

Form of order sought

The applicant claims that the Court should:

- annul the Commission Decision C(2020) 3011 final, dated 4 May 2020, and notified to the Applicant on 5 May 2019, taken pursuant to Article 18(3) of Council Regulation No 1/2003 in the course of an investigation in Case AT.40628 — Facebook Data-related practices;
- in the alternative: (i) partially annul Article 1 of the Contested Data Decision in so far as it unlawfully requests internal documents that are irrelevant to the investigation; and/or (ii) partially annul Article 1 of the Contested Data Decision in order that independent EEA-qualified lawyers may be permitted to conduct a manual review of the documents captured by the Contested Data Decision in order to exclude from production documents that are manifestly irrelevant to the investigation and/or personal documents; and/or (iii) partially annul Article 1 of the Contested Data Decision in so far as it unlawfully requires production of irrelevant documents that are personal and/or private in nature;
- order the Commission to pay the applicant's costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the Contested Data Decision fails to indicate the subject of the Commission's investigation in sufficiently clear or consistent terms, contrary to the requirements of Article 18(3) of Regulation No 1/2003, Article 296 of the Treaty on the Functioning of the European Union and the principle of legal certainty, and in breach of both Facebook's rights of defence and the right to good administration.
2. Second plea in law, alleging that the Contested Data Decision, by requiring a document production consisting of a clear majority of wholly irrelevant and/or personal documents, infringes the principle of necessity reflected in Article 18(3) of Regulation No 1/2003 and/or violates Facebook's rights of defence and/or constitutes a misuse of powers.
3. Third plea in law, alleging that the Contested Data Decision, by requiring the production of so many wholly irrelevant and personal documents (for example: correspondence regarding medical issues relating to employees and their families; correspondence at times of bereavement; documents relating to personal wills, guardianship, childcare and personal financial investments; job applications and references; internal appraisals; and documents assessing security risks to the Facebook campus and personnel), infringes the fundamental right to privacy, the principle of proportionality and the fundamental right to good administration. Therefore, the Contested Data Decision breaches the fundamental rights to privacy, as protected by Article 7 of the Charter of Fundamental Rights. The Contested Data Decision also infringes the principle of proportionality as it is excessively broad in scope and insufficiently targeted to the subject-matter of the Commission's investigation.
4. Fourth plea in law, alleging that the Contested Data Decision fails to explain why its search terms will only identify documents that are necessary and relevant for the Commission's investigation or to explain why any relevance review by external, EEA qualified lawyers is not permitted or to explain or provide for any legally binding, data room for personal and/or wholly irrelevant documents and is therefore based on insufficient reasoning, contrary to Article 18(3) of Regulation No 1/2003 and Article 296 TFEU.

Action brought on 15 July 2020 — Facebook Ireland v Commission

(Case T-452/20)

(2020/C 287/60)

Language of the case: English

Parties

Applicant: Facebook Ireland Ltd (Dublin, Ireland) (represented by: D. Jowell, QC, D. Bailey, Barrister, J. Aitken, D. Das, S. Malhi, R. Haria, M. Quayle, Solicitors and T. Oeyen, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- partially annul Article 1 of the Commission Decision C(2020) 3013 final, dated 4 May 2020 (Case AT.40684 — Facebook Marketplace), in so far as it requests the internal documents specified in Annex I.B;
- in the alternative: (i) partially annul Article 1 of the Contested Marketplace Decision in so far as it unlawfully requests irrelevant documents; (ii) partially annul Article 1 of the Contested Marketplace Decision in order that independent EU-qualified lawyers may be permitted to conduct a relevance review of the documents captured by the Marketplace Document Request in order to exclude from production documents that are manifestly irrelevant to the investigation and/or personal documents; and/or (iii) partially annul Article 1 of the Contested Marketplace Decision in so far as it unlawfully requires production of irrelevant documents that are personal or private in nature;
- order the Commission to pay the applicant's costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging that by requiring a document production consisting of a clear majority of wholly irrelevant and/or personal documents, the contested Decision infringes the principle of necessity reflected in Article 18(3) of Regulation No 1/2003 and/or violates Facebook's rights of defence and/or constitutes a misuse of powers. Accordingly, the Commission erred in law and/or assessment in the application of Article 18(3) of Regulation No 1/2003.
2. Second plea in law, alleging that by requiring the production of so many documents (for example: correspondence of employees regarding medical issues; correspondence at times of bereavement; documents relating to personal property investments; job applications; internal appraisals; and documents assessing security risks to the family members of key Facebook personnel), the contested Decision infringes the fundamental right to privacy, the principle of proportionality and the fundamental right to good administration.
3. Third plea in law, alleging that the Contested Marketplace Decision fails to explain why its search terms will only identify documents that are necessary and relevant for the Commission's investigation or to explain why any relevance review by external, EU qualified lawyers are not permitted or to explain or provide for any legally binding, data room for personal and/or wholly irrelevant documents and is therefore based on insufficient reasoning, contrary to Article 18(3) of Regulation No 1/2003 and Article 296 TFEU.

Action brought on 14 July 2020 — KZ v Commission

(Case T-453/20)

(2020/C 287/61)

Language of the case: French

Parties

Applicant: KZ (represented by: N. de Montigny, lawyer)

Defendant: European Commission