EUROPEAN DATA PROTECTION BOARD / PUBLIC CONSULTATION

# Publicly Funded Private Schools and Article 83(7) GDPR

Comments on paragraphs 2, 26, 40 and 120 of Guidelines 04/2026

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### 1. Add a cross-reference at Step 2.

Paragraph 2 already explains the effect of Article 83(7), and paragraph 40 identifies the addressee of the obligation. A cross-reference from paragraph 40 to paragraph 2 would clarify that, where a national restriction on fines is invoked, the supervisory authority should determine whether Article 83(7) applies to the entity and identify the applicable national rule before weighing the appropriateness of a fine at Step 5.

In Case C-458/25, Advocate General Campos Sánchez-Bordona proposed on 10 September 2026 that Article 83(7) precludes a national bar on fines for private-law bodies providing subsidised independent education (Opinion, ECLI:EU:C:2026:750, paragraph 104). The Opinion is non-binding and leaves the factual assessment to the referring court (paragraphs 89 and 94).

### 2. Link paragraphs 26 and 120 to Article 58(2).

Those paragraphs already explain that a reprimand or other measures established by national law may be used where national law bars a fine on a public authority. A short cross-reference would make clear that the restriction on fines leaves the other applicable corrective powers under Article 58(2) available, subject to their conditions. For example, an order under Article 58(2)(d) may require a controller to bring the processing of pupils’ data into compliance where appropriate, necessary and proportionate.