

Privacy in the Workplace

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Data Protection in Social Networks

Prof. Dr. Andreas Wiebe, LL.M.

Georg-August-Universität Göttingen

Chair for Civil Law,

Intellectual Property Law,

Media and Information Law

Andreas.Wiebe@jura.uni-goettingen.de

Data Protection in Social Networks

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facebook

Email Password **Log In**

Keep me logged in [Forgot your password?](#)

Facebook helps you connect and share with the people in your life.

Sign Up
It's free and always will be.

First Name:

Last Name:

Your Email:

Re-enter Email:

New Password:

I am: Select Sex:

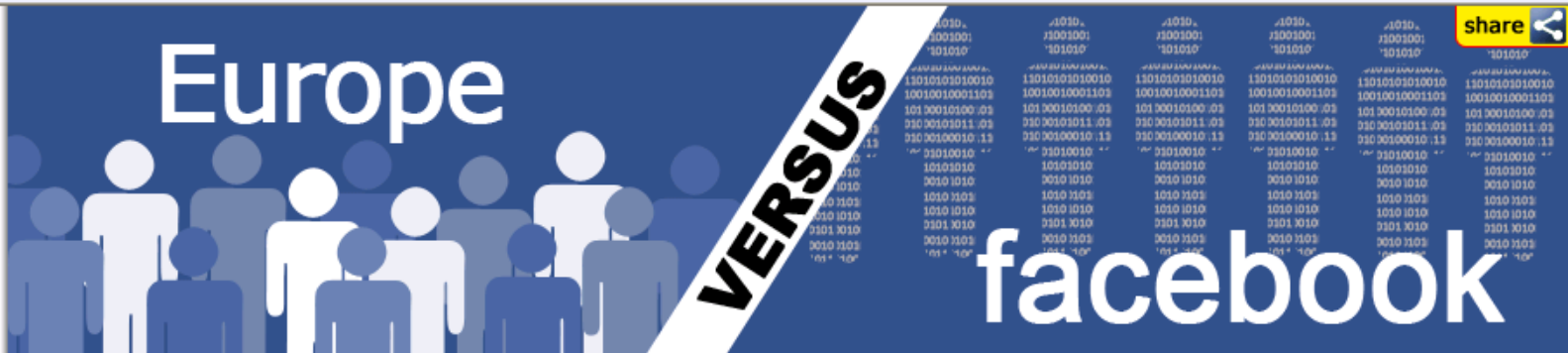
Birthday: Month: Day: Year:

Why do I need to provide my birthday?

By clicking Sign Up, you agree to our Terms and that you have read and understand our Data Use Policy.

Sign Up

Start | Fa... | Eig... | Mi... | htt... | OK... | Pr... | W... | htt... | DE | 100% | 21:31



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22/03/2012 - HILARIOUS: Facebook is afraid of its own arguments!

We could have imagined a lot of reasons why Facebook would back out of the commitment to send us a details "follow up" document after our direct meeting in Vienna. But this one is especially amusing: The legal team was afraid we could use their arguments against them in a later court trail. This shows to us that the counterarguments must be so weak that even Facebook fears their publication...





Unabhängiges Landeszentrum für Datenschutz Schleswig-Holstein

Facebook

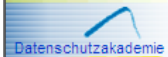
Home
Wir über uns

Themen

Systemdatenschutz
Audit / Gütesiegel
Projekte
Informationsfreiheit

Gesetze
Presse
Veröffentlichungen
Mediathek
Vorträge

Infos für Bürger
Infos für Behörden
Infos für die Wirtschaft
FAQs
Häufig gestellte Fragen
Mailinglisten



Suchen...



