

FACT SHEET: „Irish Style“ Procedure

<p>Facebook’s Arguments are „secret“.</p>	<ul style="list-style-type: none"> • Facebook does not give us their counterarguments, since they said they were afraid that their arguments might be used against them at court. • The Office of the Data Protection Commissioner (ODPC) does not give us the legal counterarguments either. Some, <i>selected</i> arguments will be included in the “draft decision”. What will be included is in the sole discretion of the ODPC. Facebook received our arguments from the very beginning on. <p>Consequences:</p> <ol style="list-style-type: none"> 1. It is impossible to have a meaningful and productive procedure without an exchange of arguments of both sides. A constructive proceeding is impossible. 2. It is impossible to know whether the ODPC has assessed all arguments in a fair and balanced way or if certain arguments were simply dropped. We have to blindly trust the authority, which makes an appeal before courts very hard. 3. We can e.g. not show before a court that Facebook has flip-flopped during its argumentation or used contradictory arguments, since we only get a fraction of them.
<p>The Right to Access is not fully enforced by the ODPC.</p>	<ul style="list-style-type: none"> • Until now the “raw data” we received from Facebook after we exercised our right to access was the most important piece of evidence. • Facebook stopped delivering such data after we published our findings, despite an obligation under the Irish and EU law to disclose such data within 40 days. • The ODPC is referring us to a „Download Tool“ which holds some, but by far not all data, after waiting for this tool for about a year. • The tool does not provide the raw data (the way it is stored on the servers), but processed data which is displayed as a normal webpage. Only Facebook can decide, what information is available in which way. External control is impossible. • The ODPC does not see any reason to enforce this right to access, despite more than 1.000 users have made complaints and 100 have even complained at the EU. <p>Consequences:</p> <ol style="list-style-type: none"> 1. More than a year after we made an access request we still don’t know all the data Facebook holds about us. 2. We cannot comprehend or verify the changes Facebook implemented this past year (e.g. if “deleted” data is now really deleted). 3. We cannot file serious complaints, because Facebook claims that our raw data is outdated and therefore not relevant anymore.
<p>Secret Procedure: No access to files, evidence is “secret”.</p>	<ul style="list-style-type: none"> • The entire procedure is run as a „secret trail“. We generally denied to access any of the files or evidence in our own procedure. • We do not know about the different “deals” between the ODPC and Facebook. • We are not treated as a party of a legal proceeding, but like the general public. <p>Consequences:</p> <ol style="list-style-type: none"> 1. We cannot ensure that the ODPC is working properly and cannot assess the validity of their decisions. 2. An appeal before the courts is impossible without this basic information. The ODPC is thereby protecting itself against appeals and public scrutiny.