

11/12/18

EUDPR



### Case study on joint controllership<sup>1</sup>:

The European elections in May 2019 are approaching. A low voter turnout is not an option. Following the adoption of a resolution from the European Parliament in the recent plenary, the Communication department of your EU institution/agency (EUI) has been encouraged to create a page on Facebook and promote what the EU has done for its citizens. In concrete terms your Communication department should promote, via the EUI's Facebook page, the core business/activities/events/reports/press releases/funds etc., that your EUI has been involved in. The aim is to raise awareness among the potential voters of the benefits of the EU in their daily life and make them understand that their active participation and vote in May 2019 are fundamental for the continuation of the European project.

Without consulting you as a DPO, your Communication department registered an account with Facebook to set up a 'fan page', and has already started posting information on their activities using Facebook's platform. The Communication department is thrilled about this new efficient way of presenting the EUI to all Facebook users and other visitors (who do not have a Facebook account) to the fan page. As a bonus, your Communication department is also able to obtain anonymous statistical information on visitors to the EUI's Facebook page via a

<sup>1</sup> Hypothetical scenario in light of Wirtschaftsakademie Judgment, Case C-210/16 of 5 June 2018.

function called Facebook insights, which Facebook makes available to every administrator of a page free of charge under non-negotiable conditions of use. Your Communication department has also added Facebook social buttons (like and share buttons) to the EUI's website. Facebook collects information for Facebook insights through cookies saved on the device of the visitors of the EUI's website and Facebook fan page and through scripts reading information from the visitor's device

You received a complaint from a visitor who questioned the setting up of such a fan page and alleged that this page gives Facebook the opportunity to place cookies on the computer or any other device of a person visiting the page, independently of whether or not that person has a Facebook account.

The Communications department alleges that:

- it only receives anonymised statistical information from Facebook for the purpose of managing and promoting its activities;
- it has not commissioned Facebook to process data;
- it is Facebook that controls and is able to influence the processing of data of the users and visitors.

## Questions

On the basis of the above information how would you proceed?

- 1) Do you think that the Communication department contributes somehow to the processing of the personal data of visitors to its page? If yes, how?
  - a) Did the EUI conclude a specific contract with FB for the creation of its page? If yes, what are the implications of this contract?
  - b) Did the EUI subscribe to the conditions of the use of the page, including the cookies policy? What does the use of cookies mean in practice?
  - c) Can the EUI, with the help of the filters of the Insight tool, define the criteria to draw up the statistics and designate the target audience?
- 2) Do you think the Communication department should have informed the visitors of its page that Facebook, by means of cookies, collected personal data concerning them and then processed data? If yes, why and how?

3) In case of an access request by a visitor, how would you proceed?

