

German court to rule on parents' access to dead daughter's Facebook

July 12 2018, by Daphne Rousseau



The parents argue the contents of their daughter's Facebook account are legally identical to a private diary or letters

German judges will rule Thursday on Facebook users' "digital legacy", or the fate of their private data after they die, in a case pitting the Silicon

Valley giant against the grieving parents of a teenage girl.

After the 15-year-old was killed by an underground train in 2012, her parents first asked Facebook for access to her data and message history, hoping they would shed light on whether the death was an accident or a deliberate suicide.

After the firm refused, the couple won a first [court](#) case in 2015 to gain access to the data, only for a Berlin appeals court to overturn the ruling.

Now the question has reached Germany's highest court, the Federal Constitutional Court in Karlsruhe.

As well as seeking emotional closure, court documents show, the parents hope the information contained in their daughter's account will clear up whether the train driver is owed compensation—as he might be if her death was suicide.

Diary or data?

The parents argue the contents of their daughter's Facebook account are legally identical to a private diary or letters that might be returned to loved ones after a person's death, exactly like an inheritance.

Judges at the court of first instance in Berlin agreed that the contract between the deceased and Facebook was covered by inheritance law, including the digital content created on the account.

And [parents](#) of a minor in any case had a right to know when and with whom their daughter had communicated, they added.

But the Berlin appeals court, in its 2017 decision, backed Facebook's argument that "privacy in telecommunications is guaranteed by

Germany's Basic Law (Constitution)".

What's more, the judges backed the firm's belief that people who exchanged messages with the daughter were also entitled to protection of their private digital communications.

At present, only two options are offered to relatives when a Facebook user dies.

The first is turning their page into a "memorial" allowing people to post their condolences, but with no access to the deceased's private messages.

Otherwise, a form allows relatives to ask Facebook to delete the dead person's account.

Germany is far from the first country to see moral and legal battles over how to deal with digital data whose owners have passed away.

In 2016, Apple resisted attempts by the FBI to force it to unlock an iPhone belonging to one of two people who had carried out a mass shooting in San Bernardino, California in December 2015.

But the company was more open to an Italian father who in 2016 asked it to unlock a phone belonging to his child who had died of cancer, allowing him to recover precious memories and photos.

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