

# Change Rules

**100% Know-How. 0% Nonsense.**

November 2023

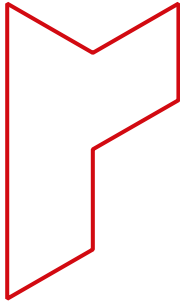


# reuschlaw report: Actions for damages under data protection law in 2023

November 2023

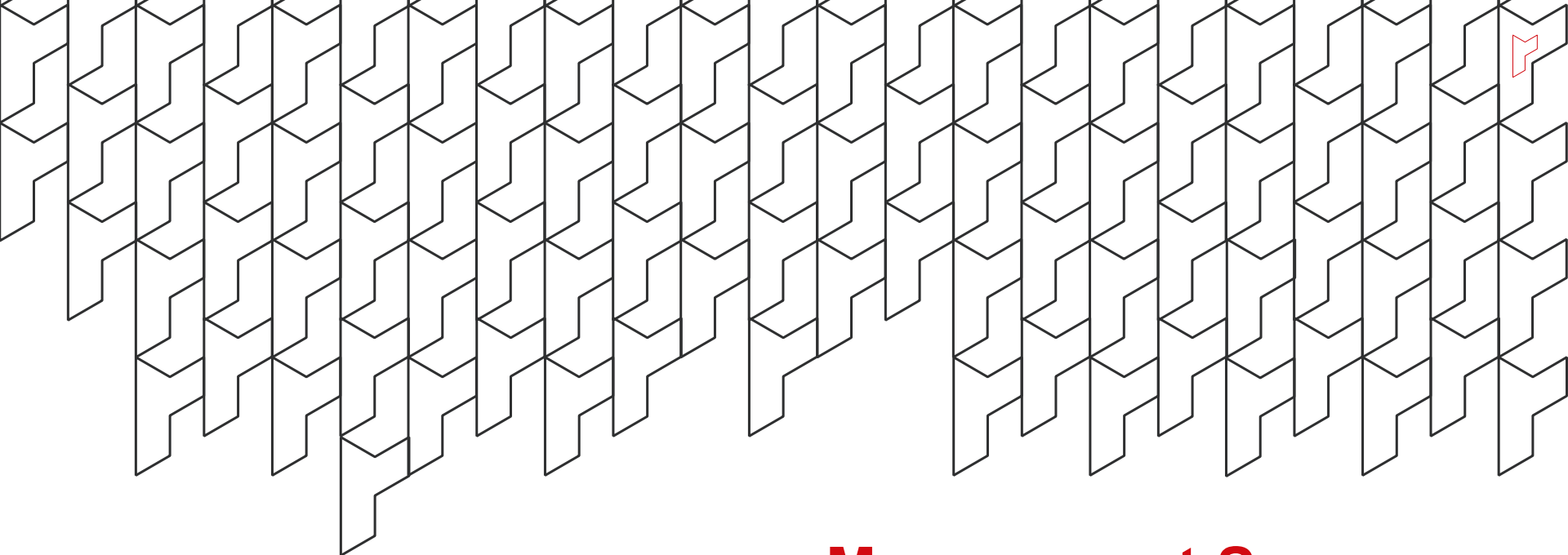
Results of an analysis of court  
rulings on actions under Art. 82  
GDPR





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# Management Summary

Essentials at a glance



# Background of the analysis of actions under Art. 82 GDPR

**Claims for damages for data protection breaches are continuously increasing.**

In practice, companies are increasingly facing actions for data protection breaches where – mostly unreasonably high – compensation for immaterial damage is claimed.

Due to a proliferation of court rulings, particularly in the labour courts, and the increased use of Legal Tech, companies are at risk of being exposed to a large number of claims for damages.

We have taken this development as an opportunity to update our case law report from 2022.

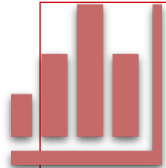
# Results of the analysis of court rulings on Art. 82 GDPR



Only 35% of the actions are successful.