Pressemitteilungen

- ULD zum Facebook-Audit des irischen Datenschutzbeauftragten: „Erkenntnisse stützen weiteres Vorgehen des ULD“
- ULD wendet sich im Facebook-Streit an den Landtag
- Facebook-Konflikt: Datenschutzbehörden unterstützen bundesweit einheitlich ULD-Position
- Bisher nur mäßiger Erfolg der ULD-Facebook-Abmahnungen
 - Musterverfügung nach § 38 Abs. 5 BDSG
 - Beanstandung Staatskanzlei
 - Beanstandung IHK
- Datenschutz Facebook: „Es geht jetzt um Rechtsklarheit, nicht um Rechthaberei“
- Stellungnahme zum Öffentlichen Expertengespräch zum Thema „Datensicherheit bei Facebook und anderen sozialen Netzwerken in Anbetracht einer Entschließung der Datenschutzbeauftragten der Länder und des Bundes“ am 24.10.2011
- Facebook-Fanpages und -Plugins: Das ULD weiß, was es tut (07.10.2011)
- ULD: „Dialog mit Facebook hindert nicht Durchsetzung des Datenschutzes“ (30.09.2011)
- ULD: „Dialog with Facebook does not hinder data protection enforcement“ (2011-09-30)
- Entschließung "Datenschutz bei sozialen Netzwerken jetzt verwirklichen" (29.09.2011)
- Weichert: „Innenminister sollte nicht weichspülen, sondern seine Hausaufgaben erledigen“ (08.09.2011)
- Weichert: „Facebook muss sich gewaltig bewegen“ (07.09.2011)
- Weichert: „Facebook must budge considerably“ (07.09.2011)
- ULD an Webseitenbetreiber: "Facebook-Reichweitenanalyse abschalten" (19.08.2011)
- ULD to website owners: „Deactivate Facebook web analytics“ (2011-08-19)

Kommunikation mit Facebook

- 25.08.2011 Schreiben Facebook
- 2011-08-25 Letter Facebook
- 05.09.2011 Schreiben ULD
- 2011-09-05 Letter ULD
- 07.09.2011 Ergebnisprotokoll Treffen (noch nicht abgestimmt)
- 16.09.2011 Schreiben Facebook
- 2011-06-19 Letter Facebook

Stellungnahmen Dritter

- Stellungnahme des Wissenschaftlichen Dienstes des Schleswig-Holsteinischen Landtages zur Rechtsauffassung des ULD zur „datenschutzrechtlichen Bewertung der Reichweitenanalyse durch Facebook“
- Ausarbeitung des Wissenschaftlichen Dienstes des Deutschen Bundestages: Die Verletzung datenschutzrechtlicher Bestimmungen durch sogenannte Facebook Fanpages und Social-Plugins Zum Arbeitspapier des Unabhängigen Landeszentrums für Datenschutz Schleswig-Holstein

Weitere Informationen

- Wer ist datenschutzrechtlich verantwortlich für Facebook-Fanpages und Social-Plugins?
- Häufige Fragen und Antworten
- Frequently Asked Questions
- Thilo Weichert: Bringt Facebook vor Gericht

- Expertise of Scientific Service of German Parliament :
 - „However, the current data protection law is daunted with uncertainties and makes definite answers to legal questions in this area difficult to find“

Proposal EU Regulation Jan. 25, 2012

- C.Kuner: „**kopernican Revolution**“: „In the 18th century Immanuel Kant famously initiated a „Copernican Revolution“ in philosophy by shifting the understanding of reality away from external objects and toward the cognitive powers of the individual. The European Commission’s recent proposal for a General Data Protection Regulation...attempts a similar revolution in European data protection law by seeking to shift its focus away from paper-based, bureaucratic requirements and toward compliance in practice, harmonization of the law, and individual empowerment.”

Hannover Newspaper 4.2.2012 - „Data dealers“

- Facebook: share value 100 bln. \$
- 850 Mio. users worldwide
- Marc Zuckerberg: total transparency makes world a better place and people more positive
- Newspaper Editorial:
 - *“ Has communication entirely changed. Is our traditional understanding of privacy just a historical episode? Are we glad to be able to tell everybody everything? Or is human behaviour just lagging behind technical progress for some time? Are we assuming to share our thoughts with the family at the fireplace while in real thousands of never seen „friends“ and numerous marketing experts are receiving it? Or is the commercial generation happy about products and advertising being tailored to their needs? “*
- Data protection law as a danger to the business model?

