Court of Justice of the European Union: Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos

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On 13 May 2014, the Court of Justice of the European Union (CJEU) handed down its judgment in the case of C-131/12.

Case C-131/12 is a request for a preliminary ruling from the Spanish National High Court in a proceeding between Google v. Agencia Española de Protección de Datos (AEPD) and one Mr González, concerning the interpretation of some key concepts of Directive 95/46/EC and the Charter of Fundamental Rights.

In 2010, Mr González lodged a complaint with the Spanish Data Protection Agency (AEPD) against Google stating that when entering his name in the search engine he would obtain links to a newspaper that made reference to him in relation to an auction connected with proceedings for the recovery of debts. The AEPD upheld the complaint as operators of search engines are subject to data protection legislation. Google brought an action against the decision before the National High Court, which referred a number of questions to the CJEU relating to (1) the territorial application of Directive 95/46; (2) the activity of search engines as providers of content; and (3) the scope of the so-called “right to be forgotten”.

Regarding the first set of questions, the CJEU holds that 'processing of personal data' is carried out in the context of the activities of an establishment of the controller on the territory of a member state when the operator of a search engine sets up a branch that is intended to promote and sell advertising, and that orientates its activity towards the inhabitants of that member state.

Moving to the second set of questions, the Court finds that the activity of a search engine must be classified as ‘processing of personal data’ when the processed information contains personal data. The operator of the search engine must be regarded as the ‘controller’ in respect of that processing and - upon request - is obliged to remove from the list of results displayed following a search made on the basis of a person’s name links to web pages, published by third parties, and containing information relating to that person.

Finally, regarding the third set of questions, the court establishes that when appraising the conditions for the application of Articles 12(b) and 14 of the Directive, it should inter alia be examined whether the data subject has a right that the information in question no longer be linked to his name by a list of results

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displayed following a search made on the basis of his name. Articles 7 and 8 of the Charter override, as a rule, not only the economic interest of the operator of the search engine but also the interest of the general public in having access to that information upon a search relating to the data subject's name. However, that would not be the case if it appeared, for particular reasons, such as the role played by the data subject in public life, that the interference with his or her fundamental rights is justified by the preponderant interest of the general public in having access to the information in question.

Judgment of the Court (Grand Chamber), Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, C-131/12, 10 May 2014

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