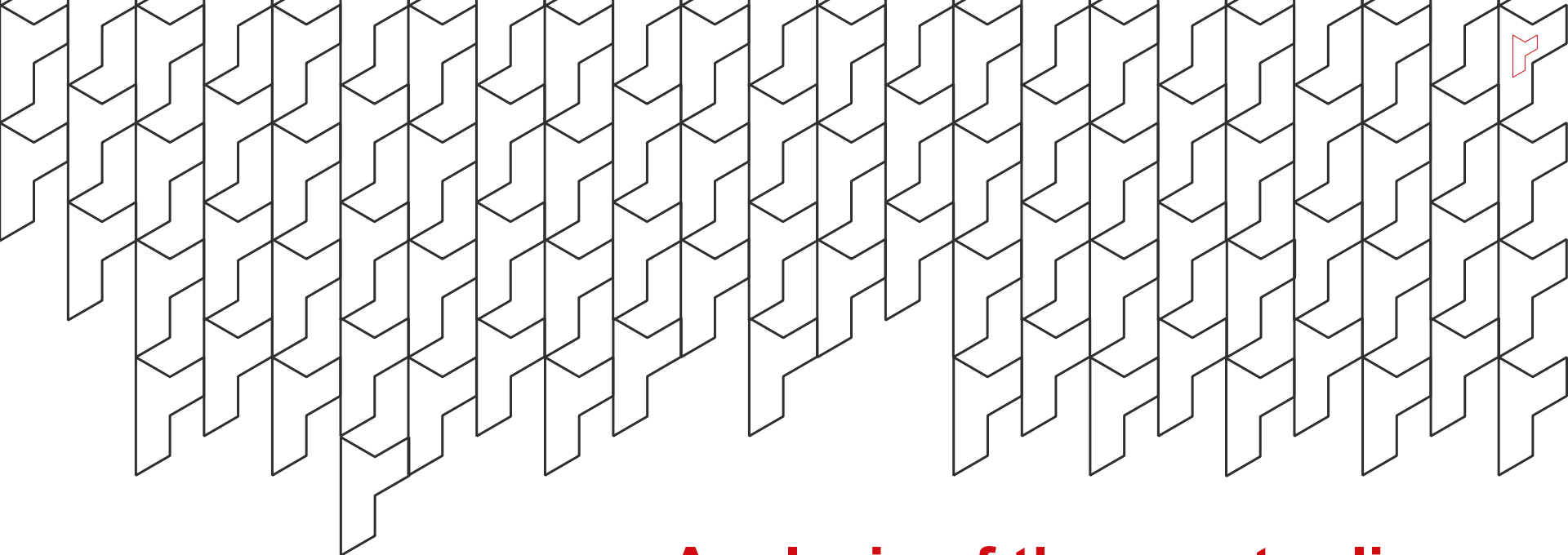
The quota of successful cases in labour courts is significantly higher – at 67%.



The average amount of damages is 2,246.87 euros.



The highest amounts were awarded for breaches of data security.

