

(English version)

**Question for written answer E-002449/24
to the Commission
Markéta Gregorová (Verts/ALE)
(6 November 2024)**

Subject: Public authorities' compliance with the General Data Protection Regulation (GDPR)

In Europe, countries such as Czechia (under Section 62(5) of Act No 110/2019 Coll. on Personal Data Processing ⁽¹⁾) are making use of the provision enshrined in Article 83(7) of Regulation (EU) 2016/679 ⁽²⁾ (GDPR) to not impose any fines on public authorities. In its implementation report on GDPR, the Commission stated that fines have led private actors to 'take data protection seriously' ⁽³⁾.

In light of the above:

1. Does the Commission consider it good practice to not impose fines on public authorities?
2. Will the Commission assess this specific issue in its future implementation reports?
3. Are discussions taking place with relevant bodies to establish guidance on public authorities' compliance with GDPR?

Submitted: 6.11.2024

**Answer given by Mr McGrath on behalf of the European Commission
(13 January 2025)**

Article 83(7) of the General Data Protection Regulation (GDPR) ⁽¹⁾ leaves a margin for national legislation to define whether and to what extent administrative fines may be imposed by the data protection authorities (DPAs) on public authorities in that Member State.

By making use of this provision, Member States are allowed to decide on their own that fines cannot be imposed on controllers or processors in the public sector, in view of their national procedural law and the ways of funding public authorities.

Nevertheless, such national rules shall be '*[w]ithout prejudice to the corrective powers of supervisory authorities pursuant to Article 58(2)*' (Article 83(7) GDPR).

This means that, even if public authorities are exempted from fines in a Member State, the DPA still has at its disposal all the other corrective powers provided in Article 58(2) GDPR to follow up data protection infringements in the public sector.

This includes, among others, issuing warnings, reprimands or imposing a ban on processing. Such measures may cause reputational damage to the public authority concerned and disturb its operations in case of a ban on processing.

Thus, the Commission considers that the practice of not imposing fines on public authorities does not prevent DPAs from effectively enforcing data protection compliance in the public sector.

In accordance with Article 97 GDPR, the next Commission's report on the application of the GDPR is due for 2028. At this stage, the Commission cannot pre-empt what would be the issues raised therein.

The European Data Protection Board has issued numerous guidelines on the interpretation of the GDPR ⁽²⁾, which can be used by public authorities to help them to comply with the GDPR.

¹ <https://uouu.gov.cz/media/act-no-110-2019-coll.pdf>.

² <https://eur-lex.europa.eu/eli/reg/2016/679/oj>.

³ <https://eur-lex.europa.eu/legal-content/EN/TEXT/?uri=COM%3A2024%3A357%3AFIN&qid=1721897017650>.

⁽¹⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1-88.

⁽²⁾ European Data Protection Board webpage: Guidelines, Recommendations, Best Practices: https://www.edpb.europa.eu/edpb_en