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**ADVOCATE GENERAL BOBEK: THE OPERATOR
OF A WEBSITE EMBEDDING A THIRD PARTY
PLUGIN SUCH AS THE FACEBOOK LIKE
BUTTON, WHICH CAUSES THE COLLECTION
AND TRANSMISSION OF THE USERS'
PERSONAL DATA, IS JOINTLY RESPONSIBLE FOR
THAT STAGE OF THE DATA PROCESSING**

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Nadia-Cerasela ANITEI²

Abstract:

“Fashion ID is a German online retailer which sells fashion items. It embedded a plugin on its website: Facebook’s ‘Like’ button. As a result, when a user lands on Fashion ID’s website, information about that user’s IP address and browser string is transferred to Facebook. That transfer occurs automatically when Fashion ID’s website has loaded, irrespective of whether the user has clicked on the Like button and whether or not he has a Facebook account.

Verbraucherzentrale NRW, a German association defending the interests of consumers, brought legal proceedings for an injunction against Fashion ID on the ground that the use of the Facebook Like button results in a breach of data protection legislation. Seized of the case, the Oberlandesgericht

¹ Court of Justice of the European Union PRESS RELEASE No 206/18 Luxembourg, 19 December 2018 Advocate General’s Opinion in Case C-40/17 Fashion ID GmbH & Co. KG v Verbraucherzentrale NRW eV ADVOCATE GENERAL BOBEK: THE OPERATOR OF A WEBSITE EMBEDDING A THIRD PARTY PLUGIN SUCH AS THE FACEBOOK LIKE BUTTON, WHICH CAUSES THE COLLECTION AND TRANSMISSION OF THE USERS’ PERSONAL DATA, IS JOINTLY RESPONSIBLE FOR THAT STAGE OF THE DATA PROCESSING” Full take –up on (Preluare integral de pe) site-ul <https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-12/cp180206en.pdf> on December 26, 2018 (la data de 26 decembrie 2018).

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Düsseldorf (Higher Regional Court, Düsseldorf, Germany) seeks the interpretation of several provisions of the former Data-Protection-Directive of 19951 (which remains applicable to this case, but has been replaced by the new General Data Protection Regulation of 20162 with effect from 25 May 2018)." (Court of Justice of the European Union PRESS RELEASE No 206/18 Luxembourg, 19 December 2018 Advocate General's Opinion in Case C-40/17 Fashion ID GmbH & Co. KG v Verbraucherzentrale NRW eV „ADVOCATE GENERAL BOBEK: THE OPERATOR OF A WEBSITE EMBEDDING A THIRD PARTY PLUGIN SUCH AS THE FACEBOOK LIKE BUTTON, WHICH CAUSES THE COLLECTION AND TRANSMISSION OF THE USERS' PERSONAL DATA, IS JOINTLY RESPONSIBLE FOR THAT STAGE OF THE DATA PROCESSING" (Full take –up on (Preluare integral de pe) site-ul <https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-12/cp180206en.pdf> on December 26, 2018 (la data de 26 decembrie 2018).)

Keywords:

"Fashion ID is a German online"; "Verbraucherzentrale NRW, a German"; "Verbraucherzentrale NRW, a German"; "Verbraucherzentrale NRW, a German."

"Fashion ID is a German online retailer which sells fashion items. It embedded a plugin on its website: Facebook's 'Like' button. As a result, when a user lands on Fashion ID's website, information about that user's IP address and browser string is transferred to Facebook. That transfer occurs automatically when Fashion ID's website has loaded, irrespective of whether the user has clicked on the Like button and whether or not he has a Facebook account.

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In today's opinion, Verbraucherzentrale NRW, a German proposes to the Court of Justice:

1. to rule, first, that the directive does not preclude national legislation which grants public-service associations standing to commence legal proceedings against the alleged infringer of data protection legislation in order to safeguard the interests of consumers;

2. However, that controller's (joint) responsibility should be limited to those operations for which it effectively co-decides on the means and purposes of the processing of the personal data.

The Advocate General proposes:

1. to the Court to rule that the legitimate interests of both joint controllers at issue (Fashion ID and Facebook Ireland) have to be taken into account and balanced against the rights of the users of the website[;

2. to rule that the consent of the website user, where required, has to be given to the operator of the website (Fashion ID) that has embedded the content of a third party. Likewise the obligation to provide the website user with the required minimum information applies to the operator of the website (Fashion ID).

The operator of the website has to provide, with regard to that data processing operations, the users with the required minimum information and obtain, where required, their consent before the data are collected and transferred."

(Court of Justice of the European Union PRESS RELEASE No 206/18 Luxembourg, 19 December 2018 Advocate General's Opinion in Case C-40/17 Fashion ID GmbH & Co. KG v Verbraucherzentrale NRW eV „ADVOCATE GENERAL BOBEK: THE OPERATOR OF A WEBSITE EMBEDDING A THIRD PARTY PLUGIN SUCH AS THE FACEBOOK LIKE BUTTON, WHICH CAUSES THE COLLECTION AND TRANSMISSION OF THE USERS' PERSONAL DATA, IS JOINTLY RESPONSIBLE FOR THAT STAGE OF THE DATA PROCESSING" (Full take –up on (Preluare integral de pe) site-ul <https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-12/cp180206en.pdf> on December 26, 2018 (la data de 26 decembrie 2018).

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