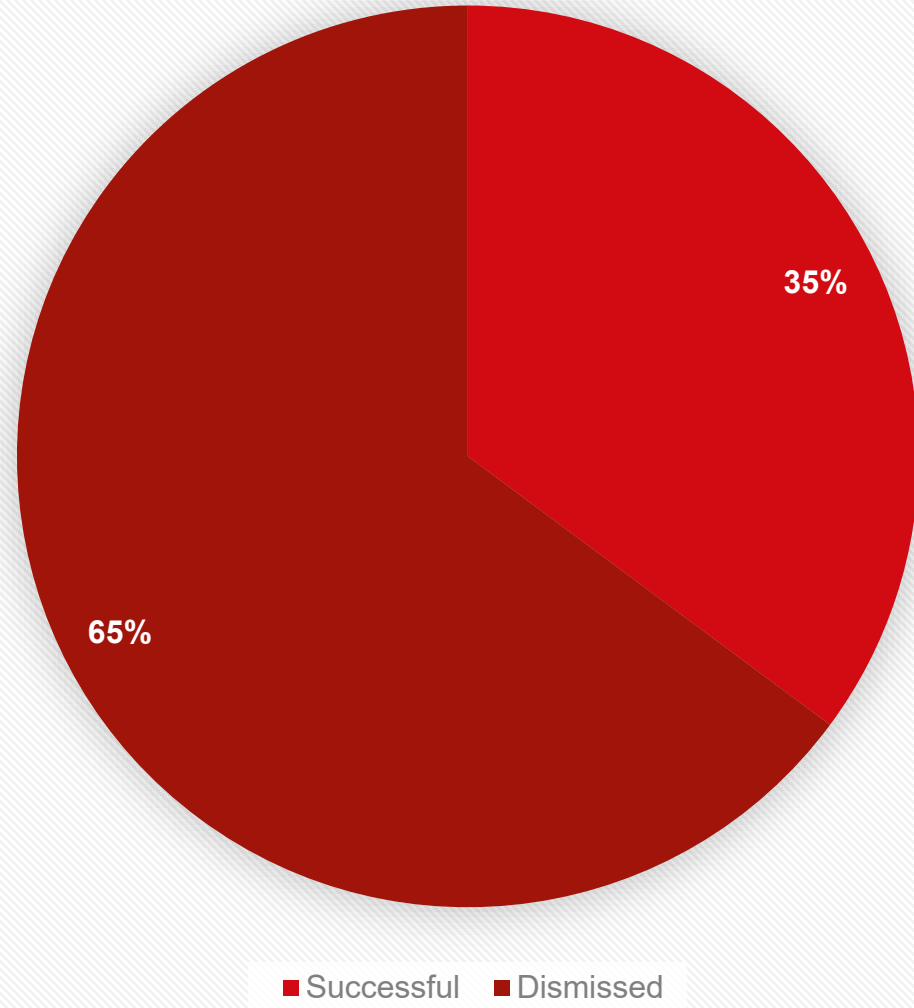


## **Analysis of the court rulings**

**Few actions to succeed – better chances in labour courts**

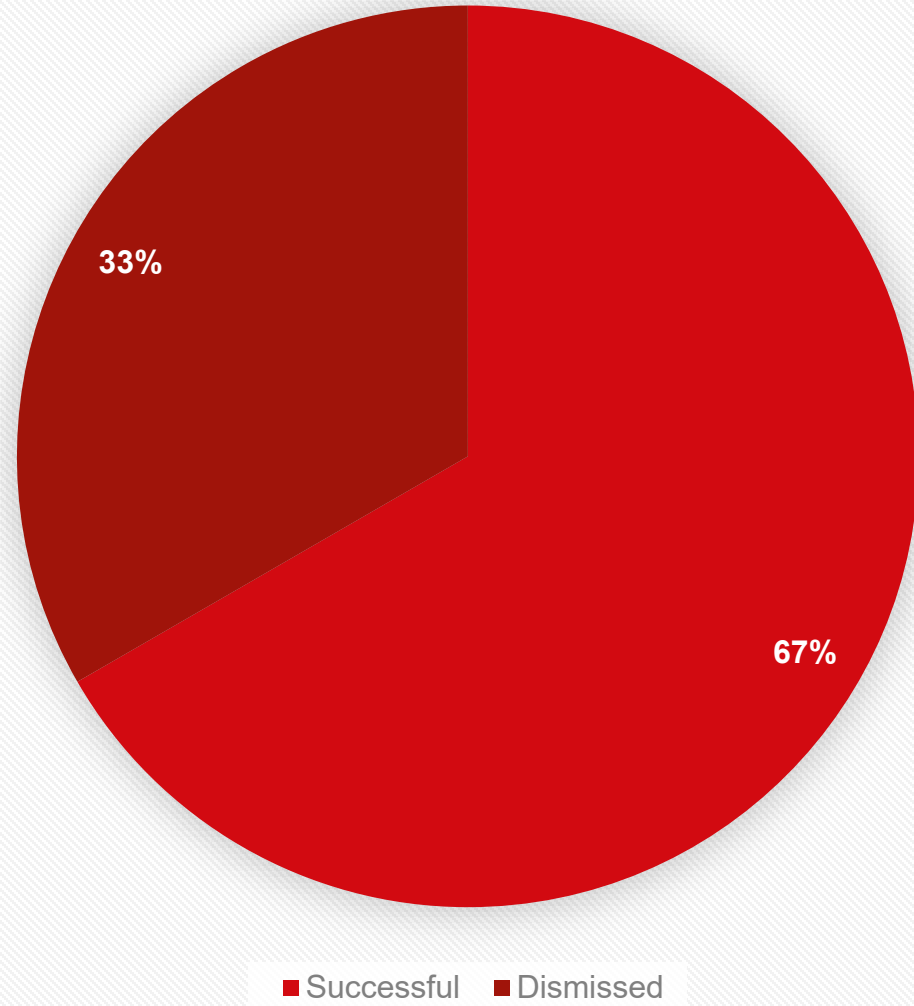
## Chances for successful claims for damages

- The analysis is based on the current court rulings on Art. 82 GDPR.
- Of a total of **169 actions analysed**, **58** were at least partly successful.
- The **quota of successful actions** is thus only 35%, but is trending upwards (previous year: 30%).

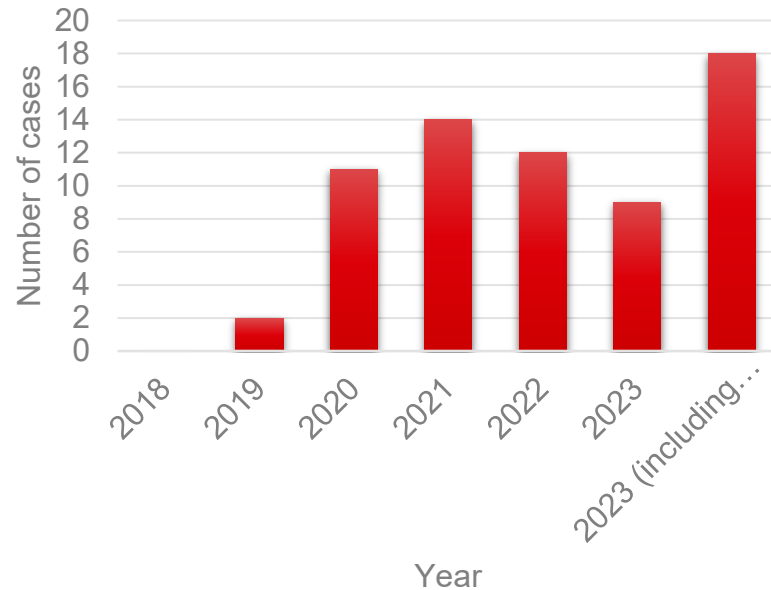


## Chances for success in labour courts

- Of the actions analysed, **27** were decided in labour courts.
- **18** of these were at least partly successful.
- The **quota of successful actions** in labour courts is thus 67% (previous year: 68%).



