Court:	**Schleswig-Holstein Higher Regional Court 6. Civil Senate**
Date of decision:	**12.08.2025**
File number:	**6 UKI 3/25**
ECLI:	**ECLI:EN:OLGSH:2025:0812.6UKI3.25.00**
Document type:	**Judgment**
Source:	
Standards:	**§ 2 UKlaG, § 12 UWG, Art 9 EUV 2016/679, Art 7 EUV 1215/2012, § 3 UKlaG ... more**

Guiding principle

It is harmful to the urgent meaning of § 12 UWG in conjunction with Art. 5 UKlaG, if a consumer protection association waits after the announcement of a practice contrary to consumer protection with the application for interim legal protection until the beginning of the disputed behavior. In any case, there is no longer any urgency if there is more than one month between the announcement and the beginning of the conduct and an application for an injunction would have been possible before the start of the conduct.

Tenor

The application for an injunction is rejected.

The costs of the interim injunction proceedings shall be borne by the plaintiff.

Facts

The plaintiff is a charitable foundation under Dutch law. Their statutory tasks include safeguarding and enforcing the interests of natural persons, in particular consumers and minors, when using online services within the EU. The plaintiff is a qualified institution from another member state of the European Union within the meaning of § 3 para. 1 No. 1 UKlaG in the list of the European Commission according to Art. 5 para. 1 sentence 4 of Directive (EU) 2020/1828 of the European Parliament and of the Council of 25.11.2020 on joint actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC.

2 The defendant is a subsidiary of Meta Platforms, Inc. with its registered office at 1 Meta Way Menlo Park California 94025, USA. It operates the same-like social networks "Instagram" and "Facebook" on the websites "www.instagram.com" and "www.facebook.com" as well as apps for mobile devices.

3 It is based in Dublin, Ireland. It has a subsidiary, Facebook Germany GmbH, based in Hamburg. According to the defendants, this subsidiary is not involved in data processing in connection with the development and im-

provement of AI applications. On its website https://www.meta.com/de-de/about/ (accessed on 27.07.2025) it is not possible to see where the defendant has her registered office and where her worldwide branches are. Also an imprint can not be found there. The seat and the representatives of the defendants can be found in the entry in the lobby register of the German Bundestag (cf. https://www.lobbyregister.bundestag.de/suche/R002238, last accessed on 06.08.2025).

4 According to the website https://about.fb.com/de/media-gallery/offices-around-the-world/meta-hamburg/ (last accessed on 06.08.2025) "Meta" has an office in Hamburg. An employee of the defendant from Hamburg also reported in the oral hearing before the Senate. On the advice of the Senate, the defendant was not able to present that her office in Hamburg was not a branch of the defendant.

5 The defendant announced on 14.04.2025 - in addition to further announcements about data processing in connection with the development and improvement of its AI models in the period before since mid-2024 - publicly announced in a press release that the public content of adult users and their interactions with artificial intelligence would soon be used for the training of their AI models in Meta products:

6 "In the EU, we will soon begin training our AI models on the interactions that people have with AI at Meta, as well as public content shared by adults on Meta Products." (https://about.fb.com/news/2025/04/making-ai-work-harder-for-europeans/)

7 (Translation: "In the EU, we will soon start training our AI models based on the interactions that people have with AI on Meta, as well as on the basis of public content shared by adults on Meta products.")

8 The defendant also subsequently announced this to all users on its Facebook and Instagram platforms by the end of April 2025 via in-app notifications and e-mails. The plaintiff also received these notifications, as she herself has a Facebook account. Board member M. and Director of Financing K. also received notifications via the Facebook app and via e-mail in April 2025.

9 In the e-mail of the defendants to the users of 04/17/2025 and 04/19/2025 (cf. page 4/5 of the pleading of the defendants of the decision of 07/21/25), it pointed out that Meta (already) uses "public information". There it is undisputed among other things:

10 [...]

