

EU Court Rules that Websites using Facebook's 'Like' Embedded Button might be considered as Joint Data Controllers

TOPICS: Joint Data Controller, Embedded Buttons, Likes, Facebook, GDPR, EU

The EU Court of Justice ("ECJ") [decided](#) that the operator of a website that features a Facebook 'Like' button can be a controller, jointly with Facebook, in respect of the collection and transmission to Facebook of the personal data of visitors to its website.

In the concrete case, Fashion ID, an online clothes retailer, embedded on its website the Facebook 'Like' button. According to the Court's findings, Facebook's Like embedded buttons result in the transmission of personal data automatically when a webpage loads, without the user even needing to interact with the plug-in or being aware of such transfer.

The Court found that, although Fashion ID cannot be considered a controller in respect of the operations involving data processing carried out by Facebook after the data have been transmitted to Facebook, **it should be considered as jointly responsible for the initial data processing**, as the use of the embedded button and subsequent processing operations appear to be performed in the economic interests both of Fashion ID and of Facebook, and was instigated by Fashion ID (which embedded the Like button).

As such, the ruling states that **sites using Facebook's embedded Like button are jointly responsible for the initial data processing and must either obtain informed consent from site visitors prior to data being transferred to Facebook.**

Following this decision, Facebook announced it might make changes to the Like button to ensure websites that use it are able to comply with the GDPR. Although not explicit in the decision, the same reasoning could be applied to other embedded buttons, such as those from Twitter and LinkedIn, which follows the same logic and flow.

Such tracking by embedded buttons can be considered, in practice, close to cookies and be subject to the same restrictions and considerations. **Be sure to check our special section in this newsletter regarding cookies and consent.**