

Conference of Independent Data Protection Authorities

of the federal and state governments – Düsseldorf, September 5, 2018

DSK decision on Facebook fan pages

With a judgment of June 5, 2018, the Court of Justice of the European Union (ECJ), Ak-

tenzeichen C-210/16, decided that a joint responsibility of

Facebook fan page operators and Facebook. The con

reference of the independent data protection supervisory authorities of the federal and state governments

(DSK) has made clear in its resolution of June 6, 2018, which consequences

quench from the verdict for those jointly responsible - especially for

the operators of a fan page.

In the case of joint responsibility, the General Data Protection Regulation requires

(DSGVO), among other things, an agreement between the parties involved that clarifies

how the obligations under the GDPR are fulfilled.

Three months have passed since the judgment of the ECJ. Although Facebook has some

Changes in its offer - for example regarding the cookies -

men, but people who are not Facebook users continue to be

and users are set cookies with identifiers, at least when they have the

mere start page of a fan page to call up content there.

Also, as before, the fan page visits by those affected are determined according to

partially preset criteria as part of a so-called insights function

evaluated by Facebook and made available to the operators

placed.

The ECJ has, among other things, emphasized that “the people entertained on Facebook

Fanpages can also be visited by people who are not Facebook users

are and therefore do not have a user account with this social network.

In this case, the responsibility of the operator of the fan page appears with regard to

lich the processing of the personal data of these persons even higher,
since simply calling up the fan page by visitors automatically triggers processing
of their personal data.”

Official statements from Facebook as to whether and what steps are being taken
to enable the legally compliant operation of Facebook fan pages.

lichen, have so far failed to materialize. Announced by Facebook in June 2018-
te agreement according to Art. 26 DSGVO (jointly responsible for the processing
che) has not yet been made available. The German data protection
supervisory authorities are therefore working on a coordinated precautionary
go to Facebook.

Fan page operators must also comply with their data protection
responsibility. Without an agreement according to Art. 26 GDPR, the operation
a fan page, as currently offered by Facebook, is unlawful.

Therefore, the DSK demands that the requirements of data protection law
operation of fan pages are met. This includes in particular that the common
create clarity about the current situation and the necessary
relevant information to the persons concerned (= visitors
the fan page).

However, joint responsibility also means that fan page

Operators (regardless of whether they are public or
non-public responsible person) the legality of the jointly
guarantee the responding data processing and be able to prove this. To-
data subjects can exercise their rights under the GDPR in relation to any violation
responsible assert (Art. 26 para. 3 DSGVO).

In particular, the questions listed in the appendix must therefore be
cebook as well as and by fan page operators

can.

Appendix: Questionnaire

1. How do you and others relate to each other?

responsible determined which of you which obligation according to the

GDPR fulfilled? (Art. 26 Para. 1 GDPR)

2. On the basis of what agreement have you determined between yourself who

which information obligations according to Art. 13 and 14 GDPR are fulfilled?

3. How will the essential aspects of this agreement be

data subjects made available?

4. How do you ensure that the rights of the data subject (Art. 12 et seq. GDPR) are fulfilled

can be, in particular the right to erasure according to Art. 17 GDPR,

to restriction of processing according to Art. 18 GDPR, to objection

according to Art. 21 GDPR and for information according to Art. 15 GDPR?

5. For what purposes and on what legal basis do you process the

personal data of visitors to fan pages?

What personal data is stored? To what extent will

Profiles created or added based on visits to Facebook fan pages

chert? If personal data is also collected from non-Facebook users

members used to create profiles? What deletion deadlines are

intended?

6. For what purposes and on what legal basis are the first

Calling up a fan page also for non-members Entries in the so-called log

cal Storage created?

7. For what purposes and on what legal basis after calling

a subpage within the fan page offer, a session cookie and

three cookies with lifetimes between four months and two years

saves?

8. What measures have you taken to fulfill your obligations under Art. 26

GDPR as jointly responsible for the processing

and conclude a corresponding agreement?