## Damages awarded broken down by years

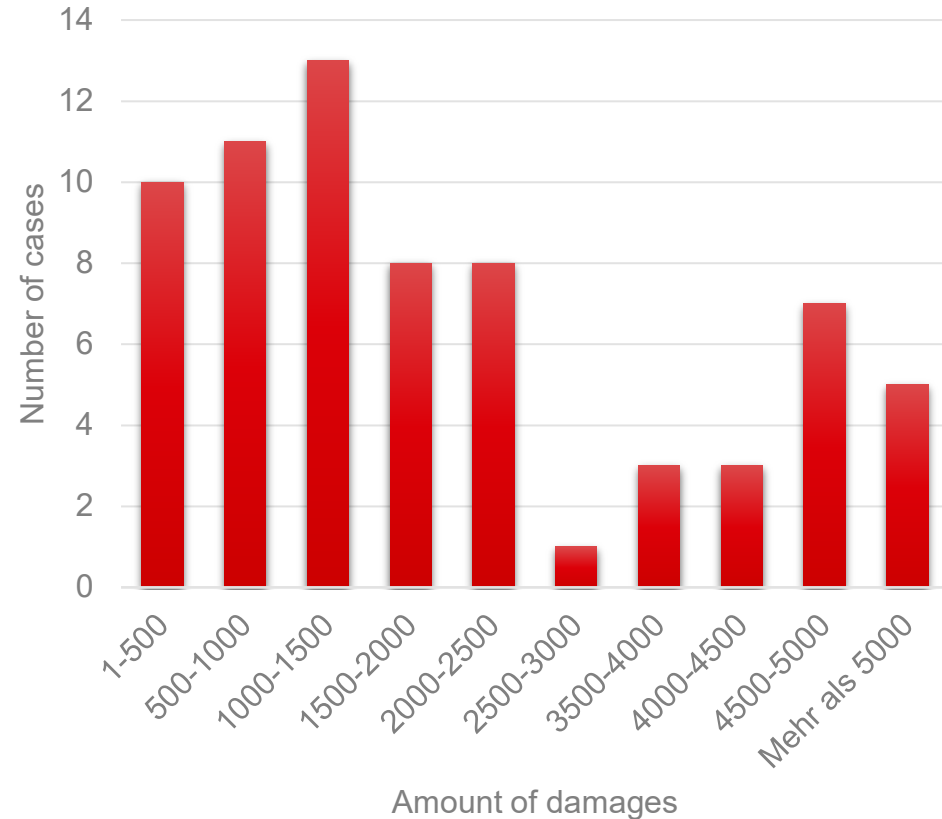


- In **2018** no damages were awarded at all.
- From **2019 to 2021** the number of cases with awarded damages increased steadily.
- In **2022** the number of cases with awarded damages decreased slightly.
- In **2023** figures have been slightly decreasing so far, excluding the numerous actions for “scraping” on the Facebook platform.

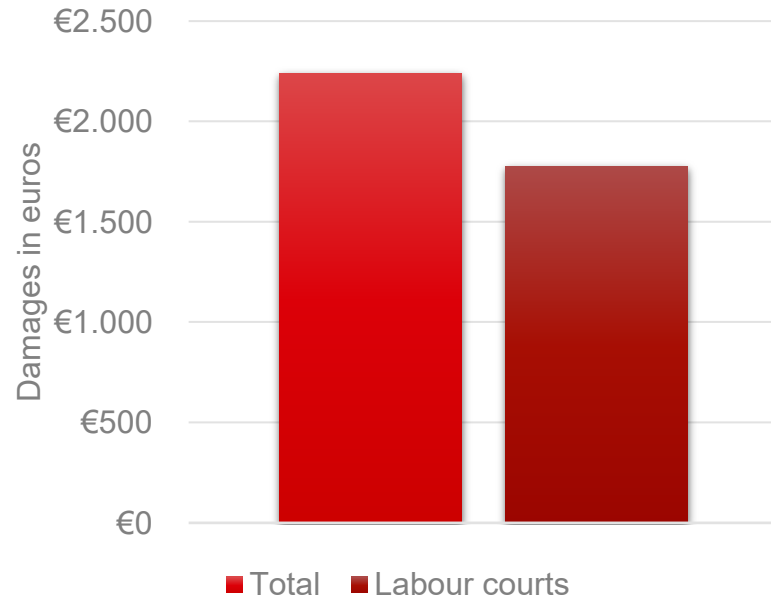


# Amount of damages awarded

- The amount of damages awarded is mainly in the range up to **2,500 euros**.
- Only the range of **4,500 to 5,000 euros** stands out with seven cases awarded.
- The number of claims for damages **above the amount of 5,000 euros** rose significantly last year compared to the previous year (increase of 500%).



# Average amount of damages awarded



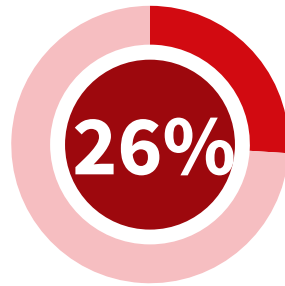
- **On average** 2,246.87 euros in damages were awarded.
- In **labour courts**, the average of damages awarded is slightly lower at 2,228.94 euros but has increased significantly (previous year: 1,777 €).
- With an average amount of 2,567 Euro, the highest amounts were awarded for **breaches of data security**.



