

**CASE COMMENT: GOOGLE SPAIN SL AND GOOGLE INC. V AGENCIA  
ESPAÑOLA DE PROTECCIÓN DE DATOS (AEPD) AND MARIO COSTEJA  
GONZÁLEZ**

---

Prayansh Garhwal\*

## INTRODUCTION

The importance of the right to be forgotten has become more prevalent with the advancement of internet technology. There are 5.45 billion people all over the world who are using the internet, which culminates in 67.1 percent of the global population.<sup>1</sup> These statistics compel the exploration of one of the key components of the internet which is that once a piece of information has been published on any internet website, that information will be available for an indefinite period unless there is a specific issue that makes the content of that information contrary to the internet guidelines. Now, the significant problematic aspect with this particular feature of the internet is if the contents of information are no longer relevant in the present or if the person(s) concerned with those contents of information are no longer available that particular piece of information, there is not an assigned procedure for the removal of that piece of information. In this type of situation, the right to be forgotten is a crucial concept under which a person can demand the removal of the particular information from which that person is associated. The aforementioned stance explicitly represents the sphere dealt with in the case of Mario Costeja González.

## FACTS OF THE CASE

- The renowned newspaper of Spain *La Vanguardia* published a set of two articles associated with Mario Costeja González mentioning his involvement in the real-estate auction linked with proceedings of attachment to pursue recovery of debts corresponding to social security in their printed edition.
- Mario Costeja González approached the newspaper in 2009 describing his grievance as whenever he enters his name in the search engine of Google, the series of results consists of the links of those two articles published in the newspaper. These articles were published in the year of 1998 in which Mario was involved in the legal actions

---

\*BA LLB, FOURTH YEAR, MANIPAL UNIVERSITY, JAIPUR.

<sup>1</sup> 'World Digital Population 2024' (Statista, 19 August 2024)

< <https://www.statista.com/statistics/617136/digital-population-worldwide/> > accessed 26 August 2024

described above. Even in the year 2009, the results of the Google search engine still provide the link to the two pages of *La Vanguardia* Newspaper consisting of the concerned two articles.

- Mario Costeja González's main argument was that the legal proceedings he was involved in were concluded earlier years and there is no intimation of an outstanding claim against him, so the piece of information associated with Mario should be removed.
- The articles published in the newspaper were produced in pursuance of the order passed by the Ministry of Labor and Social Affairs of Spain. This averment was the basis of the denial made by the newspaper against the demand of Mario Costeja González for the removal of the associated information.
- After approaching the newspaper, Mario Costeja González approached Google Spain with the argument that the entry of his name in the Google search engine should not provide the links for the publication of the newspaper regarding his legal proceedings summed up in earlier years. Google Spain didn't comply with the grievance of Mario Costeja González.
- Mario Costeja González filed a complaint in AEPD against *La Vanguardia* Newspaper, Google Spain, and Google Inc. The AEPD partly admitted the complaint while accepting the grievance related to Google Inc. and Google Spain. The AEPD rejected the complaint against the newspaper as the publication was executed in pursuance of the order passed by the Ministry of Labour and Social Affairs of Spain.
- The AEPD ruled that operators of Google search engines analyze personal data for their search results which violates the fundamental right to data protection and right to privacy, in consequence of this Google was directed to remove information associated with Mario Costeja González.
- Aggrieved by the order of AEPD, Google Spain and Google Inc. brought independent legal actions against the decision of AEPD. National High Court of Spain processed these two legal actions and ordered to stay the proceedings as the obligation of Google to protect the personal data of citizens is under assessment which would, in another case, be published on websites associated with third parties.
- The case was eventually referred to the European Court of Justice for a preliminary ruling on various key issues associated with data protection and the accountability of search engines.

## LEGAL ISSUES

- Whether individuals possess the right to request the removal of personal information from the series of search results generated by the search engine, especially when that piece of information is outdated, irrelevant, or no longer necessary.
- Whether the data controller (in this case – Google) was required to comply with the requests to remove links of personal information.
- Whether the right to be forgotten can override the legitimate interest of the public in accessing information.

## JUDGMENT OF EUROPEAN COURT OF JUSTICE

On May 13, 2014, the Court of Justice of the European Union (CJEU) delivered a groundbreaking judgment in the case of Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos, Mario Costeja González. This ruling is widely recognized for establishing the "right to be forgotten" within the European Union, a concept that has since shaped data protection practices globally.

The CJEU's ruling addressed several critical legal issues in the following manner:

- One of the central questions was whether Google, as a search engine, could be classified as a "data controller" under the EU Data Protection Directive (Directive 95/46/EC). A data controller is an entity responsible for determining the purposes and means of processing personal data. Google argued that it was merely an intermediary, indexing content freely available on the internet, and should not be considered a data controller. The CJEU rejected Google's argument, holding that the search engine plays an active role in the processing of personal data by collecting, organizing, storing, and making available to users information about individuals. As a result, Google was indeed considered a data controller, and therefore subject to EU data protection laws. This was a significant development, as it clarified that search engines must comply with data protection obligations, including respecting individuals' rights regarding their data.
- The most significant aspect of the judgment was the recognition of the "right to be forgotten." The CJEU ruled that individuals have the right to request the removal of links to personal information from search engine results if the information is outdated, irrelevant, or no longer necessary for the purposes for which it was collected. The court emphasized that this right is particularly relevant when the information concerns an

individual's private life and the continued availability of that information disproportionately affects their privacy and reputation.

The court did, however, acknowledge that the right to be forgotten is not absolute. It must be balanced against the public's right to access information, particularly when the information relates to matters of public interest, such as the role of the individual in public life or their involvement in significant public events. The court held that in Costeja's case, the information concerning his old debt was no longer relevant and that his right to privacy outweighed the public's interest in accessing the outdated information.

