

Case number: [REDACTED]  
[REDACTED]

Legal clerk: [REDACTED]

Facebook Ireland Limited  
4 Grand Canal Square  
Grand Canal Harbour  
Dublin 2 D02 X525

Complaint pursuant to Article 77 (1) GDPR

MB, represented by NOYB/1. oe24 GmbH, 2. Facebook Inc., 3. Facebook Ireland Limited

**Subject: Your submission from 18 March 2021; Request by the Austrian Data Protection Authority**

The Austrian Data Protection Authority has received your submission of 18 March 2021.

The Austrian Data Protection Authority notes that the initial request of 26 February 2021 (questionnaire and Facebook table to fill out) was addressed to Facebook Inc. and has been passed to your company, Facebook Ireland Limited ("FIL") as "the appropriate entity" to reply.

In this regard, we inform you that we have addressed Facebook Inc. to clarify the cross-border nature of the concerned processing, the roles of the parties involved in the concerned processing and the main establishment of the concerned data controller(s) and/or (sub)processor(s) under Articles 55 and 56 of the GDPR. Therefore, the Austrian Data Protection Authority, as well as several other Data Protection Authorities sent you the request from 26 February 2021 in order to obtain details on the processing carried out.

We note that you consider the Irish Data Protection Authority ("DPC") "as the supervisory authority of the main establishment of FIL as controller and processor".

Nevertheless, we need to investigate further and we require more elements for clarifying the cross-border nature of the concerned processing and the role of each entity involved to be able to confirm this assessment. Also, it needs to be clarified to which extent Facebook Inc. as recipient is (further) processing the data they receive from FIL.

We point out that in case of sub-processing, Recital 36 of the GDPR indicates that "in cases involving both the controller and the processor, the competent lead supervisory authority should remain the supervisory authority of the Member State where the controller has its main establishment". In case of joint controllership, pursuant to Article 26(1) GDPR joint controllers "shall in a transparent manner

determine their respective responsibilities for compliance with the obligations under this Regulation (...) by means of an arrangement between them”.

Regarding your questions:

1. As noted by yourself, a Taskforce (“101 Taskforce”) has been set up in September 2020 by the European Data Protection Board (“EDPB”) concerning the “101 complaints” lodged by NOYB further to the “Schrems II” judgment of the Court of Justice of the European Union. The Austrian Data Protection Authority, the DPC and several other European Data Protection Authorities that have received such complaints participate in this Taskforce and exchange information within this context. Therefore, we have specified in our request from 26 February 2021 that our exchanges can be communicated to other concerned European Data Protection Authorities in accordance with our cooperation duty stipulated in Article 57(1)(g) GDPR.

2. The 101 Taskforce has agreed to send you the questionnaire and table you received with our request from 26 February 2021. The Austrian Data Protection Authority and all Taskforce members expect your response in order to determine the facts and to clarify the role of each party involved, as explained above.

Therefore, the Austrian Data Protection Authority requests within a **period of two weeks** by receipt of this letter to

- (i) **fully answer the questionnaire you have received in our request from 26 February 2021 and**
- (ii) **fully fill out the document “Facebook table” that was attached to the request mentioned above.**

Please refer to the Austrian case number [REDACTED] in your submission.

1. April 2021

[REDACTED]

[REDACTED]