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Law.Tax

Cyber Webinar The changing face of Cyber claims

October 2020

Panelists



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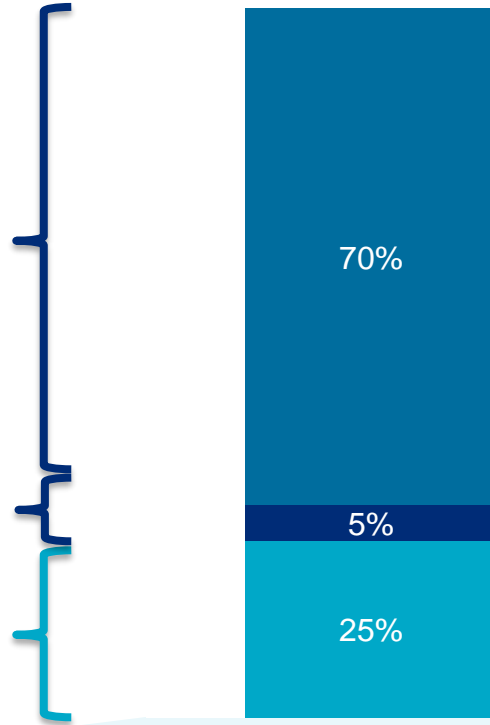
MARSH

Update on cyber loss activity in Europe



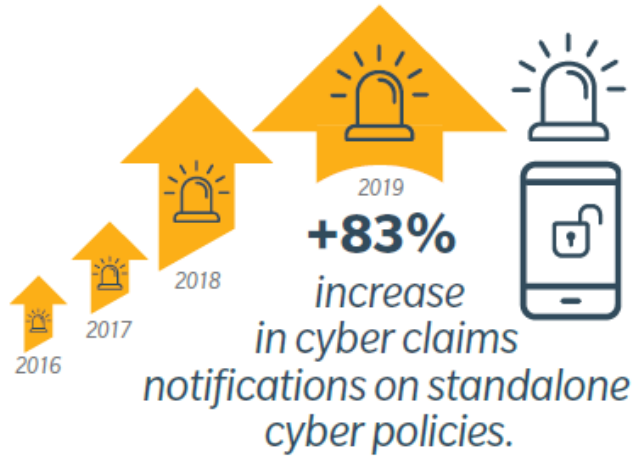
Idea 1: Analysis of costs

CYBERINSURANCE	Insurance part: <ul style="list-style-type: none">• First party costs (Loss of turnover / costs to recover)• Third party claims
	Assistance part: <ul style="list-style-type: none">• 24/7/365 hotline• Forensics experts• Legal experts• PR experts