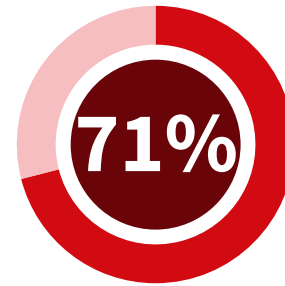
# Damages broken down by type of breach



**Data security<sup>1</sup>**



**Data subjects' rights<sup>2</sup>**



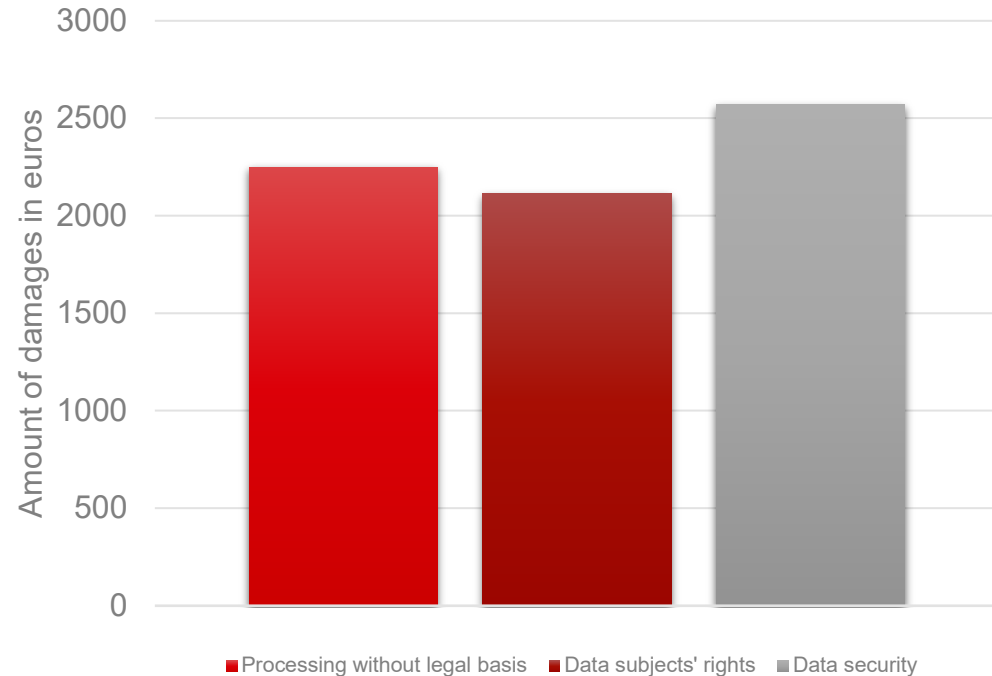
**Lack of legal basis<sup>3</sup>**

Previous year::

- <sup>1</sup> 5%
- <sup>2</sup> 19%
- <sup>3</sup> 76%

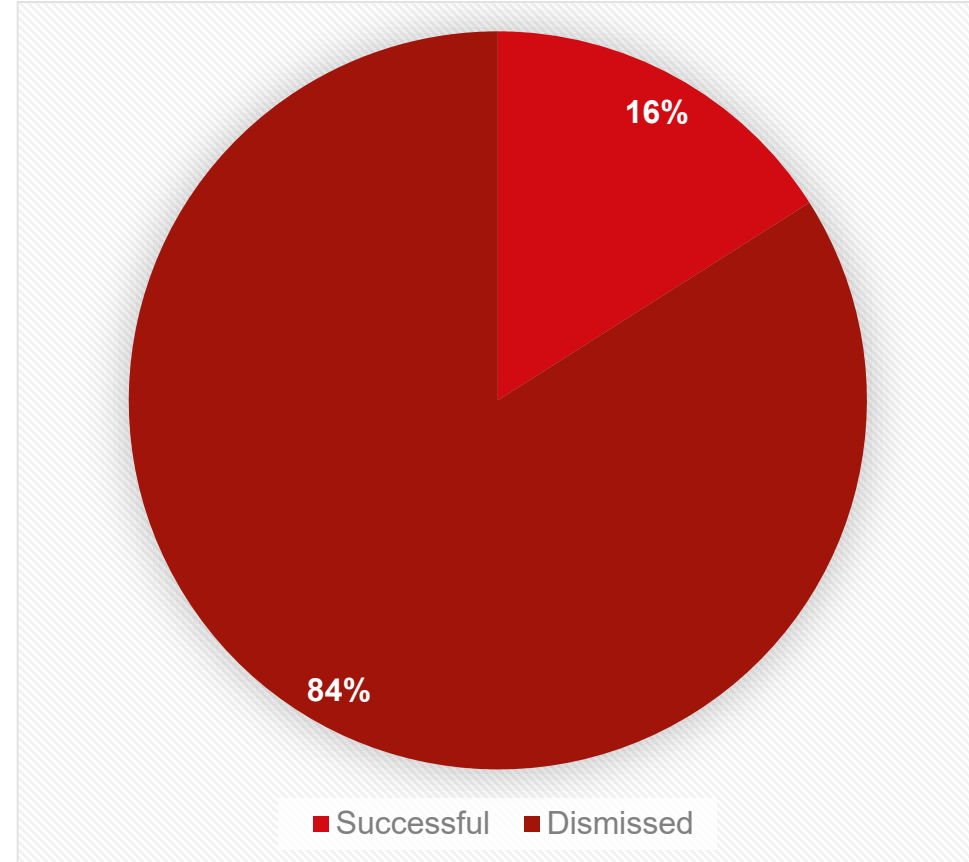
## Amount of damages by type of breach (excluding scraping)

