

ADMINISTRATIVE SOCIAL NETWORK FAN
IN THE OPERATOR'S POSITION

The Court of Justice of the European Union issued on 5 June 2018 [judgment in Case C-210/16, relating to Unabhängiges Landeszentrum für Datenschutz Schleswig Holstein v Wirtschaftsakademie Schleswig Holstein GmbH](#).

In that judgment, it ruled, inter alia, that Article 2 (a) (d) European Parliament directives and Council Directive 95/46 / EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and free movement of such data is to be interpreted as meaning that the **term "operator" within the meaning of this provision includes the administrator of a fan site located on the social network.**

Fan pages are user accounts that they can create on the social network Facebook in particular individuals or businesses. For this purpose, the author of the fan page can do his thing registered on Facebook to use the platform operated by Facebook to present itself to the users of this social network as well as to persons who visit this site, and disseminated any information and opinions on the media market. Fan site administrators may collect anonymous statistics about visitors to these sites through a feature called *Facebook Insight* , which is provided free of charge by Facebook under immutable conditions of use. This data is collected through hidden data files (hereinafter referred to as "cookies"), each of which contains a unique code a user who has been active for a period of two years and is stored by Facebook on a computer hard drive or other device of a fan site visitors. Code a user who can be assigned to the connection data of users registered on Facebook, is collected and processed when the fan pages are opened.

According to the grounds of the judgment:

Any person who intends to create a fan page on Facebook closes a special agreement with Facebook Ireland concerning the establishment of such a site, pursuant to which it agrees to the terms of use of this site, including the related policy on cookies, which it is for the national court to verify.

The administrator of a fan page placed on Facebook allows the creation of such a page Facebook to place cookies on your computer or any other the device of the person who visited his fan page, whether or not that person has or does not have a Facebook account.

The creation of a fan page on Facebook by its administrator means that he has set up parameters according to, inter alia, its target group as well as its management or support objectives activities, which has an impact on the processing of personal data for the purpose of compiling statistics obtained based on visits to the fan page. This administrator can use filters by him provided by Facebook, to define the criteria on the basis of which these statistics are to be based developed and also to define the categories of persons whose personal data will be used by the company Facebook. The administrator of the fan page located on Facebook therefore contributes to process the personal data of visitors to your site.

The administrator of the fan page located on Facebook, with his settings of parameters, according to, inter alia, its target group as well as the objectives of managing or supporting its activities, participates in determining the purposes and means of processing the personal data of its visitors fan page. For that reason, in the present case, that administrator must be within the meaning of Article 2 (a) (d) of Directive 95/46, to be regarded in the European Union as an operator together with Facebook Ireland.

In these circumstances, the **recognition of the joint responsibility of the social operator contributes the network and the administrator of the fan site located on that network in connection with the processing personal data of visitors to this fan site** in accordance with the requirements of the Directive 95/46 to ensure better protection of the rights of people visiting the fan site.

The existence of a shared responsibility does not necessarily mean the same responsibility of different ones entities involved in the processing of personal data. These entities may be the other way around involved in this processing in different stages and stages, so the degree of responsibility of each of them must be assessed in the light of all the relevant circumstances of the present case.

Based on these facts, we recommend to fan site administrators placed on Facebook to contact Facebook as they are together responsible for processing the personal data of visitors to the fan site.

Please note that a **judgment on the interpretation of European Union law has general effects on this to the extent that all national courts are bound by such an interpretation** , pending a decision Of the Court of Justice on another question referred in which the foregoing interpretation may be clarified or even change.