"We are continuously improving AI at Meta. "AI at Meta" refers to our features and experiences that use generative AI, such as Meta AI and AI Creative Tools, as well as the models that underlie them. We also provide models through an open platform to support researchers, developers and other members of the AI community.

12 [...]

"We want to let you know that to provide these user experiences, we use public information, such as posts and comments from accounts whose owners are at least 18 years old. This includes all the public

information you've shared in Meta products since you created your account."

[...]

15 Apparently on the occasion of these public announcements of the defendants, the North Rhine-Westphalia Consumer Centre warned them by letter dated 30.04.2025. On 12.05.2025, it requested the issuance of an interim injunction before the OLG Cologne (I-15 UKl 2/25) with the aim of prohibiting the defendant in the context of business activities the processing of personal data published by consumers on the services Facebook and Instagram on the basis of the legitimate interest in the development and improvement of artificial intelligence systems and, alternatively the merging of this data of users from both platforms for this purpose. The OLG Köln rejected the application for an interim injunction by judgment of 23.05.2025 on the grounds, among other things, that the data processing intended from 27.05.2025 after summary examination in the interim injunction proceedings does not violate Art. 6 para. 1 sentence 1 lit. f) GDPR (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27. April 2016 on the protection of individuals with regard to the processing of personal data, on the free movement of such data and repeal of Directive 95/46/EC - General Data Protection Regulation), since the legitimate interest of the defendants prevails over the fundamental rights and interests of the consumers concerned. Extensive reporting on the proceedings and the verdict took place in the media on 23.05.2025. The judgment with the reasons for the judgment was served on 06/13/25 to the legal representatives of the plaintiff, who had also represented the North Rhine-Westphalia Consumer Centre before the Cologne Higher Regional Court.

The defendant will undisputedly process the personal data of its adult users in public posts and comments on the Facebook and Instagram platforms as well as their interactions with the functionalities of the AI in the applications for the development and improvement of its AI models from 27.05.2025 at the latest, in accordance with its announcement.

17 The plaintiff warned the defendant with a letter dated 13.06.2025 (Attachment ASt5) with a deadline of 20.06.2025 with regard to this data processing. After extension of the deadline until 23.06.2025, the defendant replied by letter of 23.06.2025 (Attachment ASt6).

18 The plaintiff is of the opinion that the objected data processing violates Art. 6 and Art. 9 GDPR, as well as the prohibition of merger and the prohibition of further use from Art. 5 DMA (Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14. September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 - Digital Markets Act). The defendant does not provide transparent information about the use of personal data for the development and improvement of AI models.

19 The plaintiff claims that sensitive data and data of children are processed. No effective objection is possible for the persons concerned, in particular if they are not registered users of the defendants' platforms. Only registered users of the platforms could object and only in relation to the data they themselves publish. Institutional profile holders could not object to the use of their data.

It is also of the opinion that the data processing actually taken from 27.05.2025 goes beyond the announcement

of 14.04.2025, since data from advertising partners would also be used for the development of AI applications, which results from the data protection guidelines with validity from 27.05.2025. It was only in the course of the oral hearing before the OLG Cologne that it became clear which data should be processed in the context of AI development. It was only then that it became clear that the data should also be used for the AI applications of the defendants outside the platforms.

21 It considers that European law is not subject to an urgent deadline for applications for an interim injunction and that the period between taking cognisance of an infringement and applying for interim relief is sufficiently long to ensure the effective enforcement of European law.

The plaintiff requests,

23 the defendant by way of an interim injunction if a fine of up to EUR 250,000.00 to be imposed by the court for each case of infringement is avoided and in the event that this cannot be recovered, to prohibit administrative detention of up to six months, to carry this on its legal representatives,

24 in the context of business activities towards consumers in Germany,

1.

25 to process personal data published by them on the Facebook and Instagram services and through them collected by third parties and transmitted to the defendant on the basis of their legitimate interest in the development and improvement of artificial intelligence technologies, if this is done as shown and described in Annexes ASt2 and ASt3,

26 and/or

2.

