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Background to the Facebook fan pages

On June 5, 2018, the European Court of Justice ruled

(Case C-210/16) that the operator of a

Facebook fan page together with Facebook for processing

personal data of visitors to the fan

page is responsible under data protection law. The ECJ has

divorce on the interpretation of Art. 2 Letter d of the EU

Data Protection Directive (GDPR) 95/46/EC supported. The considerations

of the judgment, however, can be fully attributed to the

May 2018 applicable legal situation, because the definition of the

Responsible body in Art. 2 letter d of the GDPR 95/46/EG, as a

Body that “alone or together with others about the purposes and

means of processing personal data,

is congruent with the definition of the person responsible in Art. 4 No.

7 General Data Protection Regulation (GDPR). Against this background

the decision also applies after the GDPR has come into force.

In the case of joint responsibility, the GDPR provides additional

the requirements laid down in Art. 26 DS-GVO. There-

according to jointly responsible persons are obliged in an agreement

tion to transparently define who has what obligations under the

GDPR fulfilled. In addition, according to Art. 26 Para. 2 DS-GVO

the respective actual functions and relationships of the

Sam responsible towards the persons concerned in the

Agreement duly reflected and the essence of

Agreement must be made available to those concerned.

The Conference of Independent Data Protection Authorities

The federal and state governments (DSK) issued a statement on September 5, 2018

came to a conclusion on the subject (see attachment) and determined that

that the operation of a fan page, as currently offered by Facebook

ten is illegal without an agreement according to Art. 26 DS-GVO. The

DSK made it clear that fan page operators

(Regardless of whether they are public or non-public

Responsible acts) the legality of the jointly

guarantee the responding data processing and provide evidence of this

(Article 5 (2) GDPR). In addition, affected

Individuals their rights under the DS-GVO with and towards everyone

Claim the responsible party (Art. 26 Para. 3 DS-GVO). together

With the decision, the DSK therefore had a number of questions

published, which fan page operators answer

should be able to.

On September 11, 2018, Facebook published a so-called "page

Insights supplement regarding the person responsible" (available at:

https://www.facebook.com/legal/terms/page_controller_addendum; in the

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the following "Insights supplement") and "Information on pages

sights" (available at:

[https://www.facebook.com/legal/terms/information_about_page_insight](https://www.facebook.com/legal/terms/information_about_page_insights_data)

s_data; hereinafter "Insights Information"). Against the background of

ECJ decision of June 5, 2018 and the above decision

the DSK goes the Berlin Commissioner for Data Protection and Information

Onsfreiheit assumes that Facebook with the "page insights

Addendum regarding the person responsible" to his obligations

from Art. 26 DS-GVO without directly referring to Art.

26 GDPR.

Questionnaire for the hearings (see press release "Berliner

Data protection officer opens comprehensive examination of the

drive from Facebook fan pages", from November 16, 2018):

1. Have you completed the Insights Supplement with Facebook-sen? If so, how was this done?

2. To which text / to which agreement does the Insights

addition an addition? Please provide us with this

Text available or insert the appropriate content

supplemented by the Insights supplement.

3. Is the Insights Addendum an agreement

tion i. s.d. Art. 26 para. 1 sentence 1 GDPR?

4. For which specific processing of personal data

According to this agreement, there is a common understanding

answer? Please present this in detail.

5. What is among the information provided in the Insights supplement and in

sights information referred to as "insights data"?

Finally, please explain.

6. The Insights Supplement refers to the "Processing of In-

sights data". To which specific process

what are the purposes? Please

explain in detail.

7. How will the data subjects

(Facebook members and non-members) about the essential

informed of the agreement according to Art. 26 Para. 2 DS-GVO?

8. What information have you received or are you receiving?

from Facebook about the processing of personal data

of the visitors to your fan page? enabling

Is it the information available to you,

that you fulfill your obligations under the GDPR, in particular

re your obligation under Art. 5 Para. 2 DS-GVO, can

no?

9. Please explain how the personal data of the

searchers and visitors to your fan page are processed.

For what purposes does this processing take place?

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10. On what legal basis or on what legal basis

are you processing the personal data of the

searchers and visitors to your fan page?

11. In what way and with what content are the

data subjects (Facebook members and non-

members) about the processing of their data when visiting

your fan page in accordance with Art. 12 and Art. 13?

12. How do you ensure that the rights of the data subject (Art. 12 et seq.

DS-GVO) can be fulfilled, in particular the rights to

Deletion according to Art. 17 DS-GVO, on restriction of processing

Processing according to Art. 18 DS-GVO, to objection according to Art. 21

DS-GVO and information according to Art. 15 DS-GVO?

13. The Insights supplement states in connection with the

Data subject rights: "If a data subject or a

Supervisory authority according to DS-GVO with regard to processing

processing of Insights data and that of Facebook Ireland im

Adopted as part of this Page Insights Supplement

Obligations contacts you (each, a "Request")

you are obliged to inform us immediately, but at the latest within

within 7 calendar days all relevant information

to conduct. For this purpose you can use this form

are sufficient. Facebook Ireland will respond to requests in accordance with the

incumbent on us under this Page Insights Supplement

answer duties. You agree to promptly all

make reasonable efforts to join us in the
to cooperate in responding to any such request-
ten. You are not authorized to act on behalf of Facebook Ireland
to act or to respond.” Please explain specifically how
Facebook will deal with the requests you submit
and what specific actions you have taken to
check whether the rights of data subjects on this
Ways according to the DS-GVO are fulfilled.

14. When your fan page is called up for the first time, even non-
Members created entries in the so-called local storage? too well-
purposes and on what legal basis is this taking place?

15. After calling up a subpage within your fan page
offer a session cookie and three cookies with a lifetime
stored between four months and two years? To
what purposes and on what legal basis
this?