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Framework for action for the use of "social media" by public authorities

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Social networks such as Facebook, Twitter, Instagram or YouTube have become an essential part of the professional and private information and communication behavior of many users. They form relevant communication channels for public bodies. By operating appearances in social networks, public authorities also contribute to the personal data of the users of their offers reaching the respective platform operators, who often (also) process them for their own purposes independent of use. The emergence of social media offerings have raised fundamental questions from the perspective of data protection. This has e.g. to do with their conception as a platform solution, with their business model, which is based on the commercial exploitation of usage data, but also with the fact that the technical providers/operators of the platforms are mostly based outside the European Union, where a comparable level of data protection is often not given. For a long time it was a matter of dispute as to the responsibility of public bodies, for example, that operate a so-called fan page on the Facebook platform and thus set the occasion for the processing of corresponding usage data. The European Court of Justice (ECJ) dealt with this dispute in its decision of June 5th 2018 on the operation of Facebook fan pages and determined that not only Facebook itself, but also the respective operator of a fan page is responsible under data protection law, insofar as personal data of fan page visitors is processed by visiting the fan page. Public bodies that operate a Facebook fan page are therefore themselves responsible for data protection. The fan page operators therefore need a legal basis for processing the usage data and must also fulfill all other obligations as the person responsible. With a judgment of September 11, 2019, the Federal Administrative Court (BVerwG) also made it clear that the data protection supervisory authorities are against the operators of Facebook fan pages themselves can take action if data protection violations are committed during the operation of Facebook fan pages. The State Commissioner for Data Protection and Freedom of Information Rhineland-Palatinate (LfDI) took these two decisions as an opportunity to set the framework for the use of "social media" by public authorities from 2016 to be revised and adapted to the new circumstances. This is now available to all those responsible here.

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