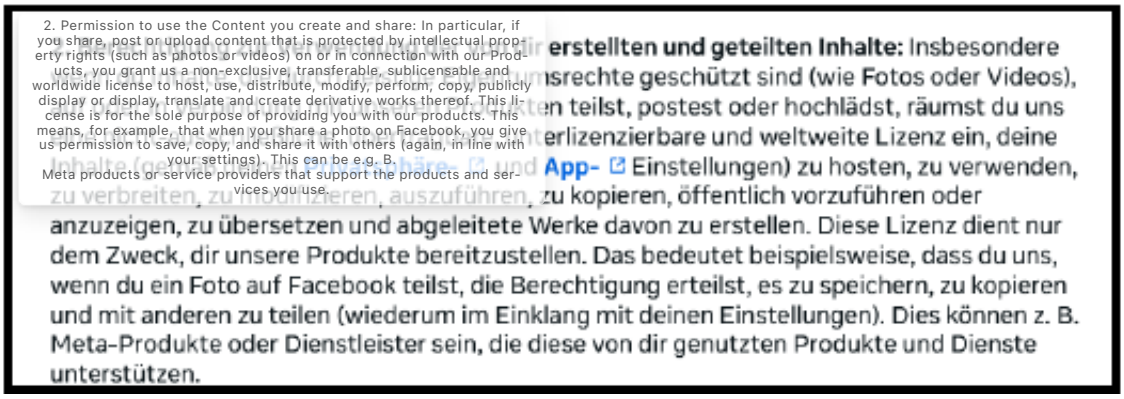
27 to process special categories of personal data published by them on the services of Facebook and Instagram without the explicit consent of the data subjects for the development and improvement of artificial intelligence technologies, if this is done as described and described in Appendix ASt3,

and/or

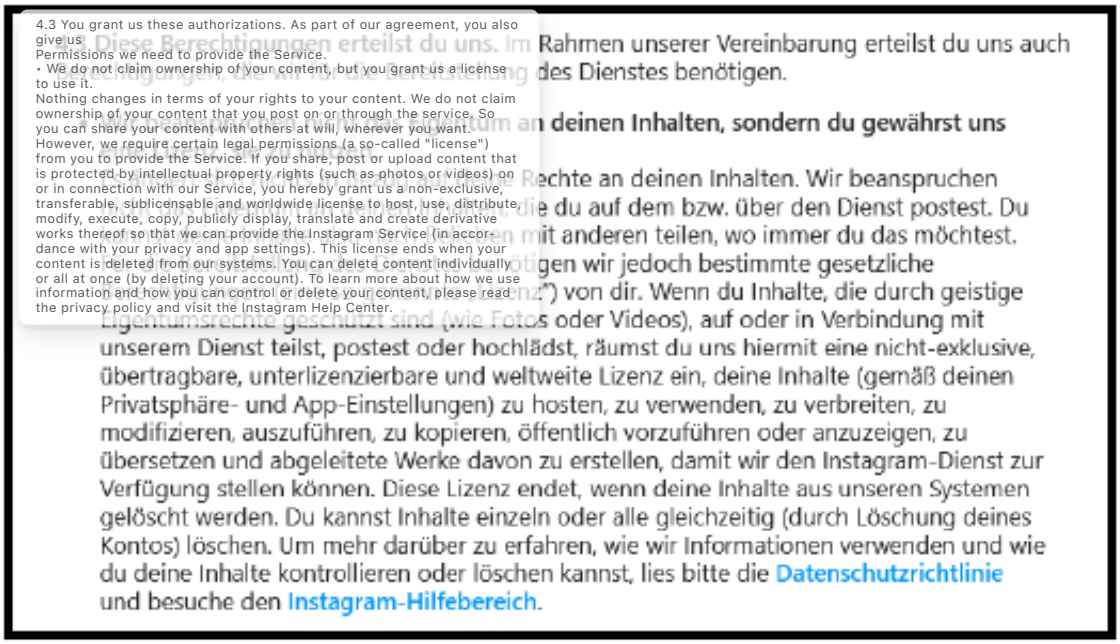
3.

