EUROPEAN COURT OF JUSTICE

ON

GOOGLE SPAIN SL v. AGENCIA ESPAÑOLA PROTECCIÓN DE DATOS

Introduction

The landmark judgement *Google Spain SL v. Agencia Española de Protección de Datos* [1] decided by the European Court establishes the principle of RIGHT TO BE FORGOTTEN within the EU data protection law. The lawsuit started when Mario Costeja González, a Spanish national requested that his personal data from Google's search results be deleted since it was out of date and unnecessary. The decision changed the balance between freedom of expression and privacy rights in the digital era and imposed heavy duties on search engines data controllers. According to this case note, the Court interpreted Directive 95/46' Article 6(1)(c) which is essential to the right to be forgotten, incorrectly, and that its approach to interest and rights is mainly unjustified and unexplained.

This commentary looks at the judgement's legal justification, data protection ramifications and wider effects on online information governance.

[1] (AEPD) (C – 131/12)

FACTUAL OVERVIEW

The case of Google Spain SL v. Agencia Española de Protección de Datos arose from a complaint by a Spanish citizen, *Mario Costeja González*, regarding the accessibility of outdated personal information through Google search's engine. The dispute centered on whether search engines like Google could be held liable for the continued availability of personal data in search results, even if the original publication was lawful.

1998- The Spanish Newspaper *La Vanguardia* published an article on real estate auction related to Mr. Mario Costeja González social security debts. The publication was part of a public notice issued to inform the public about the auction. Although the information was accurate at the time, Mr. Costeja González later argued that its continued presence online had become outdated and was no longer relevant to his financial situation. Despite the passage of time, when entering his name into Google's search engine, users could still access links to the article, which he believed infringed upon his privacy rights.

Seeking to have links removed, Mr. Costeja González filed a complaint with the Spanish Data Protection Agency (*Agencia Española de Protección de Datos, AEPD*) in 2010, he requested that La Vanguardia either remove the article or prevent search engines from indexing it. He also demanded that Google Spain and Google Inc. remove the links to the article from search results associated to his name. The APED ruled that La Vanguardia was not required to take any action, as the publication was lawful and served a journalistic purpose. However, the agency upheld the complaint against Google, arguing that search engines had a responsibility to ensure that personal data was not excessively accessible when it was outdated and no longer relevant.

In response to this, Google Spain and Google Inc. appealed the APED's decision before the *Audiencia National* (National High Court of Spain). Google contended that it was merely a search engine that indexed publicly available content and was not responsible for third-party publications. It further argued that Google Spain, as an advertising subsidiary, did not process personal data and that EU data protection laws should not apply to Google Inc., a US-based company. Given the significance of the legal questions involved, the Spanish court referred the case to the Court of the European Union (CJEU) for a preliminary ruling on key issues related to data protection, privacy rights, and the responsibilities of search engines under EU law.

LEGAL CONSIDERATIONS

The case raised several legal issues concerning the application of the EU data protections laws, responsibilities of Google as a data controller, and the scope of individual's rights under the directive.

The court examines the following main issues –

1. Whether the EU Data Protection Directive (Directive 95/46/EC) [2] applies to Google Inc., a US-based company, given its subsidiary, Google Spain, does not process search-related date but only sells advertising.
2. Whether search engines like Google engage in the processing of personal data under the Directive and whether they qualify as data controllers responsible for managing personal data in search results.
3. Whether individuals have the right to request the removal of personal data from search results when it becomes outdated, irrelevant, or excessive, and how this right should be balanced against freedom of expression and public interest.

JUDGEMENT

On May 13, 2014, the court of the European Union delivered the landmark decision in the case of Google Spain SL and Google Inc. v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González (Case C-131/12) particularly focusing on privacy rights and scope of personal data, responsibilities and the so called "right to be forgotten".

SEARCH ENGINES AS DATA CONTROLLERS

Google argued that it merely indexed and displayed information that was already available on 3rd party websites and that it did not control or modify this data. However, the CJEU rejected this argument and held that the activities performed by search engines—such as locating, indexing, storing, and making data available to users—constitute "processing of personal data" when such data relates to an identifiable individual. As a result, Google was deemed a data controller, meaning

[2] EUR-Lex Access to European Union law - https://eur-lex.europa.eu/eli/dir/1995/46/oj/eng

it had legal obligations under EU data protection laws. The Court further emphasized that search engines play a significant role in making personal data easily accessible, amplifying its impact, and potentially infringing on individuals' privacy rights.