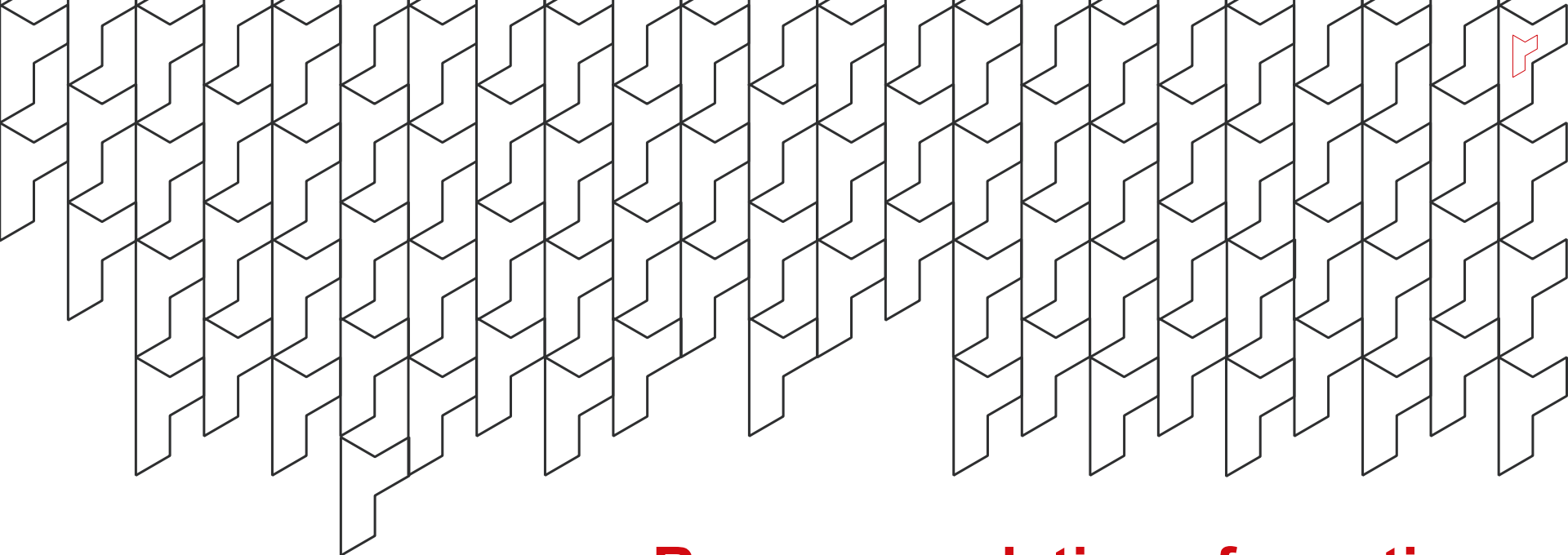
- An average of 2,567 euros in damages was awarded for breaches of **data security**.
- In the case of processing of personal data **without a legal basis**, an average of 2,294.80 euros in damages was awarded (previous year: 2,360 euros).
- An average of 2,112.50 euros in damages was awarded for breaches of **data subjects' rights** (previous year: 1,621 euros).



## A special case: Scraping

- After publicly accessible personal data had been collected on the "Facebook" platform by means of scraping and appeared on the Internet in various forums, a wave of lawsuits was filed.
- Juris database contains **75 decisions** (as of November 2023).
- In most cases, those affected claimed 1,000 euros in damages.
- In only **16%** of the cases, the plaintiffs were - only **partly** - successful.
- On average, **533 euros** in damages was awarded in successful cases.





