

ECJ confirms joint responsibility for the integration of third-party content on websites

07/29/2019 • HmbBfDI

Today's judgment of the European Court of Justice in the case of Fashion ID (C-40/17) confirms that operators of websites that integrate social plugins (in this case the Facebook Like button) share responsibility for the collection and disclosure of personal data, which are transmitted to the provider when the page is accessed. With this, the court follows on from the case law in the case of the Wirtschaftsakademie Schleswig-Holstein (C-210/16), which dealt with joint responsibility for fan pages on Facebook. In both cases, website operators can no longer hide behind the data protection responsibility of a platform like Facebook: they need a legal basis to use the appropriate tools to generate reach or for advertising purposes. At the same time, you have information obligations towards the persons from whom the data is collected. The judgment refers to the interpretation of the provisions of the previous Data Protection Directive (EC 95/46/EC), but also applies to the scope of the new GDPR, which guarantees the protection of the rights and freedoms of data subjects in an even stronger way. In particular, a consent solution upstream of data collection and transmission can be considered as the legal basis for the processing of data from website operators. Especially with regard to site visitors who are not registered Facebook users themselves and whose data is transmitted by social plugins when visiting the website, it can be assumed that the fundamental rights and freedoms of those affected prevail, so that the justification is based on a legitimate interest is not visible here. Johannes Caspar, the Hamburg Commissioner for Data Protection and Freedom of Information: "With today's judgment, the ECJ confirms its consistent line in the area of data and consumer protection by extending the case law on joint responsibility to a further group of cases. The implications of this decision are likely to be far-reaching. Other methods of user tracking, in which site operators use analysis tools provided by third parties, must also be measured against these legal requirements. This applies in particular with regard to obtaining informed consent from site operators."

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