Focus on France

Idea 2: Frequency & severity on the rise



Toll Logistics hit by second cyber attack

May 14, 2020 Cyber Security, News



Idea 3: Ransomware vs Client Behaviour



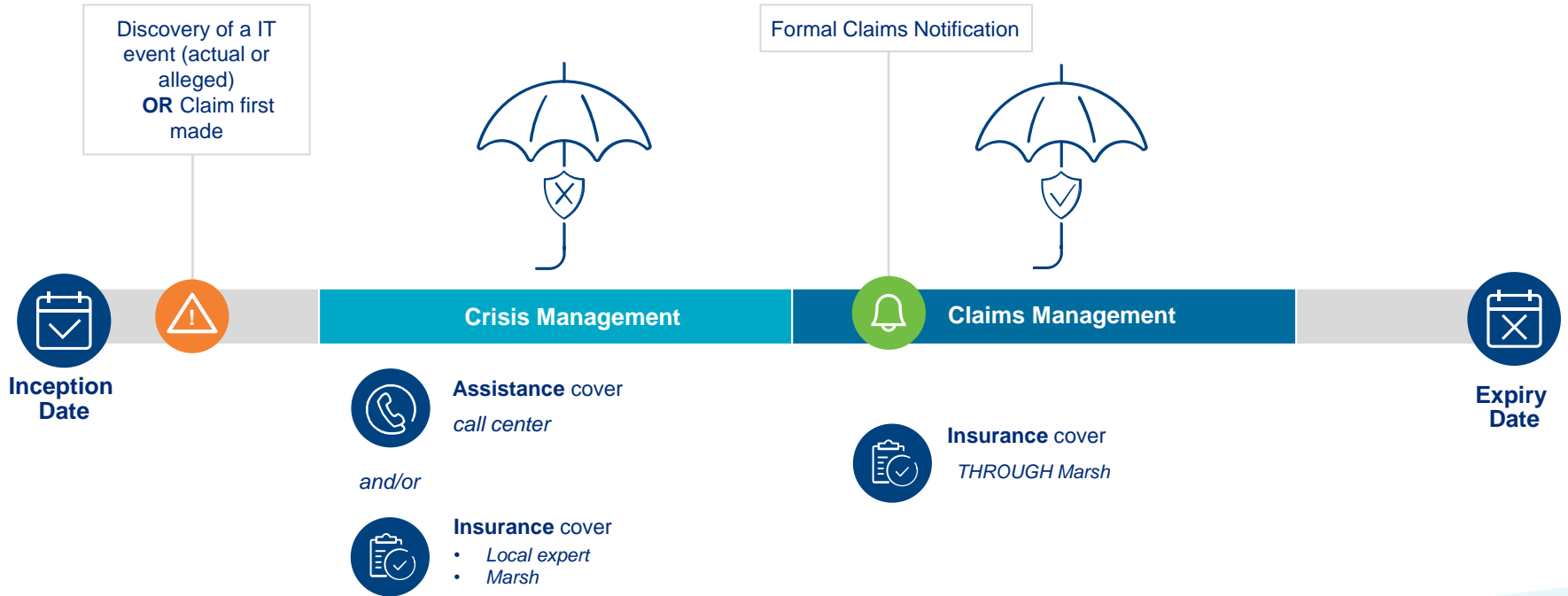
**Continental
Europe**

VS



**United
States**

A deep dive into case studies



WAVESTONE

The mind, motivation and modus operandi of cybercriminals



3 trends that will carry on 2021...



**THE RANSOMWARE
HYDRA**



**PROVIDER
HACKING**



**NEW CLOUD
ATTACKS**

More than 50% of attackers do not have advanced technical skills

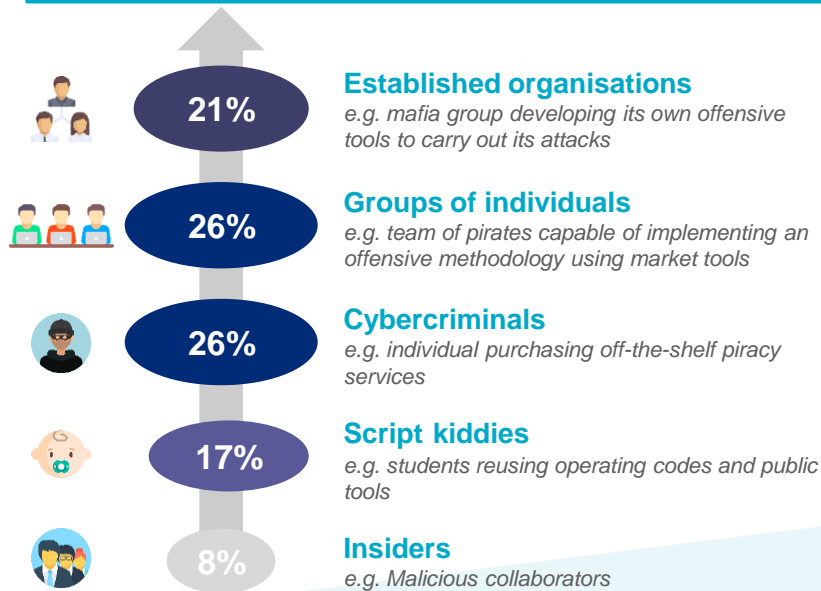
What types of threat?

65 % opportunistic threats: often not highly technical; do not target a particular organisation, so if one is more secure than another, attackers will move to throw themselves onto the easiest prey.

30 % targeted threats: targets sensitive and precise information in the organisation. The attackers are mandated with a clear objective. They ensure all means are available to achieve their goals.

5 % diffuse threats: corresponds to the usual virus infections or spam; does not target a particular organisation and has a limited effect on the IS: denial of service, loss of user data....

Which attacker profiles?