## **Recommendations for action**

**Preventive and reactive measures to avoid claims for damages under Art. 82 GDPR**

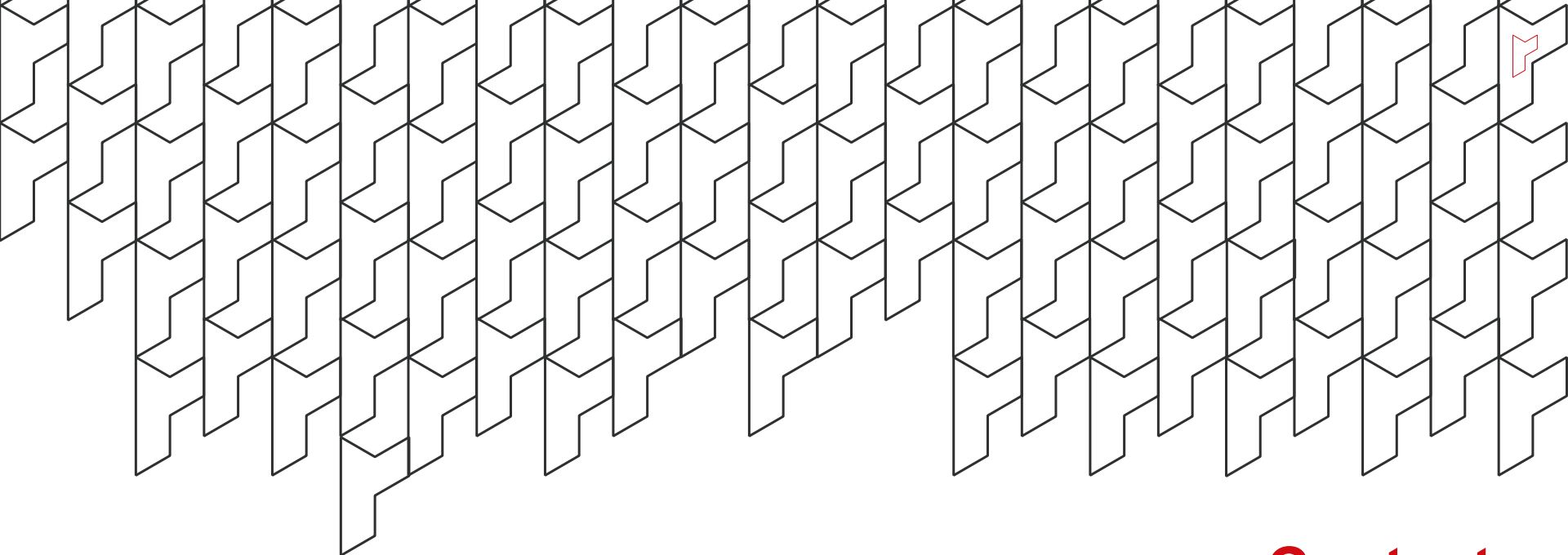
# Recommendations for corporate action

## Preventive

- Introduction of a data protection compliance management system
- Review and documentation of processing operations and the legal basis for processing
- Informing data subjects and safeguarding their rights
- Implementation of technical and organisational measures
- Establishment of a deletion concept for the timely deletion of data

## Reactive

- Legal examination with regard to the responsibility for and causality of the claim for damages
- Legal review of the amount of damages claimed
- Compliance with reporting obligations to the data protection supervisory authority and the data subjects in the event of a data protection breach



## Contact

Our contact details



# Your point of contact

reuschlaw

Office Saarbrücken  
Stengelstr. 1  
D-66117 Saarbrücken

T > + 49 681 / 859 160 0  
E > [info@reuschlaw.de](mailto:info@reuschlaw.de)

[www.reuschlaw.de](http://www.reuschlaw.de)



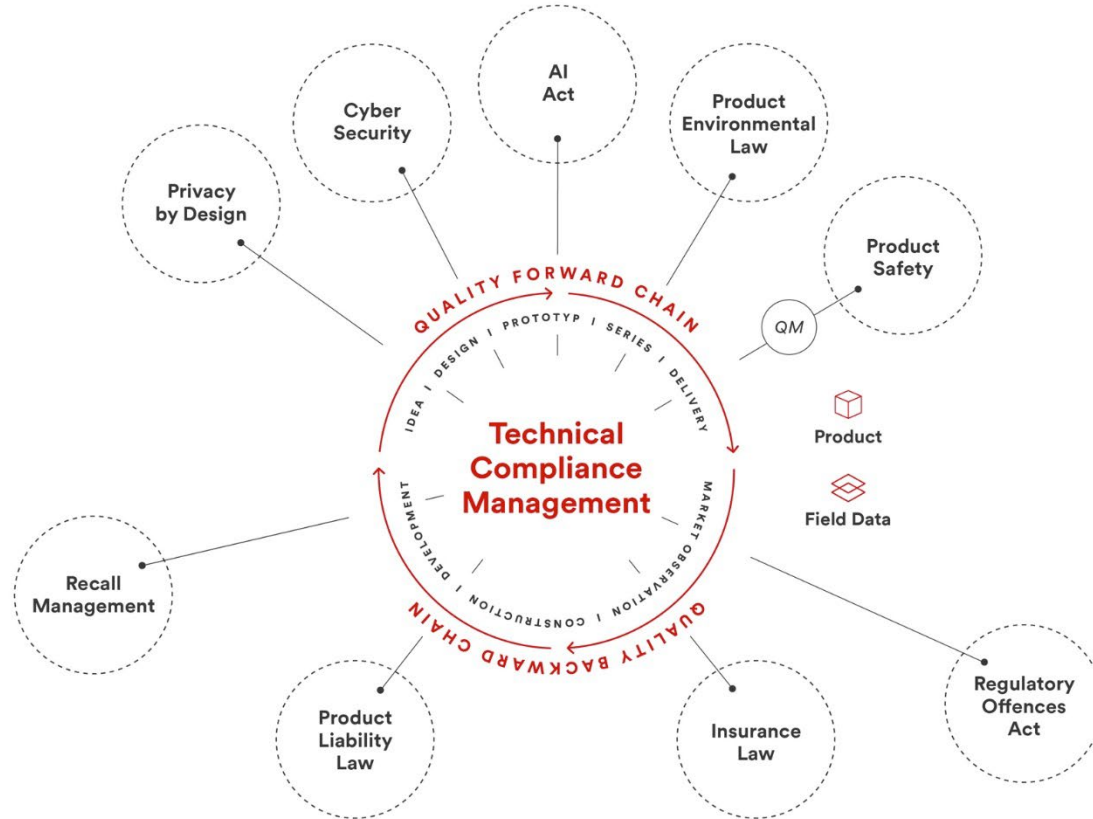
**RA Stefan Hessel, LL.M.**  
Salary Partner  
Head of Digital Business  
[stefan.hessel@reuschlaw.de](mailto:stefan.hessel@reuschlaw.de)