Social Networks

- Definition:
 - User insert personal data to establish personal „Profiles“
 - Social networks allow users to upload and publish their own materials, like pictures, movies, music and links
 - Users are enabled to administer links to other members of the network and can interact with them
- Business model:
 - Financing through „behavioral advertising“
 - On the basis of self provided data and interaction of users

Social Networks and employment

- Growing importance
 - Professional networks, integration into companies
 - Private networks
- Labor law framework
 - Private networks: employer may not interfere with private use and is not allowed to get access
 - Employer may prohibit or limit use of internet
 - Professional networks:
 - Usually freely accessible
 - Employer may publish basic data if necessary for external communication
 - Problem: data also accessible in countries with poor data protection level

Data protection law issues

- Legal basis
 - Various data protection rules distributed over different statutes
 - DP Directive 95/46/EC, ePrivacyRL 2002/58/EC
- Local applicability
 - Principle of domicile (§ 1 V 1 BDSG)
 - Outside EU: „use of equipment“-Test, e.g.„cookies“ (?)
 - Facebook: Irish or German data protection law?
- Regulation proposal Jan 21, 2012:
 - Data processing is related to the offer of goods or services to persons in the EU,
 - Or related to the supervision of the behaviour of EU citizens, this includes personal profiles

Data controller

- Data controller (§ 3 VII BDSG, §§ 2, 3 TMG)
 - a) Provider of social network service
 - b) Website owner
 - „Social Plug-Ins“ on website of a third party service
 - „Like Me“-Button - „Facebook Insights“
 - c) User
 - „household exemption“: data processing solely for personal or family purposes
 - Not: use of platform to further commercial, political, or caritative purposes
 - High number of third party contacts as indicator
 - Access for all members or external search engines

Data controller

Facebook Terms

– **Sharing Your Content and Information**

You own all of the content and information you post on Facebook, and you can control how it is shared through your [privacy](#) and [application settings](#). In addition:

- For content that is covered by intellectual property rights, like photos and videos (IP content), you specifically give us the following permission, subject to your [privacy](#) and [application settings](#): you grant us a non-exclusive, transferable, sub-licensable, royalty-free, worldwide license to use any IP content that you post on or in connection with Facebook (IP License). This IP License ends when you delete your IP content or your account unless your content has been shared with others, and they have not deleted it.

– Can user have control over the use of information?

Consent

- Statutory permission, or
- Consent (§ 4a BDSG)
 - Electronic declaration (§ 13 II TMG), when
 - User has declared his consent consciously and unambiguously,
 - Consent has been documented,
 - The user can download the contents of his consent any time and
 - User may rescind his consent for the future anytime.
- Practice
 - Box not pre-checked , or
 - Registration without separate declaration in connection with terms
- German Supreme Court (BGH, VIII ZR 348/06) 2008 - *Payback*
 - Pre-checked box sufficient („opt-out“)
 - Separately from consent to terms

Information and Consent

- Privacy policies
 - Availability and Accessibility
 - Comprehensibility
 - Integration into standard terms
 - Information on need to consent
- § 4a BDSG
 - Information on purpose of processing, type and extent of data collected and consequences of refusing consent
- DP Commissioner Schleswig-Holstein about Facebook:
 - Consent upon initiating user account
 - However: no clear information on type, extent and purpose of processing during registration
 - Only general reference to a number of documents that cannot be deemed to be acknowledged in a reasonable way
 - Purposes are drafted vaguely, extent of collecting and analyzing information remains unclear
 - Special terms („Analytics“) are not explained

Data Use Policy | Facebook - Windows Internet Explorer

http://www.facebook.com/about/privacy/your-info#howweuse

deutsch english

Google deutsch english

Data Use Policy | Facebook

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How we use the information we receive

