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Judgments of the General Court in Case T-55/24 | Meta Platforms Ireland v Commission and T-58/24 | TikTok Technology v Commission

Digital Services Act: the General Court annuls the Commission's decisions setting the supervisory fee applicable to Facebook, Instagram and TikTok

However, the effects of the annulled decisions are provisionally maintained

The Digital Services Act ('the DSA')¹ entrusts the European Commission with supervisory tasks in relation to providers of certain services, designated as very large platforms or very large online search engines since they exceed a significant minimum threshold of users in the European Union. In order to cover the costs necessary for that purpose and to perform those tasks, the Commission collects, from those providers, an annual fee which is determined on the basis of the number of average monthly users of each service concerned.²

On 2 March 2023, the Commission adopted a delegated regulation supplementing the DSA by establishing the detailed methodologies and procedures applicable to the supervisory fees.³

On 25 April 2023, the Commission designated Facebook and Instagram, on the one hand, and TikTok, on the other, as very large online platforms. In November 2023, it determined, by means of two implementing decisions, the amount of the supervisory fee applicable to each of those three platforms for 2023. Meta Platforms Ireland Ltd⁴ and TikTok Technology Ltd⁵ each brought an action before the General Court of the European Union against the decision addressed to them respectively.

The General Court **annuls the implementing decisions, while maintaining their effects for a provisional period.**

In order to determine the amount of the supervisory fee payable for 2023, the Commission calculated **the number of average monthly active recipients** of the services concerned on the basis of **a common methodology** based on data provided by third-party operators and annexed to each implementing decision. However, **since that methodology is an essential and indispensable element of the determination of the supervisory fee, it should have been adopted not in the context of implementing decisions but in a delegated act, in accordance with the rules laid down in the DSA.**

Nevertheless, since it did not find any error affecting the obligation of the companies concerned to pay the supervisory fee for 2023, **the General Court temporarily maintains the effects of the annulled decisions.** That measure seeks to enable the Commission to establish the methodology for calculating the number of average monthly active recipients in a manner that complies with the DSA and to adopt new implementing decisions. However, the duration of this provisional arrangement may not exceed 12 months from the date on which judgments delivered today become final.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

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The full text and, as the case may be, an abstract of the judgments ([T-55/24](#) and [T-58/24](#)) is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgments are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ [Regulation \(EU\) 2022/2065](#) of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act).

² The DSA refers to 'the number of average monthly active recipients' of those services.

³ [Delegated Regulation \(EU\) 2023/1127](#), supplementing Regulation 2022/2065 with the detailed methodologies and procedures regarding the supervisory fees charged by the Commission on providers of very large online platforms and very large online search engines.

⁴ Provider of the services of Facebook and Instagram in the European Union.

⁵ Main establishment of TikTok in the European Union.