

Activist can't file class action against Facebook: EU lawyer

LUXEMBOURG, Luxembourg: Austrian activist Max Schrems cannot bring a class action against Facebook for privacy breaches, although he is allowed to sue the US social media giant on a personal basis, the adviser to the EU's top court said on Tuesday, 14 November 2017.



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Schrems had lodged cases in an Austrian court on behalf of seven other users in Austria, Germany and India against Facebook's Irish division for various alleged rights violations involving personal data.

Facebook had argued that people can only sue as individual consumers, not as groups -- and moreover that Schrems's professional activities on his account meant he was no longer a private consumer in any case.

The advocate general to the European Court of Justice, Michal Bobek, said in a legal opinion that Schrems "may be able to rely on his consumer status in order to sue Facebook Ireland before the Austrian courts."

"However, Mr Schrems cannot rely on his consumer status with respect to claims assigned to him by other consumers."

The EU advocate general's legal opinions are often, but not always, followed by the ECJ's judges in their final decisions.

Austria's Supreme Court had referred the matter to the ECJ after Schrems's lawsuit was first thrown out and then restored by the country's courts.

Class actions in the EU would mean litigants could effectively shop around the bloc for the "more favourable courts", lower costs or better legal aid, potentially overburdening some countries, the advocate general added.

The adviser also urged the EU to set up a better system for class action lawsuits in future.

Facebook welcomed the findings on the collective lawsuit.

"Today's opinion supports the decisions of two courts that Mr Schrems's claims cannot proceed as 'class action' on behalf of other consumers in Austrian courts," a Facebook spokesman said in a statement to AFP.

Schrems said the findings were "unfortunately hard to understand," saying that there had been other examples of joint cases that had been allowed to go ahead in the EU.

"It seems that Facebook has managed to score with their emotional horror stories, according to which collective actions by consumers are highly questionable," he said in a statement.

"From a purely legal point of view, I have a hard time to follow the arguments by the advocate general."

Schrems single-handedly brought down the EU's former "Safe Harbour" data sharing arrangement in 2015 after he sued Facebook in Ireland over the transfer of personal information by Facebook from Europe to the United States.

The ECJ ruled the 16-year-old deal was illegal after Schrems cited US snooping practices exposed by former US intelligence contractor Edward Snowden.

Schrems is now suing Ireland's data protection regulator over the issue in a separate case being considered by the ECJ.

Source: AFP

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