29 to use content created and shared by users on the Facebook and Instagram services for the development and improvement of artificial intelligence technologies outside of these services, without making such use in the general terms and conditions for the respective platform usage contracts,

30 if this happens as follows in section 3.3.2. of the terms of use for Facebook:



and section 4.3. of the Instagram Terms of Use:



represented,

4.

33 In the alternative, to prohibit the respondent from merging personal data from the Facebook platform service with personal data from the platform service Instagram for the development and improvement of artificial intelligence technologies in the context of business actions towards consumers in Germany

34 and/or

continue to use personal data from the platform services Facebook and/or Instagram in other services provided by the respondent for the development and improvement of artificial intelligence technologies without giving end users a specific choice and obtaining their effective consent,

36 if this happens as shown and described in Annexes ASt 2 and ASt 3.

The defendant requests,

to reject the application for an interim injunction.

The defendant claims, among other things, that the plaintiff did not have the power to take action, since she met the requirements for qualified institutions in accordance with § 3 para. 1 p. 1 No. 1 UKlaG in accordance with the directive in accordance with Art. 4 para. 3 Association Action Directive, in particular there is no lack of profit. The Senate is according to Art. 5 para. 4 sentence 3 of the Association Action Directive to review the plaintiff's right to take action. It further claims that the objected data processing does not go beyond the announced extent. Compliance with the provisions of the GDPR, in particular Art. 6 and Art. 9 GDPR, is guaranteed by a de-identification and tokenization of the individual learning data records. The probability that the AI model of the defendant's disposal personal personal data will be issued by private individuals due to the various protection measures taken by the defendant is extremely low. Obtaining the consent of users to the processing of their data for the development and improvement of AI models is disproportionate. "AI at Meta" is also not a separate service, but an integrated function of the platforms.

40 With regard to the further details of the arguments of the parties, reference is made to the exchanged pleadings together with annexes and the minutes of the oral hearing of 05.08.2025 before the Senate. The Senate has consulted the data protection authority responsible for the procedure in Germany, the Hamburg Commissioner for Data Protection and Freedom of Information, according to § 12a UKlaG, before the decision.

Reasons for decision

1.

41 The requested injunction could not be issued, since the application is inadmissible in any case.

The Schleswig-Holstein Higher Regional Court is responsible for the procedure. The international jurisdiction results from Art. 79 para. 2 sentence 2 GDPR and the substantive jurisdiction follows from §§ 6, 2 para. 2 No. 13 UKlaG. With regard to local jurisdiction, according to § 6 Abs. 1 sentence 1 UKlaG also a jurisdiction of the Hanseatic Higher Regional Court in Hamburg for the proceedings, because the defendant himself has a branch in Hamburg or at least has set the legal appearance of such an establishment there. However, in addition to the place of jurisdiction according to § 6 para. 1 sentence 1 UKlaG also the place of jurisdiction of the unlawful act according to Art. 7 para. 2 EuGVO (Brussels Ia-VO), so that the Senate is responsible for the procedure (cf. MüKoZPO/Micklitz/Rott, 6. Rel. 2022, UKlaG § 6 Rn. 11). Finally, a violation of the law by the objected unlawful data processing can also occur for affected consumers in Schleswig-Holstein, i.e. in the district of the Schleswig-Holstein Higher Regional Court.

However, the urgency required for the issuance of an interim injunction is missing with regard to all applications for interim legal protection requests according to § 5 UKlaG, § 12 UWG. The further questions of admissibility, in particular with regard to the active legitimation of the plaintiff, and the question of the validity

of the application are therefore not important.