- Another crucial dimension of the judgment was the court's interpretation of the territorial scope of EU data protection law. Google argued that its operations were based in the United States and that its search engine services were not subject to EU law. However, the CJEU held that since Google Spain was engaged in promoting and selling advertising services targeted at EU residents, the company's activities fell within the scope of the EU Data Protection Directive. This established an important precedent that EU data protection laws can apply to non-European companies with a commercial presence in the EU.

## CONCEPT OF RIGHT TO BE FORGOTTEN

The "Right to be Forgotten" is a principle in data protection law that gives individuals the ability to request the deletion or removal of their data from various forms of public access, particularly when this data is no longer relevant, necessary, or accurate. This right is rooted in the idea that individuals should have control over their personal information and how it is used, especially in the digital age where information can be easily accessed and remains online indefinitely.

### Key Aspects of the Right to be Forgotten

1. **Control Over Personal Data:** The right to be forgotten empowers individuals to control the availability of their personal information. In essence, it allows them to request that certain data be removed from public access when it is no longer relevant, has become outdated, or is causing harm to their reputation or privacy. This control is especially important in situations where personal data might continue to have negative consequences long after the original purpose for its collection has expired.

2. **Applicability:** The right to be forgotten typically applies to personal data that is publicly available on the internet, such as information found in search engine results, social media platforms, and other online repositories. However, it is not limited to online information; it can also apply to data held by organizations or companies in various forms.
3. **Balancing Rights:** A critical aspect of the right to be forgotten is balancing the individual's right to privacy with the public's right to access information. While individuals have the right to request the removal of data that is irrelevant or outdated, this right is not absolute. It must be weighed against the public interest, including considerations of freedom of expression, historical records, and the right to information. For example, information about public figures or matters of public concern may be exempt from removal requests if it serves a legitimate public interest.
4. **Legal Frameworks:** The right to be forgotten is enshrined in several legal frameworks around the world, most notably in the European Union's General Data Protection Regulation (GDPR). Article 17 of the GDPR specifically provides for the right to erasure, commonly referred to as the right to be forgotten. Under the GDPR, individuals can request the deletion of their data if it meets certain conditions, such as if the data is no longer necessary for the purpose it was collected, if the individual withdraws consent, or if the data has been unlawfully processed.
5. **Exemptions and Limitations:** There are important exemptions to the right to be forgotten. Data may not be erased if it is necessary for exercising the right of freedom of expression and information, for compliance with a legal obligation, for reasons of public interest in the area of public health, for archiving purposes in the public interest, scientific or historical research purposes, or for the establishment, exercise, or defense of legal claims.
6. **Challenges and Criticisms:** The implementation of the right to be forgotten poses several challenges. One of the main criticisms is the potential for abuse, where individuals might seek to erase information that is critical, truthful, or necessary for public awareness. This raises concerns about censorship and the rewriting of history. Additionally, the global nature of the internet complicates the enforcement of this right, as data can be stored in multiple jurisdictions, each with its legal standards and protections.

- 7. Technological Implications:** The right to be forgotten also presents significant technological challenges. Search engines, social media platforms, and other online services must develop mechanisms to respond to erasure requests. This often requires determining whether the request is valid, ensuring that the data is removed across all relevant platforms, and preventing the data from being republished. The sheer volume of data and the decentralized nature of the internet make this a complex task.

## CONCLUSION

This case stands as a watershed moment in the development of data protection law, fundamentally altering the landscape of digital privacy in the European Union and beyond. The Court of Justice of the European Union (CJEU) delivered a judgment that was not only significant for the parties involved but also for millions of internet users who find themselves grappling with the consequences of having their personal information readily available online.

This judgment was a profound affirmation of the importance of privacy in the digital age. The CJEU's decision recognized that the internet, with its vast capacity to store and disseminate information, poses unique challenges to individuals' rights to privacy and data protection. By holding that search engines like Google are "data controllers," the court placed a significant responsibility on these companies to respect individuals' rights under European law. This marked a shift in the balance of power, giving individuals more control over how their personal information is used and shared online.

However, the court's decision also carefully navigated the complex interplay between privacy and other fundamental rights, such as freedom of expression and the public's right to access information. The CJEU acknowledged that the right to be forgotten is not absolute and must be balanced against the public interest. This was particularly important in cases where the information in question is still relevant to public discourse, such as newsworthy events, information about public figures, or matters of public safety. The court thus ensured that the right to be forgotten would not become a tool for censorship or the suppression of legitimate information.

The case also had significant implications for the global reach of European data protection laws. By ruling that EU law applied to Google, despite the company being based in the United States, the CJEU established a precedent that European data protection standards could have extraterritorial effects. This has had a ripple effect, influencing data protection practices and

legislation in other jurisdictions, as companies operating globally have had to adapt to comply with the stringent requirements of EU law.

In the broader context, the Google Spain ruling has sparked ongoing debates about privacy, freedom of expression, and the governance of the internet. Critics of the right to be forgotten have raised concerns about its potential to be misused to erase truthful information or rewrite history. There are also practical challenges in implementing the right to be forgotten, particularly given the global and decentralized nature of the internet. Nonetheless, the CJEU's judgment has been largely seen as a necessary step in ensuring that individuals have a meaningful ability to protect their privacy in an increasingly connected world.

In conclusion, this legal action was a landmark case in the evolution of data protection law, establishing the right to be forgotten as a key principle in the digital age. It highlighted the need for a balance between protecting individuals' privacy and safeguarding the public's right to information. While the ruling has sparked important discussions and posed challenges, it has undeniably reshaped the legal landscape, giving individuals greater control over their data and setting the stage for future developments in digital privacy.