Same entry gates are regularly used by attackers



In **20%** of cases, it was not possible to identify the intrusion vector:

- ▶ **Insufficient technical traces**
- ▶ **Decommissioned or destroyed systems**
- ▶ **Lack of local resources**

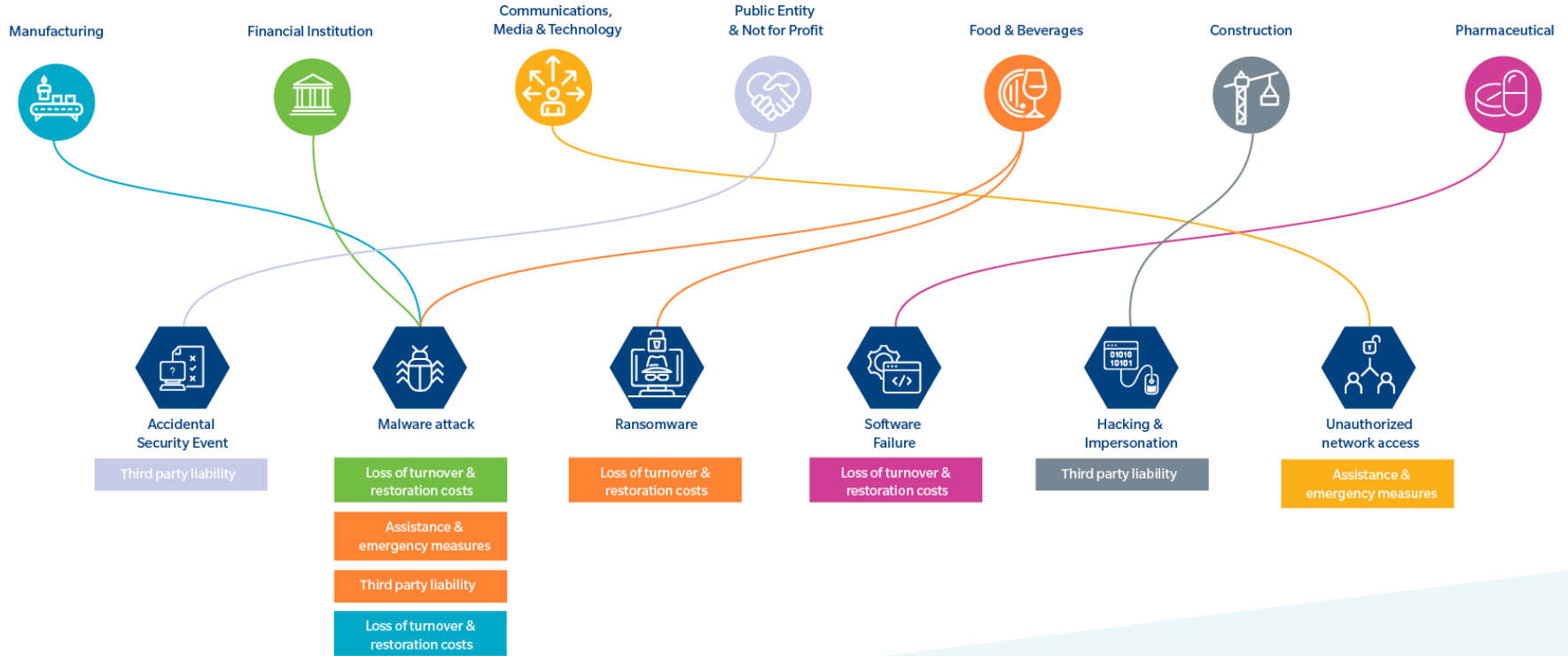
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Focus on « claims management »



Cyber Claims Notifications

What happened – a few examples



Cyber Claims in CE – focus points

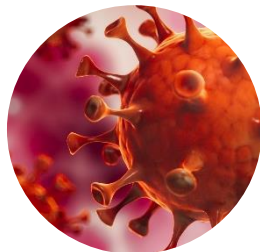
Emergency costs

- A large number of claims are handled in under 72 hours
- The most frequent cost categories for cyber claims are related to assistance and emergency measures

Business Interruption

Major EU claims are about Business Interruption:

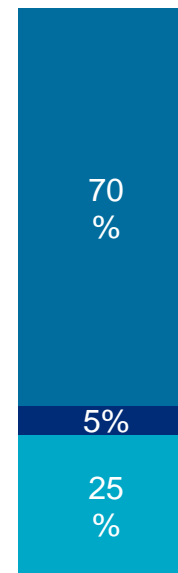
- Importance of **quantification** capacities
- Importance of the Loss adjuster



e.g. Covid19

*30% of SMEs report turnover losses of up to 80%**

- Remediation costs/ BI and Extra Expenses
- Third party claims/Data Breach
- Emergency measures