44 The reason for disposal is a special form of interest in legal protection and thus to be examined ex officio as a procedural requirement (cf. Köhler/Feddersen/Köhler/Feddersen, 43. Rel. 2025, UWG § 12 Rn. 2.12). Insofar as § 12 Abs. 1 UWG - as here - is applicable accordingly, he establishes according to constant case law the presumption of urgency (cf. Köhler/Feddersen/Köhler/Feddersen, lo. cit., R. 2.13). If the defendant has refuted the presumption of urgency, it is the responsibility of the plaintiff to explain the urgency and to make it credible.

45 The reason for the requirement to issue an injunction in the proceedings of interim legal protection with its special procedural provisions pursuant to §§ 935, 916 ff. ZPO in contrast to a regular legal proceedings is basically the existence of a special urgency for the claimant. The regulations of the provisional legal protection in the ZPO ensure that the affected persons in Germany can have an effective legal remedy within the meaning of Art. 79 GDPR against the person responsible (cf. BeckOK DatenschutzR/Mundil, 52. Ed. 1.2.2024, GDPR Art. 79 Rn. 10, 11). The interim legal protection serves to avert factual, difficult to reverse violations in a timely manner (Paal/Pauly/Martini, 3. Rel. 2021, GDPR Art. 79 Rn. 16-17a; ECJ, judgment of 19.06.1990, Rs. C-213/99, Rn. 21). Contrary to the view of the plaintiff, the ECJ is also of the opinion that the issuance of an interim injunction requires a special urgency (cf. ECJ, judgment of 09.11.1995 - Rs. C-465/93, NJW 1996, 1333).

The Senate is of the opinion that the alleged urgency for the plaintiff's desire within the meaning of § 12 UWG is refuted by the presentation of the defendants, since the plaintiff had already been aware of the same through the announcements of the defendants for the defendants for a long time before the beginning of the contested behavior (see a.). Despite being aware of these clear announcements, the defendant has refrained from seeking interim legal protection until one month after the start of the announced actions. It is therefore obviously no longer possible to assume an urgency that could justify the issuance of an interim injunction (in this respect, b.).

A.

47 All behaviors of the defendants objected to the applications were already the subject of their announcement of 14.04.2025 and the subsequent e-mails to the users between 17 and 19.04.2024 and therefore known to the plaintiff from that time.

48 It has remained undisputed that the plaintiff for the injunction was aware of the announcement of the defendants of the injunction of 04/14.25 and received in-app and e-mail notifications on the objectionable use of data in the second half of April 2025 both in parts of the board. Contrary to the view of the plaintiff's view, the announcements of the defendants undoubtedly included the acts now objected to by the plaintiff with the application for an interim injunction.

49 Insofar as the plaintiff injunction through her legal representatives in the oral proceedings before the Senate pointed out that the plaintiff still does not know today to what extent the defendant uses personal data of its users to develop and improve its AI models, this could already speak to the fact that the plaintiff's requests for the injunction are unfounded, since a consideration of practices contrary to consumer protection that are not specified can hardly be the subject of an interim legal protection procedure under the UKlaG. Nevertheless, the

plaintiff for the order has identified in the applications submitted, which specific behavior of the defendant she objects to. However, despite the corresponding advice from the Senate before the oral hearing, the plaintiff did not explain and make it credible when the individual acting persons had actually become aware of announcements of the disputed data uses from the plaintiff and which considerations and decisions on the part of these persons led to the fact that the injunction was not already applied for at the beginning or mid-May 2025, but only on 27.06.2025.

50 Regarding the applications in detail with regard to the consistency of the announcements with the actual use of data:

Aa.

51 The application to 1. it is objected that the defendant processes personal data published on the Facebook and Instagram services and personal data collected by third parties and transmitted to the defendant only on the basis of the legitimate interest, i.e. without consent, to develop and improve artificial intelligence technologies.