We use the information we receive about you in connection with the services and features we provide to you and other users like your friends, the advertisers that purchase ads on the site, and the developers that build the games, applications, and websites you use. For example, we may use the information we receive about you:

- as part of our efforts to keep Facebook safe and secure;
- to provide you with location features and services, like telling you and your friends when something is going on nearby;
- to measure or understand the effectiveness of ads you and others see;
- to make suggestions to you and other users on Facebook, such as: suggesting that your friend use our contact importer because you found friends using it, suggesting that another user add you as a friend because the user imported the same email address as you did, or suggesting that your friend tag you in a picture they have uploaded with you in it.

Granting us this permission not only allows us to provide Facebook as it exists today, but it also allows us to provide you with innovative features and services we develop in the future that use the information we receive about you in new ways.

While you are allowing us to use the information we receive about you, you always own all of your information. Your trust is important to us, which is why we don't share information we receive about you with others unless we have:

- received your permission;
- given you notice, such as by telling you about it in this policy; or
- removed your name or any other personally identifying information from it.

💡 We are able to suggest that your friend tag you in a picture by comparing your friend's pictures to information we've put together from the photos you've been tagged in. You can control whether we suggest that another user tag you in a photo using the [How Tags Work](#) settings.

Fertig

Internet 100%

Start

Fahr... Eige... Micr... http... OK... Prog... Data... http... DE 100% 21:51

Information and Consent

- Implementation in practice

example: Cookies

- Art. 2 Dir. 2009/136/EC: clear and comprehensive information required
- Recital 66: valid consent through use of applications with respective browser settings, under the condition that this is „technically possible and effective“

Example: „Like Me“-Button:

- „Two-click-solution“

Information and Consent

- Regulation Proposal
 - Consent always explicit
 - „data controllers“ have to prove that subject has consented
 - Consent is not valid where significant imbalances exist between data subject and data controllers
- Art. 14(1)
 - Where personal data relating to a data subject are collected, the controller shall provide the data subject with at least the following information:
 - (a) the identity and the contact details of the controller and, if any, of the controller's representative and of the data protection officer;
 - (b) the purposes of the processing for which the personal data are intended, including the contract terms and general conditions where the processing is based on point (b) of Article 6(1) and the legitimate interests pursued by the controller where the processing is based on point (f) of Article 6(1);
 - (c) the period for which the personal data will be stored;
 - (d) the existence of the right to request from the controller access to and rectification or erasure of the personal data concerning the data subject or to object to the processing of such personal data;
 - (e) the right to lodge a complaint to the supervisory authority and the contact details of the supervisory authority;
 - (f) the recipients or categories of recipients of the personal data;
 - (g) where applicable, that the controller intends to transfer to a third country or international organisation and on the level of protection afforded by that third country or international organisation by reference to an adequacy decision by the Commission;
 - (h) any further information necessary to guarantee fair processing in respect of the data subject, having regard to the specific circumstances in which the personal data are collected.
 - (3) Where the personal data are not collected from the data subject, the controller shall inform the data subject, in addition to the information referred to in paragraph 1, from which source the personal data originate.

Social Plug-Ins and Profiling

- § 15 Abs. 3 TMG
 - Permitted for purposes of advertising, market research, or user friendly design of tele media if alias is used
 - Users have to be informed and given the option to object
- Plug-In, like „Like Me“
 - Facebook sets cookie
 - No Information or chance to object
 - Data collected by cookie under alias can be connected with data from user account of facebook
 - Breach of duty to separate data § 15 III 3 TMG

Processing of third party data

- „Tagging“
 - Add name of a person to a picture
 - Consent necessary
 - Responsibility of service provider ?
- Sensitive Data
 - pictures, videos
 - Explicit consent
 - Opt-in

Access by third parties























- Different options in practice:
 - 50% of services stipulate that there is no transmission of data to third parties;
 - Some services transmit basic data or more, with different degrees of limitations set by the user
- Legal requirements:
 - User has to be specifically informed who third party is and what kind of data is being transmitted for which purpose
 - Option of graduated access of third parties has to be provided

Privatsphäre ► Profil

Allgemeines Kontaktinformationen

Bestimme, wer welche Abschnitte deines Profils sehen kann. Gehe zur [Anwendungen-Seite](#), um deine Anwendungseinstellungen zu ändern. Gehe zur [Suchprivatsphäre-Seite](#), um festzulegen, was andere über dich sehen können, wenn sie nach dir suchen.

