

Monday, April 11, 2022 2: Press releases Report on Facebook fan pages: Operation still not compliant with data protection - the public sector must act

In November 2021, the OVG Schleswig confirmed that the order to deactivate a Facebook fan page due to data protection deficiencies in 2011 was lawful. In order to clarify whether the operation of Facebook fan pages today meets the requirements of data protection law, the conference of data protection supervisory authorities of the federal and state governments (DSK) prepared an expert opinion. This expert opinion comes to the conclusion that the operation of Facebook fan pages is still not compliant with data protection. Based on the current factual and legal situation, the expert opinion on Facebook fan pages states that there is no effective legal basis for the processing of personal data in connection with visiting Facebook fan pages. In addition, the information obligations towards the users, which are regulated in Art. 13 General Data Protection Regulation (GDPR), are not fulfilled. The DSK considers the report to be an important basis for supervisory activities towards public and non-public bodies. In a first step, the state commissioner for data protection Marit Hansen informed the highest state authorities in Schleswig-Holstein about the report. Hansen believes that the public authorities have a particular duty to act in accordance with the law because of their role model function – including when it comes to offerings on social media. She emphasizes that the authorities for the processing of personal data must be able to prove compliance with data protection law. Like their colleagues at federal and state level, the Schleswig-Holstein data protection supervisory authority will work to ensure that public authorities deactivate their Facebook fan pages if this is not possible. For the operation of Facebook fan pages, this means in particular proof of the conclusion of an agreement in accordance with Art. 26 GDPR on joint responsibility with Facebook, sufficient information about the joint data processing for the users of the fan pages in accordance with Art. 13 GDPR, the admissibility of storage of information in the end devices of the users and access to this information in accordance with Section 25 TTDSG and the permissibility of the transfer of personal data to the access area of authorities in third countries. Hansen comments: "More than ten years ago, my authority required data protection compliance from Facebook and the fan page operators, who are jointly responsible for this processing of personal data. The courts have agreed with us, but data protection law continues to be violated. The public sector in particular should not take this lightly." There are now data protection-friendly alternatives to many popular social media offerings. The DSK now uses the Twitter alternative Mastodon for communicating short messages ([https://social.bund.de/@dsk\[Extern\]](https://social.bund.de/@dsk[Extern])). This instance of the decentralized open source platform is provided by the federal IT service provider. DSK decision of March 23, 2022:

https://datenschutzkonferenz-online.de/media/dskb/DSK_Beschluss_Facebook_Fanpages.pdf[Extern]

Short report on the data protection conformity of the operation of Facebook fan pages from March 18, 2022:

https://www.datenschutzkonferenz-online.de/media/weitere_dokumente/DSK_Kurzgutachten_Facebook-Fanpages_V1_18.03.2022.pdf[External]

Information from the Independent State Center for Data Protection via Facebook:

<https://www.datenschutzzentrum.de/facebook/>

Information on the judgment of the OVG Schleswig of November 25, 2021, 4 LB 20/13:

<https://www.datenschutzzentrum.de/artikel/1394-.html> If you have any questions, please contact: The State Commissioner for Data Protection Schleswig-Holstein

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