

Thursday, December 5, 2019 2: Press releases Facebook fan page proceedings: Judgment by the Federal Administrative Court speaks for itself. Can a data protection authority order that a Facebook fan page be deactivated? The Independent State Center for Data Protection Schleswig-Holstein (ULD) issued such an order. This is the core of the legal dispute on Facebook fan pages, which has been going on since 2011 and has already involved the Schleswig Administrative Court, the Schleswig Higher Administrative Court, the Federal Administrative Court in Leipzig, the European Court of Justice and again the Federal Administrative Court. On September 11, 2019, the Federal Administrative Court decided after the hearing that a data protection authority can prohibit the operation of a Facebook fan page. The reasons for the judgment for this decision (BVerwG 6 C 15.18) are now available, in which the court chose clear words and transferred the guiding principle of effectiveness to avert dangers to the area of data protection: "[...] For the selection from several persons responsible for data protection, the idea of effectiveness, which dominates the law on averting danger, as legitimate. When selecting from among several possible addressees, the authority can be guided by the consideration that an unlawful situation can be eliminated more quickly or more effectively by using a specific addressee. [...]" (Paragraph 30) "In the area of data protection, too, the requirement of effective and effective averting of danger can justify calling on the person responsible whose obligation can be readily affirmed and who has effective means of stopping the violation at his disposal. [...]" (paragraph 31) The Federal Administrative Court did not have the task of deciding on the legal conformity of the specific order from 2011. This is now the responsibility of the Schleswig Higher Administrative Court. However, the federal administrative judges emphasize the consequence if the legal conformity of the ULD order is confirmed: "If this measure is upheld, Facebook will have to strive for a solution that complies with data protection law in order to be able to continue to pursue its business model in Germany." Marit Hansen, State Commissioner for Data Protection Schleswig-Holstein is pleased with the clear words: "Our goal is to protect the rights and freedoms of people when processing personal data, and at a high level. The judgment of the Federal Administrative Court, like the judgment of the European Court of Justice in June 2018, now strengthens data protection. With this judgment, we gain more clarity for the application of our regulatory tools, especially when several data protection officers are involved in data processing. I expect that authorities and companies will now demand legal compliance not only from Facebook, but also from other service providers. No one can escape responsibility." The judgment of the Federal Administrative Court of September 11, 2019, 6 C 15.18, is available here: [https://www.datenschutzzentrum.de/uploads/facebook/20190911\\_Urteil-BVerwG.pdf](https://www.datenschutzzentrum.de/uploads/facebook/20190911_Urteil-BVerwG.pdf) On the history of the proceedings to date : <https://www.datenschutzzentrum.de/facebook/#fanpage-verfahren> If you have any questions, please

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