

Operator of Facebook fan pages

bear privacy responsibility!

European Court of Justice confirms German data

Protection supervisory authorities: Operators of Facebook fan pages can

be (jointly) responsible for data processing by Facebook

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Munich, June 5th, 2018

The Court of Justice of the European Union (ECJ) ruled today

confirms that the operator of a Facebook fan page - in addition to Facebook

- is responsible under data protection law for the fact that Facebook data of

collects fan page visitors to create visitor statistics.

The starting point for the decision is an administrative

legal dispute between the Schleswig-Holstein Business Academy

GmbH and the Independent State Center for Data Protection Schles-

wig-Holstein (ULD). The company took the view that it should

operate a Facebook fan page without having to worry about it,

whether Facebook complies with data protection law. The ECJ has now made it clear

that this view is not compatible with European data protection law

is: "The fact that an operator of a fan page uses Facebook

established platform uses to provide the associated services in

To take advantage of this can not namely from the observance of his

Obligations in the field of personal data protection

free." (Paragraph 40 of the judgment)

In terms of data protection, who is responsible for the purposes and means

decides on the processing of personal data. The ECJ has

determined that the concept of responsible person is to be interpreted broadly,

for effective and comprehensive protection of the persons concerned

to guarantee. The operator of a Facebook fan page is involved in

the decision on the purposes and means of processing personal

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The Bavarian State Commissioner for Data Protection informed

related data of the visitors to his fan page. He

designs and supports its own information and communication offerings

thus to the processing of the personal data of the visitors

to a fan page. Since Facebook also has the purposes and means of processing

processing, Facebook and operators of Facebook

Fanpages jointly uphold the data protection responsibility

gain weight.

The ECJ explains that a fan page operator is not just a Facebook

user, but as the person responsible gives Facebook the opportunity

to set cookies through the operation of the fan page and in particular with

With the help of filters provided by Facebook, the criteria

can determine according to which statistics are to be created. For the responsible

bility is not decisive that access to the concerned

personal data exists.

The ECJ also confirms that the ULD requires regulatory measures

men against the Schleswig-Holstein-based operator of a face

book fan page. Alone the possibility of prudential

to influence Facebook, includes measures against the co-responsible

mutual providers of a Facebook fan page are not sufficient.

The State Commissioner for Data Protection Schleswig-Holstein Marit Hansen

welcomes the judgment of the ECJ: "The decision has my assessment confirms that there are no liability gaps in data protection can. In concrete terms, this now means for all fan page operators that between you and Facebook, it must be clarified which data protection obligations they have to fulfill themselves and for which Facebook is responsible.

This applies in particular to the information obligations: without transparency, like the data about all users – i. H. Members and Non-Members by Facebook - are processed, this does not work. At the loading meeting rights, e.g. B. the right to information or correction, the following applies:

Anyone can assert these rights both towards the fan page operator and also claim directly against Facebook."

Hansen thinks it is necessary that questions about the General Data Protection Regulation be submitted to the ECJ earlier in the future: "For legal certainty is rapid judicial clarification is essential. judicial proceedings too

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The Bavarian State Commissioner for Data Protection informed such fundamental questions belong in the fast lane. I am of it convinced that some cases of data abuse – I remind you Cambridge Analytica - could have been prevented if already 2011 all German or even European fan page operators the data would have demanded protection compliance for their offers."

The Bavarian State Commissioner for Data Protection Thomas Petri recommends that the Bavarian public authorities, based on the judgment, Critically review public relations work at social media providers.

Petri: "The European Court of Justice has made it unmistakably clear that that the operator of a fan page does not thereby lose sight of his

is exempt from data protection obligations that he  
uses the platform provided by the provider. For data processing by companies  
Facebook and other social media are already numerous throughout Europe  
Complaints received by data protection authorities. given  
Based on previous experience, it would not be surprising if  
Facebook data also against the standard of the General Data Protection Regulation  
processed unlawfully. Either social media must adapt to the in  
comply with data protection regulations in force in Europe or they cannot  
be used responsibly. Potential benefits in public  
work do not justify data protection violations."

Marit Hansen

Prof. Dr. Thomas Petri

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The Bavarian State Commissioner for Data Protection informed

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The state commissioner for data protection in Schleswig-Holstein is also the head of the independent pending State Center for Data Protection (ULD) and for data protection compliance of authorities, companies and associations in Schleswig-Holstein.

The Bavarian State Commissioner for Data Protection checks the Bavarian public public bodies compliance with data protection regulations.

The two state representatives are elected by their respective state parliament, and are independent bound by instructions to no one.