*source: OECD

Cyber Claims Management

Several faces of cyber claims

- **Multi-disciplined teams**
- **Project management approach**
- **Limited experience**
- **Carrier wording alignment**
- **Preparing and calculating**
- **Pre-Loss advice and Post-Loss lessons**



Marsh Claims Feedback

Call for action

Pre-loss meetings

- Don't wait for the cyber claim to happen to understand how it will work:
 - Understand your **coverage** and the **claims process**
- Check the wording of your cyber insurance particularly when specifying:
 - Sufficient **limits**
 - Restrained **sub-limits** & **deductibles**
 - Consistent, accurate and not constraining **clauses**
 - Precise **definitions**
- Build up your **internal procedure** and define its internal key actors among:
 - CISO
 - Insurance department
 - Legal department
 - Finance

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Legal aspects of cyber risk management



Legal aspects of cyber risk management

First response & the role of external counsel

- **GDPR breach notification** obligations remain a **key struggle** for organizations during incident management
- **GDPR** poses a risk of **tunnel vision**




CMS GDPR Enforcement Tracker: facts & figures

Fines Statistics

[x] Remove all filters

Filter by country:




Filter by violation (Art.):




All 5 6 7 9
12 13 14 15 17
18 21 24 25 28
29 31 32 33 34
35 36 37 58 83

GDPR Enforcement Tracker

This website contains a list and overview of fines and penalties which data protection authorities within the EU have imposed under the EU General Data Protection Regulation (GDPR, DSGVO). Our aim is to keep this list as up-to-date as possible. Since not all fines are made public, this list can of course never be complete, which is why we appreciate any [indication of further GDPR fines and penalties](#).

tracked by 

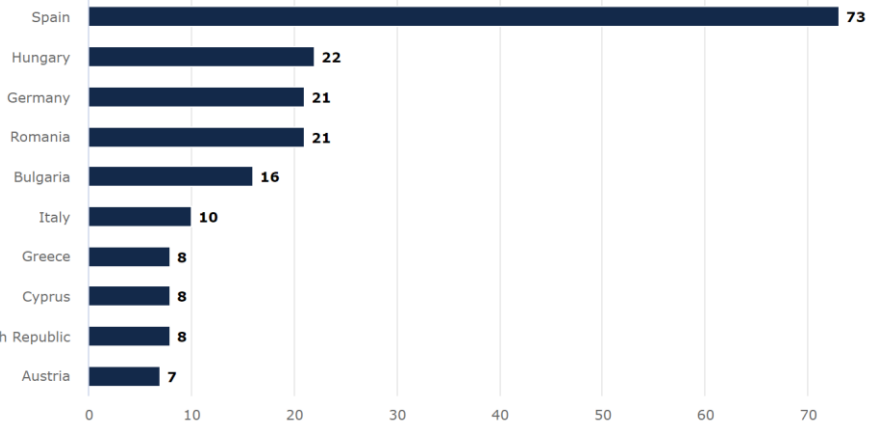
Show entries Search:

Country	Authority	Date	Fine [€]	Controller/Processor	Quoted Art.	Type	Summary	Infos
 HUNGARY	Hungarian National Authority for Data Protection and the Freedom of Information (NAIH)	2020-07-23	560	Forbes Hungary	Art. 5 GDPR, Art. 6 GDPR	Insufficient legal basis for data processing	Fine imposed on Forbes Hungary for publishing a list of the 50 wealthiest Hungarians and a list of the largest family businesses without a sufficient balance of interests (Art. 6 (1) f) GDPR).	link
 HUNGARY	Hungarian National Authority for Data Protection and the Freedom of Information (NAIH)	2020-06-12	288,000	Digi Távközlési Szolgáltató Kft. ("Digi") (electronic communication service provider)	Art. 5 (1) b), (e) GDPR, Art. 32 (1), (2) GDPR	Insufficient technical and organisational measures to ensure information security	The company had infringed the principles of purpose limitation and storage restriction because its database contained a large amount of customer data which were no longer relevant for the actual purpose of collection and for which no retention period had been set. Furthermore, the NAIH pointed out that the defendant had not taken proportionate measures to reduce the risks in the area of data management and data security, arguing, inter alia, that it had not used encryption mechanisms.	link
 HUNGARY	Hungarian National Authority for Data Protection and the Freedom of Information (NAIH)	2020-03-26	2,890	Bank	Art. 5 GDPR, Art. 6 GDPR	Insufficient legal basis for data processing	Due to an administrative error, the personal data of the data subject were registered and transferred to the Central Credit Information System (CCI) in connection with a loan agreement, without the data subject being a party to the agreement.	link