TERRITORIAL SCOPE OF EU DATA PROTECTION LAW

Google argued that EU data protection laws should not apply to its operations because its parent company, Google Inc., is based in the United States. Google Spain, its European subsidiary, was primarily engaged in selling advertising and did not handle search-related activities. However, the CJEU held that EU data protection laws apply whenever a company has an establishment in an EU Member State that promotes or facilitates its economic activities, even if data processing itself is carried out outside the EU. The Court reasoned that: Google Spain was an EU-based subsidiary that was engaged in selling advertising space, which was intrinsically linked to Google's search services.

Since Google's search engine targeted EU users and processed their personal data, its operations fell within the territorial scope of EU law. Allowing companies like Google to avoid EU regulations simply because their data processing occurs outside the EU would undermine the effectiveness of EU data protection rules. This ruling expanded the jurisdictional reach of EU data protection laws, ensuring that global tech companies could not evade accountability by claiming that their data processing occurred outside the EU.

THE RIGHT TO BE FORGOTTEN AND ITS LIMITATIONS

One of the most significant aspects of the ruling was the recognition of the "right to be forgotten", which allows individuals to request the removal of personal data from search engine results.

The Court ruled that:

1. Individuals have the right to request the removal of links to webpages containing personal data when the information is inaccurate, irrelevant, outdated, or excessive in relation to the purposes for which it was originally published.
2. Search engines must assess each removal request on a case-by-case basis, balancing the individual's privacy rights against the public's right to access information.
3. The right to be forgotten is not absolute—it must be weighed against the public interest, particularly in cases where the individual is a public figure or where the information

remains relevant for transparency and accountability.

The Court emphasized that the right to privacy and data protection [3][4] generally override economic interests and even the interest of the general public in accessing personal data unless there is a compelling justification for keeping the information publicly accessible. Following this, Google and other search engines became legally required to evaluate requests for the removal of personal data and implement mechanisms for individuals to exercise their right to be forgotten.

LEGAL ANALYSIS OF THE CASE

One of the fundamental questions present were **Google's search engine being classified as a "data controller"** under EU Data Protection Directive. Google argued that it merely indexed information already published by third-party websites and did not control or modify this data. However, the CJEU ruled that the activities carried out by a search engine—crawling, indexing, storing, and displaying personal data in search results—constitute the "processing of personal data" under **Article 2(b)** [5] of the Directive.

Furthermore, the Court held that Google exercises control over this processing because it determines the purpose and means of indexing and organizing the data. This classification placed a legal obligation on Google to comply with EU data protection rules, including the rights of data subjects. By recognizing search engines as data controllers, the Court ensured that they could no longer disclaim responsibility for the personal data they make accessible through their search results.

This ruling set a critical legal precedent because it confirmed that search engines are not neutral intermediaries but rather active participants in the dissemination of personal information. The obligations of data controllers, including ensuring lawfulness in data processing, now extend to

[3] Articles 7 of the EU Charter of Fundamental Rights
[4] Articles 8 of the EU Charter of Fundamental Rights
[5] Article 2(b) of the Directive states - 'Processing of personal data' shall mean any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

search engine operators, requiring them to assess and respond to requests for data erasure under EU law.

Another major legal issue in the case was whether **EU data protection laws could apply to Google Inc.**, a U.S.-based company, despite its data processing activities being carried out outside the European Union. Google contended that its European subsidiary, Google Spain SL, did not engage in data processing and was only responsible for selling advertising. The company argued that because its search engine operations were managed from the United States, EU data protection law should not apply.

However, the CJEU took a broad and functional approach to territorial jurisdiction. It ruled that the Directive applies when a company has an establishment within the EU that is involved in promoting or facilitating its economic activities. Since Google Spain was responsible for selling advertisements linked to search results, and these advertisements generated revenue for Google's search operations, the Court found that Google's data processing was inextricably linked to its EU operations.

This ruling expanded the territorial scope of EU data protection law, ensuring that multinational technology companies cannot evade European data protection obligations by locating their headquarters outside the EU. The Court's reasoning has since been reinforced by **Article 3 of the General Data Protection Regulation (GDPR)**, [6] which expressly states that EU data protection law applies to non-EU companies if they process personal data of individuals in the EU and offer goods, services, or monitor their behavior.