The defendant already announced this behavior on 04/14/2025, in which she pointed out that she would begin training her AI models using information publicly shared by adults in meta products. This announcement obviously shows that this content will not only be about personal data of the adult users whose profile contains this information. It is obvious that such an announcement also involves the processing of personal data of children, adolescents and other third parties, as well as data of special categories according to Art. 9 GDPR, namely in cases where such data is mentioned in public (image) contributions or public comments on the profiles of adult users or on published images of such profiles with or without the consent of the data subjects. Although the defendant then apparently took various measures such as de-identification and tokenization of content in the period before the start of the announced data processing and partly in coordination with the competent data protection authorities in order to increase the data protection level of the intended data processing, it has by no means effectively excluded that personal data of unregistered users or children and adolescents or data of special categories according to Art. 9 GDPR in the training records for an AI model or in the AI model itself. Finally, the defendant herself (pleading of 23.07.2025, pages 28 and 35) that it is not excluded that the AI model can issue personal data about private persons, but only the probability is extremely low. If the AI model can already output such data, although according to the presentation of the defendant it is programmed not to output such data, it seems to the Senate as certain that such data are included in the AI model itself and thus also in the training data record. It should be borne in mind that when reprogramming the output promp of the AI model or when evaluating the learning data set by means of an AI model, de-identification and tokenization can be completely or partially reversed as expected. It is precisely against this background that the processing of sensitive data of special categories within the meaning of Art. 9 GDPR of persons not registered as users, whose data have been published by registered users on accounts without their consent, in principle according to Art. 9 para. 1 GDPR and cannot be the subject of a consideration according to Art. 6 para. 1 sentence 1 lit. f) GDPR. It should also be borne in mind that, unlike search engines on the Internet, it is not possible for all concerned to find out whether their data or illustrations are illegally used in the learning record of the AI and thus, if necessary, also in the AI model itself.

Since 04/14/2025 and until today - as the Hamburg Commissioner for Data Protection and Freedom of Information also pointed out in his statement in the oral proceedings before the Senate - this should certainly be a violation, in particular against Art. 9 GDPR, insofar as data of unregistered users contained in public contributions, comments and images are affected, are in all probability due to the announced and implemented behavior of the defendants and the data processing in the learning data record and in the AI model. However, this was already recognizable to the plaintiff for a long time before 05/27/2025 and thus - especially as a trade association - known.

The e-mail of the defendant of 19.04.2025 (page 5 of the pleading of 21.07.2025) submitted by the plaintiff herself also clearly proves that the defendant pointed out and that the plaintiff therefore had positive knowledge that the publicly shared information should be used on the "basis of legitimate interest" and not on the basis of consent. The users were informed of the possibility of objection, so that the plaintiff had to be clear that it was not a "diffusely communicated" announcement, but a very concretely intended data processing. Although the process of data processing was not presented in detail, it was described in detail which data will be affected. It was also shown that these AI models would not only be used on Facebook or Instagram, but also in other products of the defendants.

Insofar as the plaintiff submits that the institutional profiles on the defendants for the use of the order cannot object to the use of data for AI purposes, the defendant correctly points out that the plaintiff does not represent their interests, but those of the consumers. Insofar as the plaintiff submits that the data of consumers could also have been published on such profiles without their consent, which then become the subject of the AI training, this should in principle be considered, but is also covered by the announcements of the defendants in April 2025 at the latest. Thus, in the e-mail of 19.04.2025, which the plaintiff submitted (page 5 of the brief of 21.07.2025), there is no indication that the data processing does not refer to the data of institutional profiles. There it says:

56 "We would like to inform you that to provide these user experiences, we use public information, such as posts and comments from accounts whose owners are at least 18 years of age."