**RA Christoph Callewaert**  
Senior Associate  
Digital Business Unit  
[christoph.callewaert@reuschlaw.de](mailto:christoph.callewaert@reuschlaw.de)

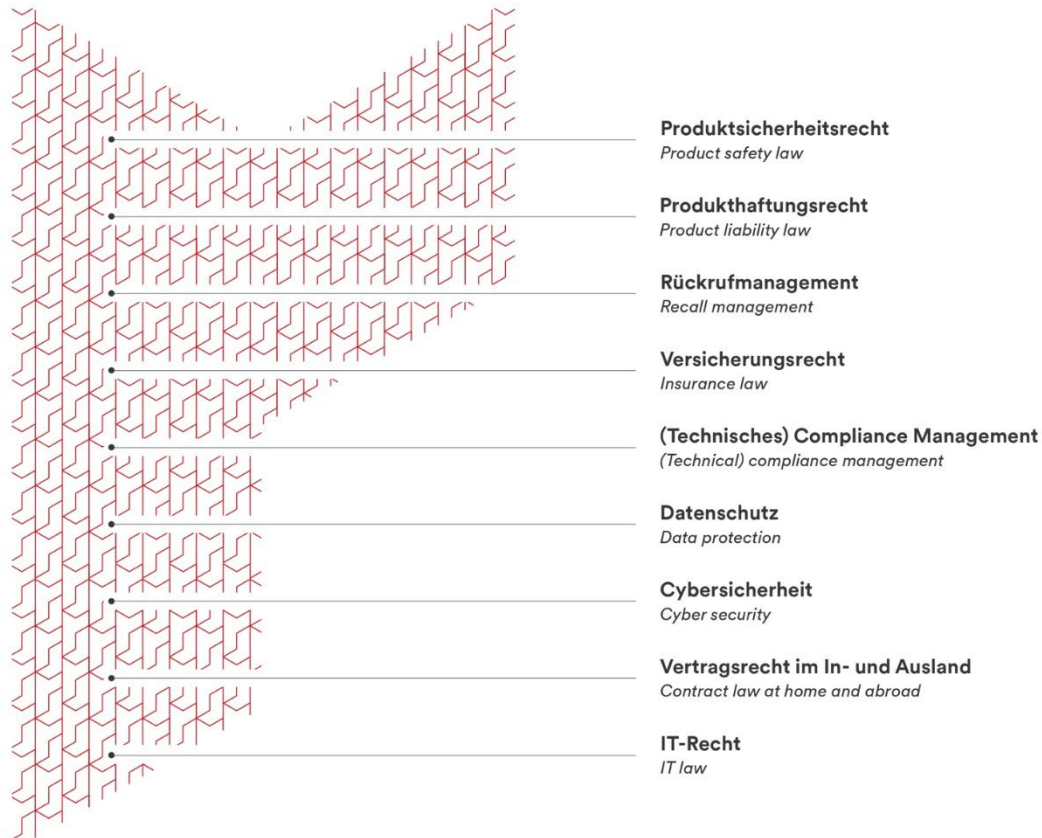
# What we do

Specialized services, solutions and consulting.



# What we do

Effectiveness is non-negotiable.



# Get in touch with us!



## **Berlin**

Joachimsthaler Straße 34  
10719 Berlin

**T** + 49 30 / 2332 895 0  
**F** + 49 30 / 2332 895 11  
**E** [info@reuschlaw.de](mailto:info@reuschlaw.de)

## **Saarbrücken**

Stengelstraße 1  
66117 Saarbrücken

**T** + 49 681 / 859 160 0  
**F** + 49 681 / 859 160 11  
**E** [info@reuschlaw.de](mailto:info@reuschlaw.de)