FINES AND PENALTIES

What are the penalties for noncompliance with any applicable data protection laws?

Noncompliance with data privacy laws and data breaches may lead to sanctions, fines, and penalties. The amounts are usually calculated according to the risk to which personal rights were exposed and the preventive measures taken by the data controllers, processors and sub-processors in relation to their respective role in the chain of personal data processing.

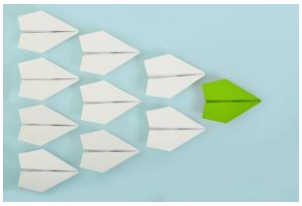
Based on Swiss Data Protection Law, a criminal judge may, upon complaint, apply a sanction with a fine up to CHF 10,000 if the data controller willfully breaches its obligations to:

- provide information upon request of the data subject concerned;
- provide information on the collection of sensitive personal data and personality profiles;
- inform the FDPIC about the safeguards and data protection rules in relation to certain cross-border transfers of personal data;
- register a data file with the FDPIC; or,
- cooperate with the FDPIC.

Under the revised Swiss Federal Act on Data Protection, penalties will be increased to CHF 250,000.

The criminal judge may also, upon complaint, sanction with a fine up to CHF 10,000 if a data controller without authorization willfully discloses confidential, sensitive personal data or personality profiles that have come to their knowledge (i) in the course of professional activities where such activities require the knowledge of such data; or, (ii) in the course of their activities for a person bound by professional confidentiality or in the course of training with such a person.

The offender must be a natural person. If the violation is incumbent on a legal entity, it is attributed to a natural person acting as a governing officer, a partner, an employee with independent decision-making authority or as de facto manager.



HR Best Practices:
Before processing personal data, make sure to be in line the security measures necessary to ensure data security within your organization. Furthermore, ensure all data processors have data breach response plans in place.

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