In the opinion of the Senate, this also includes the contents of institutional profiles such as a kindergarten or a trade union, since it can be assumed that the natural persons responsible for registering and maintaining such profiles are adult users. It would be different to assess if the defendant had pointed out in the e-mail that she only used the public information of profiles of "natural persons" and had actually used the profiles of institutions, contrary to expectations. Despite the Senate's fundamental indication on the question of urgency, the plaintiff could not explain in an incomprehensible manner and make it credible why the responsible persons could have originally assumed that the contents of institutional profiles would not be used for the AI training and on the basis of which facts this assumption should have changed later.

Insofar as the plaintiff claims that the defendant actually uses personal data of its users for the AI training that it receives from advertising partners, it has not made this disputed claim credible. The defendant expressly opposed this presentation and argued that she did not use technical log data and personal data from third parties collected and then made available there about their users for AI training, as they were unsuitable for such pur-

poses (page 6, Rn. 13, pleading of 23.07.2025). This presentation is comprehensible and understandable for the Senate. The basic information of the plaintiff that such use results from the data protection guidelines (page 7 of the ASt2) is not suitable for credibility, since such a concrete use of personal data does not result from these. On page 130 of 149 of the printout of the Privacy Policy (Pb. 340 d.A.) only the general category with regard to the origin of all possibly processed data is given. Accordingly, it is only the indication for the users that the defendant generally receives and processes information from third parties about the user. A statement that the defendant is actually using personal data of its users or other persons that it has received from advertising partners for the purpose of developing or improving its AI technologies is clearly not associated with this.

BB.

The application to 2. it is objected that the defendant processes personal data published on its services of special categories without the explicit consent of the data subjects to develop and improve artificial intelligence technologies. As already shown, this behavior was obviously covered by the announcement of 04/14/25. The case would only be assessed otherwise if the defendant had made an announcement that she did not want to process such data within the framework of comprehensive data processing and had then acted contrary to this announcement.

Cc.

The application for 3. it is objected that the defendant uses the content published on Facebook and Instagram to develop and improve artificial intelligence technologies outside these services, without this being provided for in the terms and conditions of the platforms as of 01.01.2025. The defendant had already announced this use of content with the announcement of 04/14/2025 and the subsequent e-mails in April 2025, as there was talk of "our AI models" and "AI at Meta" was explained. Especially for the plaintiff as a consumer protection association specializing in online facts, it was therefore obviously recognizable that it was not only about platform-integrated AI functions, but also about the AI application "Llama" of the defendants, or the meta-group of companies, which has been known to be on the market since 2023.

61 The fact that the defendant does not provide for such use in its terms and conditions according to the arguments of the plaintiff does not mean in essence any other behavior than the conduct already complained of in the applications to 1. and 2. In the motions 1. and 2., the plaintiff did not limit her request to AI tools and services within the two platforms Facebook and Instagram, but to "technologies of artificial intelligence" of the defendant in general. This includes all AI technologies and offers of the defendants. By objecting to the fact that the defendant does not provide for such use in the GTC, the plaintiff complains again that the users had not given consent to such a use, i.e. that this use had not become part of the contract.

dd.

With the application to 4. it is objected that the defendant is bringing together the user data of the Facebook and Instagram platforms for the development and improvement of AI technologies, giving the users no choice and does not obtain consent to the use of data. The announcement of this objectioned behavior also took place on 04/14/25, as the defendant announced that the public content would be used "on meta products" for "our AI

models". To the conviction of the Senate - at least from the point of view of a consumer protection association - this cannot be understood as being that the data from Facebook is only used for a Facebook-internal AI technology and the data from Instagram is only used for an Instagram-internal AI technology, but clearly concluded that the defendant is developing a cross-platform technology "AI at Meta" using the data of all Meta products, which is then embedded in the individual Meta products. The plaintiff did not present the reason why which specifically acting persons should have developed a different understanding of the plaintiff.

63 Here, too, the defendant did not announce a more limited use, e.g. limited to a platform-specific AI application, and then subsequently made somewhat more data use.

B.

