

**For immediate release**

### **Data Privacy Stichting defeats ‘motion to dismiss’ in Dutch class action against Facebook**

On 30 June 2021, the District Court of Amsterdam issued a benchmark judgment permitting a class action initiated by the Data Privacy Stichting (DPS) to proceed against Facebook Netherlands, Facebook Ireland and Facebook Inc. (collectively: Facebook).

In one of the first privacy class actions against a big tech company in the Netherlands, Facebook had objected to these proceedings on multiple bases, each one rejected by the Amsterdam Court.

The Amsterdam Court accepted the DPS’ arguments that both the European privacy regulation ‘GDPR’ and Dutch privacy law clearly confer jurisdiction on courts of the Netherlands when the privacy rights of Dutch citizens are allegedly violated. It further determined that this case will be decided under Dutch law alongside the GDPR and that, contrary to Facebook’s assertions, there is no reason to stay the proceedings pending the outcome of other European privacy actions.

Moreover, the Amsterdam Court dismissed Facebook’s challenge to these proceedings being brought by the DPS on behalf of millions of Dutch Facebook users, holding that the DPS meets all relevant requirements for an action under Dutch law, and that a collective approach is effective and efficient.

#### ***Facebook will have to respond to the merits of the allegations***

The judgment of the Amsterdam Court was well-received by the DPS and by the Dutch consumer organization, the Consumentenbond with whom the DPS co-operates in this action. The judgment is an important first step toward challenging and correcting Facebook’s privacy rights violations. Dick Bouma, chairman of the DPS, stated that “this judgment already shows the benefit of taking a collective stance against tech giants that violate privacy rights” and added that the “DPS is satisfied that the case may now proceed to the most important part of the litigation, the merits of the case.” (...) “Facebook will have a hard time explaining how subjecting the interests and privacy rights of its users to the economic benefits of trading its users data, could be lawful.” In October 2021, as directed by the Amsterdam Court, Facebook will have to respond to the DPS’s twelve claims for violation of privacy rights.

The DPS is a not for profit foundation under Dutch law that aims to protect the interests of over 10 million Facebook users who resided in the Netherlands between 1 April 2010 and 1 January 2020. The DPS charges that Facebook collected the personal data of these users without a legal basis and without properly informing them of the collection and use of their personal data. According to DPS, Facebook misled its users by claiming that its service was free of charge, where in fact users paid for the service with their personal data. Indeed, Facebook used these personal data for its own immediate and long-term profits, and for the profit and business of third parties.

#### ***More information***

The judgment of the District Court of Amsterdam can be accessed at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:3307> (in Dutch), an unofficial English translation can be accessed at <https://dataprivacystichting.com/documents/>. More information about the Data Privacy Stichting can be found at <https://dataprivacystichting.com/>. (Former) Facebook users in the Netherlands can sign up and support DPS and Consumentenbond at: <https://www.consumentenbond.nl/acties/facebook>.