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By PwC Deutschland | 19 December 2025

Compensation for violation of data protection by tax authority

In a recently published decision, the Supreme Tax Court has for the first time commented on the requirements for claims of damages before the tax court against a tax authority due to violation of data protection regulations. Such action for damages pursuant to Art. 82 of the General Data Protection Regulation (GDPR) is generally inadmissible (for want of being adversely affected or burdened) if there has been no prior out-of-court request of the claim.

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In the **case in dispute**, the taxpayer believed that the tax office had violated data protection regulations. Various legal infringements occurred during the external audit. The taxpayer therefore asserted a claim for damages directly before the lower tax court (tax court of Berlin-Brandeburg) in accordance with Art. 82 GDPR. **The lower tax court** dismissed the claim. It concluded that no damage to the taxpayer was apparent and that a claim for damages was not possible.

The Supreme Tax Court upheld the decision of the tax court, albeit on different (procedural) grounds. In the opinion of the Supreme Tax Court, the enforcement of a claim for damages under Article 82 GDPR requires that this claim be previously made to the tax office responsible for data processing. In the absence of a prior rejection of the claim by the tax authority, the taxpayer cannot bring legal action before a tax court for want of being adversely affected or burdened.

A legal action brought without prior rejection from the tax office is therefore inadmissible. Rather, the tax office must first be given the opportunity to examine the claim for damages and reach a decision. Even in court proceedings already pending that concern violations of data protection regulations the previous submission cannot simply be extended to include a claim for damages.

These principles apply accordingly and regardless of the type of action for damages under Article 82 GDPR.

Source:

Supreme Tax Court, decision of 15 September 2025 (IX R 11/23), published on 18 December 2025.

Keywords

Data Protection, damages