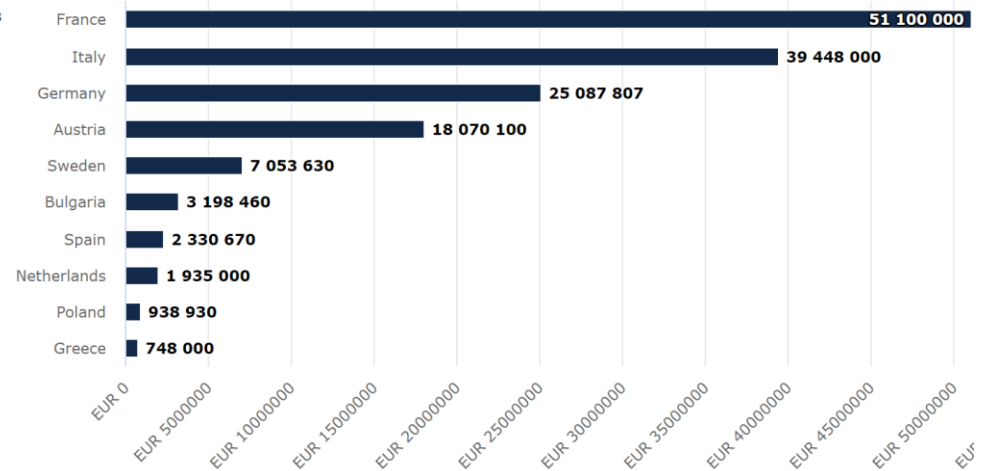
source: enforcementtracker.com

CMS GDPR Enforcement Tracker: country overview

Number of fines per country

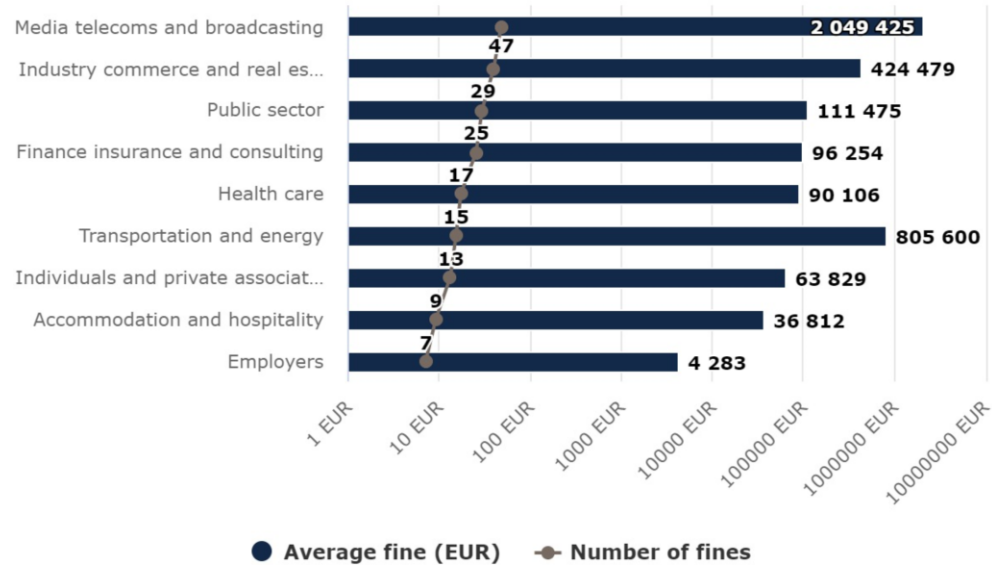


Total sum of fines by country

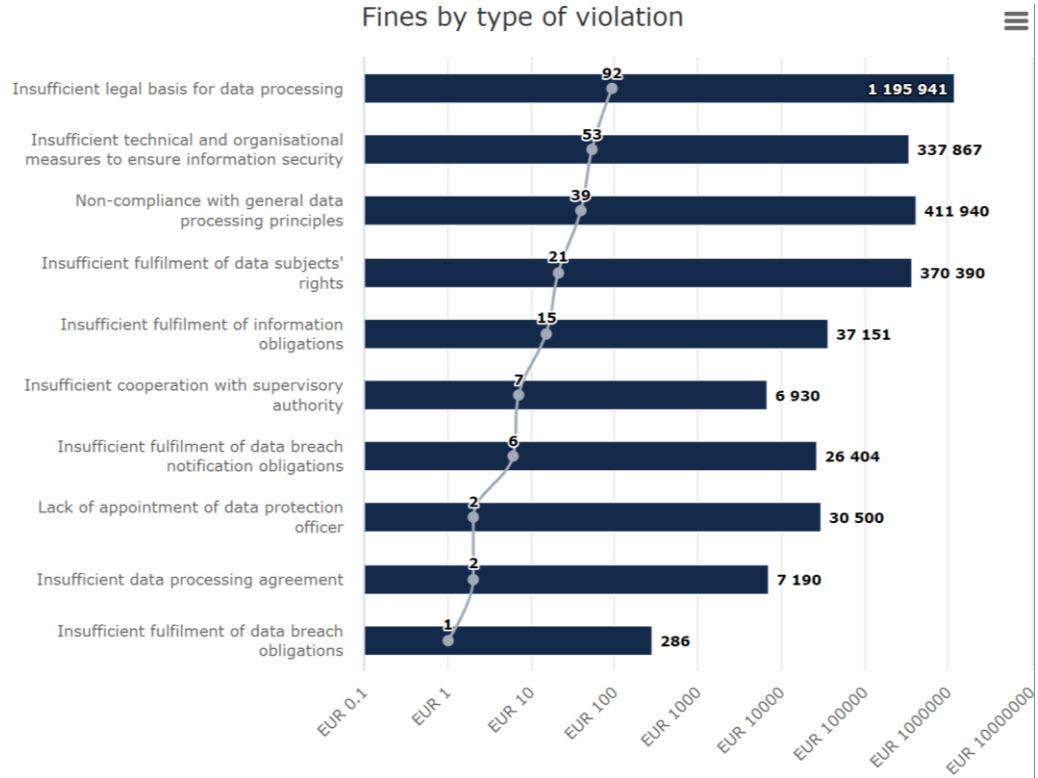


CMS GDPR Enforcement Tracker: sector overview

Fines by business sector

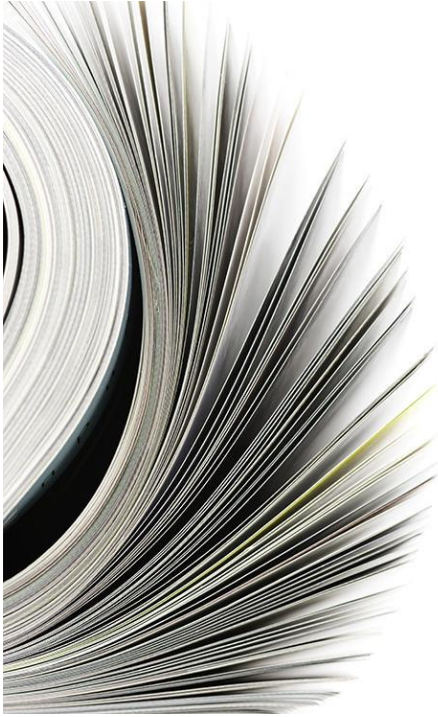


CMS GDPR Enforcement Tracker: violation overview



Legal aspects of cyber risk management

Class actions in Continental Europe?



- UFC-Que Choisir group **vs. Google** (France)
- Test Aankoop **vs. Facebook** (Belgium)
- Altroconsumo **vs. Facebook** (Italy)
- OCU **vs. Facebook** (Spain)
- Deco Proteste **vs. Facebook** (Portugal)

Legal aspects in cyber risk management

Class actions in Continental Europe: what is next?

The Privacy Collective vs. Salesforce & Oracle

- Launched in August 2020 in **the Netherlands**
- **Commercially funded**
- Context: data protection regulations in the context of **real-time bidding** and **online profiling**
- Claimed representation approx. **10 million citizens** in the Netherlands
- Claim per individual: approx. **€ 500**
- Potential total claim amount: approx. **€ 10,000,000,000**



Q&A

The Changing Face of Cyber Claims

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Marsh is one of the Marsh & McLennan Companies, together with Guy Carpenter, Mercer, and Oliver Wyman.

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