From the plaintiff's point of view, the necessary urgency was no longer available at the time of the submission of the application for an interim injunction on 27.06.2025. After learning of the announcement of the contested practices contrary to consumer protection, she has waited so long with the submission of an application for the issuance of an interim injunction that there is no longer any urgency with regard to the sought legal protection from the point of view of the plaintiff.

65 In the context of the consideration of the urgency - also required for the issuance of an interim injunction according to the established case law of the ECJ - there is neither in German nor in European law the specification of a certain period of time after which it can no longer be assumed that there is a need for urgency to the extent that could justify the issuance of an injunction procedurally in relation to the parties. The prevailing view of German high courts assumes a period of about one month from the time of becoming aware (cf. overview at Köhler/Feddersen/Köhler/Feddersen, 43. Rel. 2025, UWG § 12 Rn. 2.15b, 2.15c). The beginning of the urgency period is regularly based on the certain knowledge of an impending infringement and not on the infringement itself (OLG Munich, judgment of 28.06.2012 - 29 U 539/12 - juris; OLG Frankfurt a.M., judgment of 17.01.2013 - 6 U 88/12, GRUR-RR 2014, 82). To the conviction of the Senate, this would have been the 14.04.2025 here, so that at the time of the application on 27.06.2025 it would no longer be possible to assume an urgency.

66 However, a longer period of time may also be considered appropriate in an individual case if the plaintiff provides valid reasons for a longer wait and makes them credible (cf. Köhler/Feddersen/Köhler/Feddersen, locar cit.). The plaintiff did not put forward such valid reasons from the point of view of their acting persons, despite indications from the Senate. A comprehensible explanation of why she waited so long until the defendant actually began with the objected conduct on 27.05.2025, even at the express request of the Senate in the oral hearing of 05.08.2025, was also at the express request of the Senate in the oral hearing. This impressively proves that it would have been possible for the plaintiff to order against the background of knowledge of the potential extent of a data use, even if the details of any restrictions and protective measures, as well as the technical implementation should not have been known then, as well as the North Rhine-Westphalia Consumer Center, to apply for the issuance of an interim injunction against the defendant no later than 12.05.2025.

For this purpose, the guarantee of effective legal protection within the meaning of Art. 79 GDPR not in contra-

diction. It is recognized by European law that the Member States must ensure the granting of effective interim legal protection in order to enable those affected to avert factual, difficult to reverse violations in a timely manner (Paal/Pauly/Martini, 3. Rel. 2021, GDPR Art. 79 Rn. 16-17a; ECJ, judgment of 19.06.1990, Rs. C-213/99, Rn. 21). The assumption of urgency is therefore obvious in particular if the objected data processing has not yet begun.

68 The specific behavior of the plaintiff has deliberately led to the fact that this prerequisite for the requirement for a temporary prohibition of data processing has been omitted. The plaintiff did not only wait until the day of the beginning of the illegal data processing of which she complained about without any comprehensible reason, but even let another month elapse thereafter. Even if the data processing objected by the plaintiff violates the rights of consumers to a significant extent, the conduct of the plaintiff contributed to the realization of this infringement by it failed to take timely action.

69 Insofar as the plaintiff submits that she or her legal representative only became clear in the context of the oral hearing before the OLG Cologne on 22.05.2025 the extent of the data processing by the defendant, this does not justify the urgency to ensure effective legal protection of consumers. Rather, this lecture makes it clear, and the reasons for the judgment of the OLG Cologne, that already at that time provisional legal protection could be examined there at that time in the scope of all questions that are also the subject to dispute in the present proceedings regarding data processing in connection with the development and improvement of artificial intelligence technologies for the benefit of consumers. The fact that the plaintiff does not agree with the result of the examination by the OLG Cologne does not give rise to a new urgency, nor does it reveal the need to have to carry out further interim legal protection proceedings in order to grant effective legal protection for consumers despite the considerable passage of time and the data usage already taken place.

2.

70 The decision on costs is based on § 91 para. 1 ZPO.