Group, said: "*Fines and breach notifications continue their double digit annual growth and European regulators have shown their willingness to use their enforcement powers. They have also adopted some extremely strict interpretations of GDPR setting the scene for heated legal battles in the years ahead. However we have also seen regulators show a degree of leniency this year in response to the ongoing pandemic with several high profile fines being reduced due to financial hardship. During the coming year we anticipate the first enforcement actions relating to GDPR's restrictions on transfers of personal data to the US and other "third countries" as the aftershocks from the ruling by Europe's highest court in the Schrems II case continue to be felt.*"

Ewa Kurowska-Tober, Global Co-Chair of DLA Piper's Data Protection & Security Group, said "*Regulators have been testing the limits of their powers this year issuing fines for a wide variety of infringements of Europe's tough data protection laws. But they certainly haven't had things all their own way with some notable successful appeals and large reductions in proposed fines. Given the large sums involved and the risk of follow-on claims for compensation we expect to see the trend of more appeals and more robust defences of enforcement action continue.*"

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N.B. Not all Member States of the European Economic Area make details of breach notification statistics publicly available. Several have only provided incomplete statistics or statistics for part of the period covered by this report so the figures have been rounded up and in some cases extrapolated to provide best approximations. Similarly not all GDPR fines are publicly reported and some data only covered part of the period covered by this report.

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