

UPDATE: Irish Data Protection Commission publishes first report on Facebook! First success for Austrian student against Facebook!

The Irish Data Protection Commission (DPC) has undertaken a comprehensive investigation into „Facebook Ireland Ltd“, following 22 complaints by the Austrian group „europe-v-facebook.org“. The DPC has previously conducted two on-site audits in Facebook’s headquarter in Dublin. The report has now been published:

Report. The results of the reports are vastly congruent with our complaints about Facebook’s breaches of European Data Protection:

- Facebook has to give all their stored data to the more than 40.000 users who have requested a copy of their data. This includes among others facial recognition data and all other data saved in the background.
- Facebook has to change and improve its privacy policy in many points.
- Facebook will be restricted in its use of user data for targeted advertisement purposes.
- The use of data by “social plug-ins”, like the “like”-button, will be restricted. The “tracking” of users via the “like”-button will not be allowed (anymore).
- Facebook will not be allowed to use user pictures for promotion of certain products without the user’s prior consent.
- Users will have to be given a possibility to permanently and definitely delete data. Up until now, deleted data has been stored by Facebook for an indefinite time.
- It will not be possible anymore to add a user to a group without their prior consent.
- Inactive and deactivated profiles will have to be deleted if the user has not logged on for a certain longer time.
- The last digits of IP-addresses stored from “Social plug-ins” will have to be deleted.
- Things entered in the “search” field on Facebook will have to be deleted after 6 months.
- If users click on advertisements, this data will have to be deleted after 2 years.
- Data of users who did not complete the registration process on facebook.com will have to be deleted.
- Users will only be able to provide applications with limited access to their friends’ data.
- Facebook will have to check if the privacy policy of applications is compliant with the laws.
- The activation of facial recognition on Facebook was illegal. Users will be asked again for their consent.
- Facebook will have to ensure that its employees only have access to the data required for their specific task. No such system has been in place so far.

Facebook’s first Reaction. In a first reaction to the report Facebook managed to only highlight the one complaint (“shadow profiles”) that was explicitly not found to be right by the DPC. The numerous limitations the report is forcing upon Facebook are somehow “forgotten” by Facebook. This makes a lot of sense if we think of the fact that Facebook soon wants to go public on the stock market. The limitation of one’s business model does very likely not fit into that plan. ...but at least it seems like we are both generally happy with the report, isn’t that a good thing?!

BACKGROUND INFORMATION:

Two separate procedures. The audits were undertaken parallel to the complaints by „europa-v-facebook.org“ but the complaints were „highly influential“, according to the DPC. The complaints are also bases of the report. The report does not make a final decision on the complaint. The DPC will now try to find an amicable resolution between “europa-v-facebook.org” and Facebook Ireland Ltd. on the 22 complaints.

Reports. The audits that are undertaken by the DPC give a business a general feedback on the compliance with data protection principles. They are broader in scope than individual complaints, but not as far reaching. The report was written in cooperation with Facebook and can therefore not be seen as fully independent. Within the last days there were very extended negotiations between the DPC and Facebook to reach an agreement on the text. Reports by the DPC are generally not published. For unknown reasons Facebook has agreed to the publication by the DPC.

Consequences. Because of the company structure of Facebook, the Irish DPC is the only data protection authority that is able to enforce European privacy laws against Facebook. The report drastically shows the limits on the processing of personal data within the EU. If Facebook is not following the advices by the Irish authorities they may impose a fine of up to €100.000.

Financial losses. Facebook’s business model is based on heavy processing and exploitation of personal data. Following the report by the Irish DPC, this business model could consequently be severely limited within the EU. Also the proposed stricter EU legislation will narrow the possibilities of the data mining industry and give the European users more rights. These limitations on data processing might harm Facebook much more than the possible fines in Ireland. They may substantially reduce Facebook’s business opportunities and therefore the companies’ earning and value, right before going public on the stock market.