So sehen Freunde dein Profil:

Profil	 Meine Netzwerke und meine Freunde 	[?]
Allgemeine Informationen	 Nur Freunde 	[?]
Persönliche Angaben	 Nur Freunde 	[?]
Status und Links	 Nur Freunde 	[?]
Fotos, auf denen du markiert bist	 Benutzerdefiniert   Nur ich Benutzerdefinierte Einstellungen bearbeiten Fotoalbum-Privatsphäre bearbeiten	[?]
Videos, in denen du markiert bist	 Benutzerdefiniert   Nur ich Benutzerdefinierte Einstellungen bearbeiten	[?]
Freunde	 Nur Freunde 	[?]
Pinnwandeinträge	<input checked="" type="checkbox"/> Freunde können an meine Pinnwand schreiben  Nur Freunde 	[?]
Ausbildung	 Nur Freunde 	[?]
Berufliche Angaben	 Meine Netzwerke und meine Freunde 	[?]

Änderungen speichern

Abbrechen

- **Privatsphäre meines Profils einstellen**
- Über den ersten Link **“Profil”** gelangt man zu der Unterseite, auf der man auf zwei Karteikarten wählen kann, wie das eigene Profil für andere angezeigt werden soll. Die erste Karteikarte heißt **“Allgemeines”** und enthält folgende Elemente:
- Bei allen Auswahlfeldern kann man hier zwischen den folgenden Filtern wählen:
- Die Option **“Alle”** bezeichnet alle Facebooknutzer (auch die, mit denen man nicht befreundet ist!)
- **“Meine Netzwerke und meine Freunde”** schließt nur diejenigen aus, die sich nicht im selben Netzwerk (z.B. “Deutschland”) befinden und mit denen man nicht befreundet ist
- **“Freunde von Freunden”** umfasst die eigene Freundesliste plus deren Freundeslisten
- **“Nur Freunde”** schließt alle aus, die nicht in der eigenen Freundesliste sind
- **“Benutzerdefiniert...”** ermöglicht die ein detaillierteres Filtern nach Freundesliste und Netzwerken sowie die Option, bestimmte Informationen auch für bestimmte Freunde über den Zusatz **“Außer diesen Personen”** zu sperren (außer für das erste Auswahlfeld “Profil”):

Social Networks and employment

- Right to control use by employer?
 - Not comparable to e-mail, distinguish according to affinity to professional topics
- Termination of employment
 - Can employer demand control over user account?
 - Only if he financed or provided it; permission of employer to opening account not sufficient
 - Personal data of purely private character may be erased
 - Even if no access right of employer:
 - Employer may demand access to professional contents, like customer data or professional communication

Rights and enforcement

- Right of information on stored data, correction and erasure
- Option to use alias (§ 13 VI TMG)
- Regulation proposal
 - „right to be forgotten“ (Art. 17)
 - erasure
 - Duty to inform third parties about the fact that a data subject has demanded erasure of all links to this data as well as copies of this data
 - Data portability (Art. 18)
 - Right to be given an electronic copy of all personal data

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**Get your Data!
 Make an Access Request at Facebook**

According to European data protection law every individual has the right to get a copy of all personal data a company holds about him (right to access). This law is applicable to Facebook too. Every user with a residence outside of the US and Canada has a contract with "Facebook Ireland Limited", based in Dublin, Ireland and has a right to access therefore.
 (Again: Anyone outside of the US or Canada has a right to access!)



