

ECJ confirms the data protection authorities in Schleswig Holstein and Hamburg to Facebook and fan page operators

05.06.2018 • HmbBfDI

With today's judgment, the ECJ confirms the order of the ULD Schleswig-Holstein against the operators of Facebook fan pages and assigns them a data protection responsibility for the processing of data by Facebook. At the same time, the ECJ determined that EU-wide national data protection law was applied to Facebook by the supervisory authorities in the member states before the EU General Data Protection Regulation (GDPR) came into force, insofar as a corresponding branch was operated.

First of all, the judgment has consequences for all bodies that operate Facebook fan pages. In the future, they can no longer claim that they are not responsible under data protection law for the data processing, in particular of people who call up these fan pages and are thus tracked by Facebook. According to the ECJ, there is a joint responsibility here, so that companies and authorities that operate fan pages have data protection obligations to the users of their fan pages that are similar to those of users of their own homepage. You must now demand full transparency from Facebook about the processing of user data in this context vis-à-vis the fan page visitors and, insofar as this is incompatible with applicable data protection law, obtain changes from Facebook or end the offer. Otherwise, in individual cases, this can lead to official orders and the imposition of fines, especially since the lawful data processing by Facebook with regard to the setting of cookies or the storage of the IP address of the website visitor without the consent of the website operator concerned and the corresponding information is extremely questionable. This was recently confirmed by the courts in Belgium.

In the case dealt with by the ECJ, the applicability of national law relates to the legal situation before the GDPR came into force. It thus also confirms the application of national law by the HmbBfDI. This had issued an order against Facebook because of the mass exchange of data with WhatsApp. The legal complaints lodged against this by Facebook were dismissed in two instances in preliminary legal protection proceedings by the Hamburg Administrative Court and the Hamburg Administrative Court.

Johannes Caspar, Hamburg Commissioner for Data Protection and Freedom of Information: "The judgment of the ECJ confirms our longstanding legal opinion on the applicability of national data protection law. This makes one thing clear: Especially when it comes to the question of the transmission of data between Facebook and WhatsApp, we will continue to work to ensure that the plans of the Facebook group to resume data exchange after the GDPR comes into force and thus turn

the wheel back in terms of data protection law are stopped. Operators of Facebook fan pages must recognize that they are legally in the same boat as Facebook and can therefore no longer shirk their responsibility under data protection law. This also applies to the many public bodies that are bound by law and order in a special way. The federal and state supervisory authorities will now decide how to implement the judgment of the ECJ.”

press contact

rot13("Znegva Fpurzz", "bhmdxzjigrqfceptl");mmehcS nitraM

Phone:

+49 40 428 54-4044

Email: rot13("cerffr@qngrafpuhgm.unzohet.qr", "qghyisozejpebnmtx");ed.grubmah.ztuhcsnetad@esserp