### Recital 81 + Article 66

Factors to consider in deciding whether to impose a fine pursuant to Art. 58(2)(i) and in establishing the amount of the fine:

- Fines as sanctions of last resort:
  - where the EUI fails to comply with an order by the EDPS to:
    - comply with the data subject's requests to exercise rights pursuant to the EDPR;
    - bring processing operations into compliance with the EDPR;
    - communicate a personal data breach to the data subject;
    - temporarily or definitively limit or discontinue a processing activity;
    - rectify, erase, restrict the processing of personal data and notify such actions to recipients to whom the personal data at stake have been disclosed;
    - suspend data flows to a recipient in a Member State, a third country or an international organisation
  - and depending on the circumstances of each individual case

Two different classes of fines – Art. 66(2) and (3)

Mitigating and aggravating circumstances – Art. 68(2)

Maximum amount of the fine in case of infringements in the context of a continuous processing – Art. 66(4)

### Article 66(1)

- whether to impose the fine and the amount of the fine:
  - a) nature, gravity and duration of the infringement + nature, scope or purpose of the processing + number of data subjects affected + level of damage suffered by them;
  - b) action taken by the EUI to mitigate the damage suffered by data subjects;
  - c) degree of responsibility of the EUI + technical and organisational measures implemented by them pursuant to Articles 27 and 33;
  - d) similar previous infringements by the EUI;
  - e) degree of cooperation with the EDPS to remedy the infringement and mitigate the possible adverse effects of the infringement;
  - f) categories of personal data affected by the infringement;
  - g) manner in which the infringement became known to the EDPS, in particular whether, and if so to what extent, the EUI notified the infringement;
  - h) compliance with any of the measures referred to in Article 58 previously ordered (+ warnings, reprimands, referral of the matter) against the EUI concerned with regard to the same subject-matter.

+ when imposing the fine on an EUI: proportionality of amount of the fine.

### Recital 81

In order to strengthen the supervisory role of the European Data Protection Supervisor and the effective enforcement of this Regulation, the European Data Protection Supervisor should, as a sanction of last resort, have the power to impose administrative fines.

The fines should aim at sanctioning the Union institution or body — rather than individuals — for non-compliance with Regulation (EU) 2018/1725, to deter future violations of Regulation (EU) 2018/1725 and to foster a culture of personal data protection within the Union institutions and bodies, ...
### Regulation (EU) 2018/1725 (EDPR)

#### Category 1 Infringements
- Maximum fine of 25,000 EUR per infringement and of 250,000 EUR per year

#### Infringements for which fining is explicitly set out in Art. 66(2) of the EDPR
- Art. 8 - Conditions applicable to a child's consent in relation to information society services
- Art. 12 - Processing which does not require identification
- Art. 27 - Data protection by design and by default
- Art. 28 - Joint controllers
- Art. 29 - Processor
- Art. 30 - Processing under the authority of the controller or processor
- Art. 31 - Records of processing activities
- Art. 32 - Cooperation with the European Data Protection Supervisor
- Art. 33 - Security of processing
- Art. 34 - Notification of a personal data breach to the European Data Protection Supervisor
- Art. 35 - Communication of a personal data breach to the data subject
- Art. 39 - Data protection impact assessment
- Art. 40 - Prior consultation
- Art. 43 - Designation of the data protection officer
- Art. 44 - Position of the data protection officer
- Art. 45 - Tasks of the data protection officer

#### Category 2 Infringements
- Maximum fine of 50,000 EUR per infringement and of 500,000 EUR per year

#### Infringements for which fining is explicitly set out in Art. 66(3) of the EDPR
- Art. 4 - Principles relating to processing of personal data
- Art. 5 - Lawfulness of processing
- Art. 7 - Conditions for consent
- Art. 10 - Processing of special categories of personal data
- Art. 14 - Transparent information, communication and modalities for the exercise of the rights of the data subject
- Art. 15 - Information to be provided where personal data are collected from the data subject
- Art. 16 - Information to be provided where personal data have not been obtained from the data subject
- Art. 17 - Right of access by the data subject
- Art. 18 - Right to rectification
- Art. 19 - Right to erasure ('right to be forgotten')
- Art. 20 - Right to restriction of processing
- Art. 21 - Notification obligation regarding rectification or erasure of personal data or restriction of processing
- Art. 22 - Right to data portability
- Art. 23 - Right to object
- Art. 24 - Automated individual decision-making, including profiling
- Art. 25 - Restrictions
- Art. 26 - Responsibility of the controller
- Art. 27 - Data protection by design and by default
- Art. 30 - Processing under the authority of the controller or processor
- Art. 31 - Records of processing activities
- Art. 32 - Cooperation with the European Data Protection Supervisor
- Art. 33 - Security of processing
- Art. 34 - Notification of a personal data breach to the European Data Protection Supervisor
- Art. 35 - Communication of a personal data breach to the data subject
- Art. 36 - Confidentiality of electronic communications
- Art. 37 - Protection of information transmitted to, stored in, related to, processed by and collected from users’ terminal equipment
- Art. 38 - Directories of users
- Art. 40 - Prior consultation
- Art. 43 - Designation of the data protection officer
- Art. 44 - Position of the data protection officer
- Art. 45 - Tasks of the data protection officer

#### Infringements for which fining is not explicitly set out in Art. 66(2) or (3), but could be sanctioned in line with Art. 66(1) as failure to comply with order under Art. 58(2)(e) of the EDPR
- Rec (49) EUDPR in connection with Art. 42 GDPR - Certification of EUI
- Art. 6 - Processing for another compatible purpose
- Art. 11 - Processing of personal data relating to criminal convictions and offences
- Art. 13 - Safeguards relating to processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes
- Art. 24 - Automated individual decision-making, including profiling
- Art. 25 - Restrictions
- Art. 36 - Confidentiality of electronic communications