

Illegal Data Processing as a Business Modell – the Facebook Case

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IFIP World Computer Congress – WCC2012
24th of September, 2012 in Amsterdam
Session: Social Media
– an irreversable innovation?



Unabhängiges Landeszentrum für
Datenschutz Schleswig-Holstein

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- Facebook is just one Social Platform
- Subjects

Unabhängiges Landeszentrum für Datenschutz Schleswig-Holstein

- = Independent Centre for Privacy Protection
- = Office of the Privacy and Information Commissioner Schl.-Holst.
- = Supervisory Authority/Regulator for private and public sector

Monitoring and investigations -> sanctions

Consulting and advising

Education

Projects (Research and Development)

Audits and Privacy Seals (European Privacy Seal)

(Freedom of Information)



The Facebook Case

- Since 2009: complaints, requests and no real response
- Who is competent: FB Inc./USA or FB Ltd./IRE?
- Competent are the fanpage and website owners in SH
- ULD, August 18, 2011: fanpages and social plug-ins are illegal (data transfer to USA, cookies, no opt-in, no opt-out)
- September 2011: FB takes notice of ULD and German politics, but doesn't deliver more information (until now)
- Schrems/Austria lodges a complaint with the Privacy Commissioner in Ireland > Audits Dec. 2011/Oct. 2012
- 3 lawsuits before the Administrative Court of SH



Privacy Infringements of Facebook

- No valid informed consent for cookies and transfer to USA
- Violation of Safe Harbor principles
- Privacy policy and terms of use ignore consumer rights
- No clear responsibility
- Data subject's rights (access, erasure) are condoned
- No legitimitation of processing of non-members' data
- No precise information und no opt-out on profiling
- No pseudonymous use/only real-name policy
- Face recognition without consent
and much more

Hurdle: Controllorship of fanpage owners in Schl.-Holst.?

Facebook is just one Social Platform

- Google, Apple, Amazon etc. are (nearly) as illegal as FB
- FB is the biggest social platform
(32% of German companies use FB fanpages)
- Users pay with their personal data
- Privacy infringements are business modell

Lawrence Lessing: Is code law?

ULD/Regulators: Rule of democratic law!

Subjects

Law and Regulation

Informatics/Technology

Politics

Culture

Economics

Education/Psychology

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