By sending an access request you get an idea about the use of your personal data by Facebook. It also shows Facebook that users care about their data and privacy.

⚠ Note: Facebook has made it more and more difficult to send an access request since the beginning of your campaign. The legal deadline of 40 days is currently ignored. Users get rerouted to a "download tool" that only gives you a copy of your own profile (about 22 data categories). This download tool does not provide you the data Facebook is collecting and storing in the background (Facebook holds about 85 data categories about users).

3 Options to get your Data:



Online Form

Facebook has removed its online form after thousands of requests on the 4th of November.

Now users are rerouted to a "download tool" that does not give the users a right to access!

When using this tool you only get a copy of your profile, but none of the data Facebook holds or generates in the background. This means you only get about 22% of your data!

We currently discourage you from using the online tool, since you will lose your right to access by only clicking on the tool!

2 Options to get your Data:



Request via E-Mail

1. Correct your Data
 If you used a wrong name or birth date on Facebook, you have to correct it before you request your data.

2. Fill out our Form
 Open your prepared E-Mail and fill in your name, e-mail and birth date.
 >> [Click here](#)

3. Send your E-Mail
 Click "send" and wait for 40 days to get your data sent by Facebook.

4. Get a Standard Reply
 Facebook will reply with some standard answer about privacy. Don't worry your access request is valid no matter if Facebook answers with some random e-mail!



Request via Regular Mail

1. Correct your Data
 If you used a wrong name or birth date on Facebook, you have to correct it before you request your data.

2. Fill out our Form
 We have prepared the standard forms: [Word](#), [Docs](#) or [PDF](#)

3. Send it to Facebook
[Address:](#)
 Facebook Ireland Limited
 Manover Road
 807 Manover Quay
 Dublin 2
 IRELAND



Resume

- Data protection law: lots of uncertainty
- Technical details decisive
- Central role of consent
 - Deficits as to sufficient information
 - Concept reaches its limits
 - Shift from consent to specific permissions
- Enforcement deficits
 - Regulation proposal: high penalties
 - Privacy by (technical) design
 - Self regulation
 - Data protection seal
- Data protection as competitive advantage!

>> [Summary of Arguments \(PDF\)](#)



07/02/2012 - UPDATE: Meeting in Vienna

Bending the Law?In our discussion we were able to clarify the views of Facebook on different provisions of the European data protection legislation. We are even more confident that Facebook is in many ways re-interpreting that law in ways that are not stringent or compliant with the case law by the European Court of Justice.



This is especially an issue in cases where Facebook claims that the user has "consented" to the processing of data. In some cases Facebook e.g. claimed that, if a user is not prohibiting the processing this could be seen as a consent. We could also not get a final word on who (the users or Facebook) is the responsible "controller" for most processing of personal data, since Facebook does not have a policy that would clarify the role of Facebook and the users.

On the Way. In our talks Facebook was saying that they are still on the journey to fully comply with European laws. Many systems that are in operation are still not working the way they should. For example some of the deletion routines are currently not working correctly. Facebook is like a large tanker that moves the right direction, but it still not fully there, the representatives said.

Facebook has pledged to changing these procedures so that e.g. deletion really means deletion and not just hiding things from the users. There will also be massive changes to the worldwide privacy policy of Facebook in order to comply with European law.

More Information Coming. In many cases the representatives were not able to explain all details of the operation, but they agreed to research certain questions and hand over additional information soon. We agreed that Facebook will finally allow us to get an insight on all the data Facebook is holding about its users. So far we did not receive any access to information through the Irish DPC.

Transparency. As we have said before, were unhappy that these talks were done by some individuals instead of the authorities and that this meeting happened behind closed doors. We will therefore soon publish a detailed protocol on the arguments that were exchanged and the next steps that will be taken. We hope to ensure transparency by doing so.

MORE INFORMATION: [FULL PRESS TEXT](#)