



EDPS- DPO Meeting, 12 December 2018
Case study on joint controllership

Xanthi Kapsosideri, Petra Candellier, Snežana Srdić
Supervision and Enforcement Unit

Interpretation of a controller

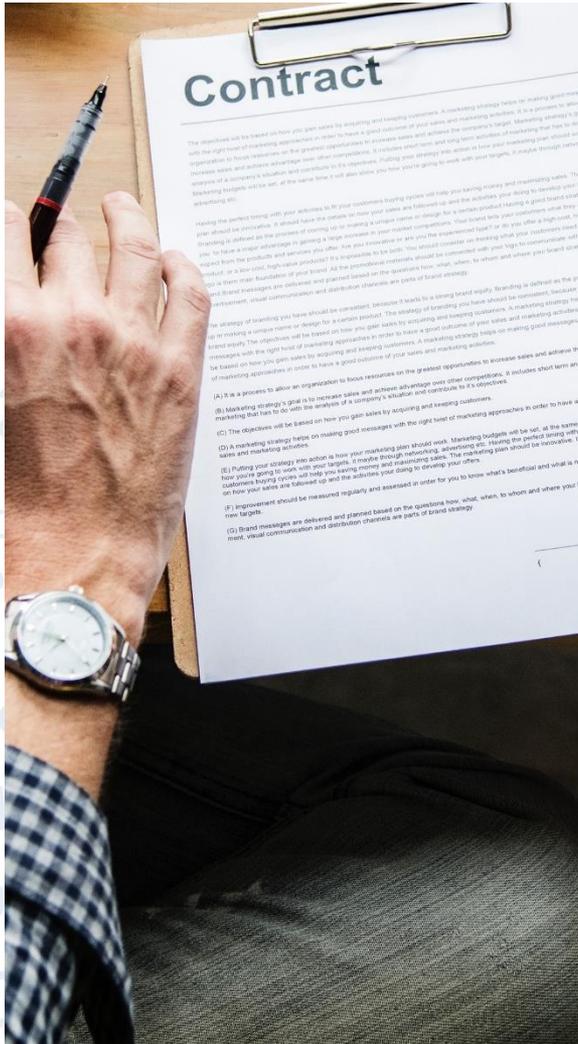
Controller: (Art.3(2)(b) Reg. 2018/1725)

- ✓ which **alone or jointly** with others (may concern several actors taking part in a processing)
- ✓ **determines the purposes and means** of the processing of personal data
- ✓ decides **why** and **how** data will be processed (para 46 Adv Gen opinion)
- ✓ has **influence** in law or in **fact** over those purposes and means (para 54 Adv Gen)





Specific contract with FB



Therefore,

(para 40 C-210/16)

- ✓ EUI has **actual influence** over the means and purposes of the data processing
- ✓ This cannot exempt the EUI from **compliance with its obligations** concerning the protection of personal data
- ✓ It is **not necessary** for the EUI to have **complete control** over all aspects of data processing to qualify as a controller
(para 62 Adv Gen)

Cookies policy with FB



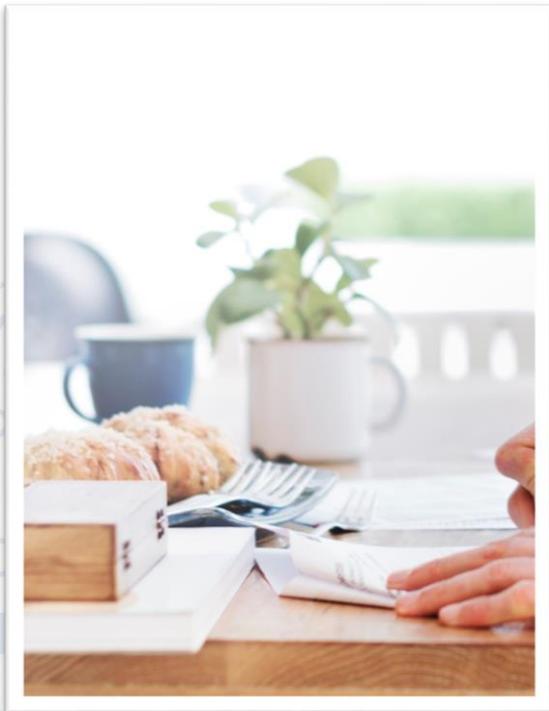
Cookies policy with FB

2) Did the EUI subscribe to the conditions of the use of the page, including the cookies policy?

para 33,34,35 **C-210/16**

Creation of fan page hosted on FB means:

- FB places **cookies** on visitors' computer/device or **collects data** through other means (connection logs, surfing history) on the visitors and their computer/device
- **FB receives, registers and processes** information stored in the cookies
- Cookies enable the EUI to **obtain statistics** from the visits to its page



Filters available by FB

3) Can the EUI, with the help of filters, define the criteria to draw up the statistics and designate the target audience?

- **FB** is the **designer** of FB's **Insights tool**
- EUI has **recourse to the tool** and **adheres to the system** put in place by FB
- FB & EUI pursue closely related objectives: **advertising & profiling!**
- Using filters, EUI can define a **personalised audience**

Filters available by FB

para 35,36,37,38,39 C-210/16

EUI can define the criteria with FB's filters:

- **demographic data** of the targeted audience (age, sex, relationship, occupation, information on lifestyle, centres of interest, information on purchasing habits ...)
- **geographical data** (where to make special offers, organise events, best target the information).



Filters available by FB



- ✓ Data from FB Insights are transmitted to the EUI in an **anonymised form**,
- but**
- ✓ the production of those statistics is based on the **prior collection**, by means of cookies and other functionalities, by FB

Therefore,

- EUI has a **decisive influence** over the **commencement of the processing** of visitor's data
- EUI has **the power** to bring the data processing to an end: **closure of the page**
- **EUI plays a predominant role** in how that data are processed

Joint controllers



- ❖ **Mere consultation** of the EUI's website (with social media buttons) automatically **starts the processing** of personal data = EUI's **responsibility** appears to be even **greater** (para 41)
- ❖ the recognition of joint responsibility of FB and EUI contributes to ensuring **more effective and complete protection** of the rights of persons visiting a fan page (para 28, 42)
- ❖ EUI has a **decisive influence** on the processing of personal data for the **purpose** of producing statistics based on visits to its fan page (para 36)

Joint controllers



Joint responsibility # equal responsibility (para 43)

Operators may be involved

- at **different stages**
- to **different degrees**
- **level of responsibility** must be assessed with regard to all circumstances

i.e.

- **close relationship** (sharing all purposes and means)
- **loose relationship** (sharing only purposes or means or a part of it)

EUIs are not required to have access to personal data

Administrator of a fan page (i.e. the EUI) hosted on a social network is a controller!!

Conclusion

- Increase of different providers and tracking tools
- Processing is becoming more and more complex
- Shift of responsibilities is easy until in the end nobody takes responsibility

CJEU

- ✓ tries to **avoid this lacuna** of responsibility
- ✓ holds **everybody responsible** depending on their **degree of involvement** in the processing
- ✓ **ensures a complete and effective protection of the person**



EDPS



thank you!



Q? A!

Subscribe to our monthly newsletter [\(click\)](#)



[@EU_EDPS](#)

For more information:

www.edps.europa.eu

edps@edps.europa.eu