

Office of the Data Protection Commissioner.
Canal House, Station Road
Portarlinton , Co. Laois
IRELAND

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AUSTRIA

Vienna, 18th of August 2011

Complaint against Facebook Ireland Ltd. – 10 "Access Request"

To whom it may concern,

This is a formal complaint against "Facebook Ireland Ltd." under section 10 of the Irish DPA. I am convinced that "Facebook Ireland Ltd." breaches the Irish DPA and the underlying Directive 95/46/EG and I kindly ask you to investigate the following complaint.

I am a user of "facebook.com". The contract is governed by the "terms" used by Facebook (attachment 01). They state in section 18.1. that all users that live outside of the United States of America or Canada, have a contract with Facebook Ireland, while all users within the United States of America and Canada have a contract with Facebook Inc., based in California, United States of America (further called "Facebook USA").

Therefore I do have a contract with "Facebook Ireland Limited, Hanover Reach, 5-7 Hanover Quay, Dublin 2, Ireland" (further on called "Facebook Ireland"). For performing my contract with them, Facebook Ireland is processing my personal data in different means. Since this controller is established in Ireland, I understand that according to section 3B(a)(i) DPA the Irish Data Protection Act (DPA) applies.

Because facebook.com is similar to a "cloud" service, I want to distinguish between the mere "hosting" of my data and all further processing of my data. For the purpose of hosting my data I see Facebook Ireland as a processor and myself as the controller. For any form of further processing of my data for Facebook Ireland's own purposes (e.g. analytics or advertisement) I see Facebook Ireland as the sole controller (see graphic in attachment 02).

Generally all my hosted personal data is also used for Facebook Ireland's purposes, which is why Facebook Ireland must always be seen as a controller. Whenever Facebook Ireland processes data that was "removed" by the user, it is obvious that the user is not in control of the data; therefore Facebook Ireland is the sole controller at this time. Facebook USA must be seen as the sub-processor or the processor in each case.

Unfortunately Facebook Ireland does not have a certain structure in its processing that would make it easy to distinguish certain forms of processing. In order to make the handling of my complaints easier for you, I decided to split them into individual cases. I want to inform you that some cases are overlapping to a certain extent.

Complaint 10: Access Request

I have tried to get full access to all my personal data that is held by Facebook Ireland. This took a multitude of e-mails and a first complaint with the DPC in Ireland (see attachment 02a). I also sent a list of data of which I would like to have a copy (see attachment 03). Facebook Ireland first sent me a PDF file with only limited data (see attachment 04) and later sent me a CD with another PDF file with 1.222 pages (see compressed version in attachment 05). This CD was sent via airmail by Facebook USA. Even after Facebook Ireland sent me this CD, there is personal data that was not disclosed to me by Facebook Ireland. This includes the following information:

1. Content I was posting on other peoples sites (see e.g. attachment 06, page 10)
2. Information in connection with the 15 videos I have posted on Facebook
3. The information that I "liked" certain content all over the Facebook platform
4. Information about my browser type, as listed in Facebook's privacy policy (attachment 07)
5. Information about my interaction with advertisements (as listed in the privacy policy)
6. Information gathered through "conversation tracking" (as listed in the privacy policy)
7. Information that "indicates a relationship" with other users (as listed in the privacy policy)
8. Information about pictures that I used to be tagged in, but removed my tag from.
This "tag"-information is still saved, since the Facebook platform does not allow other users to tag me again in pictures from which I "untagged" myself (see attachment 09).
9. "Tracking information" that Facebook Ireland gathered from my use of other websites, such as when I clicked on a "like"-Button, or just loaded the plug-ins from Facebook by visiting some website that implemented plug-ins from Facebook (as listed in the privacy policy).
10. Information about "Searches" that I made through the "search" function.
11. Information about settings such as the newsfeed settings (see attachment 08)
12. Information about "click flows" and the visits of individual pages of the platform (as listed in the privacy policy)
13. Information about the use of my personal data in the "friend finder" functionality of the Facebook platform.
14. A disclosure about the use and outcome of any processing of my data, such as "matching" processes, face recognition or targeting for advertisement.
15. Information about the use of my pictures for Facebook Ireland's new "face recognition" tool, or the outcome of such a process (such as biometrical data that may be used to identify me).
16. Data that Facebook Ireland gathered about me (e.g. my phone number) when other people "synchronized" a device (e.g. iPhone) with Facebook. I know about at least one person that uploaded my phone number.
17. More detailed information about my relationship to other users. Facebook Ireland is e.g. asking users where they know each other from and they track how often users interact on facebook.com. This information was not disclosed.
18. Information on individual content I was posting that indicates the reaction of other users. On Facebook Ireland's "Pages" the user can see these indicators right on his wall.
19. Information about "invitations" to groups, events or pages I sent to other users or other users sent to me.

It is very likely that Facebook Ireland holds much more than this list. From different data requests by two different friends of mine it was obvious that Facebook Ireland sent different categories of data to each one of us.

Besides this, Facebook Ireland only supplied the raw data to me. This happened without description of used codes like "NS_SUCCESSFUL_VETTED" as information saved with every login I made or the information that "tags" in pictures have an "active" status, which raises the question about "inactive" tags. There are many data fields that are not self-explanatory and need some kind of explanation (see attachment 05).

Facebook Ireland did also not provide any information listed in section 4(1)(a)(ii)(III) and (IV) DPA, even though I asked two more times for the **purpose** and the **recipients** (see e-mail from the 15th of July and the 18th of July 2011 in attachment 02). In two e-mails sent on the 18th and 19th of July 2011 Facebook Ireland repeated that they do not have any such information.

Facebook Ireland also did not name the **source** of the data as necessary under section 4(1)(a)(iii)(II) DPA. For example there has been an e-mail-address associated with me that never really existed (██████████) and Facebook Ireland could not name the source of this information. Many of my friends are using "applications" which made it possible to have my personal data transferred to the developer of this application. Facebook Ireland could not give me any details about any such flow of data.

I therefore kindly ask you to take the necessary steps to make Facebook Ireland comply with my access request and the Irish DPA fully.

I decided to send you just the relevant parts of the original documents as attachments to this complaint, the original files can be sent any time by airmail, if necessary. I can be reached at ██████████ or ██████████ if you have any further questions.

Sincerely,

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