Perhaps the most influential and controversial aspect of the ruling was the recognition of the "right to be forgotten". The Court held that under **Articles 12(b)** [7] and **14(a)** [8] of the Directive, individuals have the right to request that search engines remove links to web pages containing

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[6] Article 3 GDPR defines its territorial scope, applying to EU-based organizations and non-EU entities that process EU citizens' data by offering services or monitoring behavior. It also applies where EU law governs under international law. This ensures GDPR's global impact

[7] Directive 95/46/EC - whereas there should be excluded the processing of data carried out by a natural person in the exercise of activities which are exclusively personal or domestic, such as correspondence and the holding of records of addresses;

[8] Directive 94/46/EC - Whereas, given the importance of the developments under way, in the framework of the information society, of the techniques used to capture, transmit, manipulate, record, store or communicate sound and image data relating to natural persons, this Directive should be applicable to processing involving such data;

personal data when the information is inaccurate, irrelevant, outdated, or excessive in relation to the purposes for which it was originally published.

This right is based on **Article 8 of the Charter of Fundamental Rights of the European Union**, which guarantees the protection of personal data. The Court emphasized that the right to data protection generally outweighs the economic interests of search engines and the public's interest in accessing certain personal data, particularly when the individual concerned is not a public figure.

However, the Court acknowledged that the right to be forgotten is not absolute and must be balanced against other fundamental rights, such as freedom of expression and the public interest in accessing information. Search engines must assess removal requests on a case-by-case basis, weighing privacy concerns against the need for public access to information. If the information relates to a public figure or is necessary for transparency, the search engine may lawfully refuse to remove it.

This ruling imposed a **new legal obligation** on search engines to implement mechanisms for handling data removal requests, effectively shifting data protection enforcement from regulators to private companies. The decision has been codified under Article 17 of the GDPR, which formalized the “right to erasure”, allowing individuals to request the deletion of their personal data under certain conditions.

People have the right to request that incomplete, inaccurate, or unlawfully processed personal data be corrected, erased, or blocked under **Article 12(b) of Directive 95/46/EC (Data Protection Directive).** Before the GDPR took its place in 2018, this 1995 directive laid the groundwork for data protection in the EU. Even though it is no longer in effect, its contents are nonetheless important for comprehending how EU data protection rules have changed over time.

REFLECTIONS ON THE COURT'S DECISION

The judgement by the Court of Justice of the European Union is a groundbreaking decision that reinforces individual privacy rights in the digital age. In my opinion, this ruling was a necessary and progressive step toward giving people more control over their personal data, particularly in an era where the internet has made information permanent and widely accessible.

One of the most important aspects of the ruling is its recognition of **search engines as data controller**. This was a crucial decision because it ensures that companies like Google, which pay a major role in shaping information, are held accountable for how they process personal data. Search engines would have continued to argue that they are merely intermediaries with no responsibilities and leaving individuals with no real way to protect their online privacy ahs it not been this judgement. By affirming that search engines have legal obligations under the EU data protection laws, the CJEU set an important precedent for **corporate responsibility in the digital world.**

another aspect of this decision is the principle of right to be forgotten. The internet is an incredibly powerful tool, but it also has the potential to cause harm to individuals when outdated, irrelevant, or damaging personal information remains easily accessible. People should have the ability to move on from past mistakes or circumstances that no longer define them. The judgement acknowledges that **privacy should not be sacrificed in the name of absolute transparency**, especially when the information in question does not serves the purpose of public interest.

While I support the general principles of the ruling, I do see some challenges in its implementation. The CJEU left it to the search engines like Goggle to determine, on cases-by-case basis, whether a request to remove personal data should be granted. This places a significant burden in private companies to make complex legal and ethical decisions about **what information should be removed and what should remain public**. It also raises concern about the potential censorship – if search engines remove too much information, it could limit the public's right to access important data, particularly when it involves politicians, business, or other figures of public interest.

The tension between Privacy rights and Freedom of Expression was highlighted. While right to be forgotten is crucial in protecting individuals, it must be balanced carefully to avoid suppressing legitimate public information. This is especially incases of questions relating to journalism, historical records, or matters of public safety.

I believe in the decision of the Google Spain and that it was necessary and influential step in shaping modern data protection laws. It paved the way for stronger privacy protection, particularly through the General Data Protection regulation (GDPR), which later codified the right to erasure, the decision also sent a strong message to big tech companies making it clear that they cannot operate without accountability when it comes to personal date.

CONCLUSION

A major turning point in data protection law was the Google Spain SL v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González case, which strengthened people's rights over their personal data. According to a ruling by the Court of Justice of the European Union (CJEU), search engine companies, such as Google, are considered data controllers under EU law and are required to abide by requests to erase links to personal data that is out-of-date or irrelevant. Because of this ruling, people now have the "Right to be Forgotten," which guarantees that when personal information is no longer relevant, they can ask for it to be removed from search results.