

**Press Release
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Issued by the Article 29 Data Protection Working Party

The European data protection authorities assembled in the Article 29 Working Party (WP29) welcome the European Court of Justice (ECJ) ruling of 13 May 2014 which sets a milestone for EU data protection in respect of search engines and, more generally, in the online world. In particular, it retains a wide interpretation of the notion of “establishment” for determining the applicability of the EU Directive 95/46/EC and national law to search engines. It also clarifies the concepts of “data processing” and “controller” as regards the processing of personal data by search engines, and recognises a right to be forgotten for individuals, subject to conditions. The WP29 will discuss at its next plenary the operational and legal consequences of this ruling.

This ruling is the response to interlocutory questions submitted in 2012 to the ECJ by a Spanish High Court (*Audiencia Nacional*) in the framework of a dispute between Google and the Spanish Data Protection Authority (*Agencia Espanola de Proteccion de Datos, AEPD*), further to a complaint lodged before the latter by a Spanish data subject.

The ECJ was requested to rule on a search engine’s legal qualification as regards processing of personal data through its search engine service, on the applicability of Directive 95/46/EC to the latter, and on the data subject’s right to obtain the deletion of links, in search results, to information infringing his rights to data protection.

In its [judgment](#) published on 13 May 2014, the ECJ ruled that **search engine providers are data controllers** in respect of the processing of personal data carried out by the search engine, since their activity is to automatically index information published online and to provide such information to web users according to a particular order of preference. This specific activity comes in addition to that of web publishers and search engines providers could therefore be liable for affecting data subjects’ rights.

The ECJ also **confirmed the applicability of Directive 95/46/EC to a search engine – in this specific case, Google** - insofar as the processing of personal data is carried out in the context of the activities of a subsidiary on the territory of a Member State, set up to promote and sell advertising space on its search engine in this Member State with the aim of making that service profitable.

On those grounds, the ECJ concluded that **web users have the right to directly request from the search engine the deletion of the links to web pages containing information breaching their rights under the Directive**, even if the publication of the information on the web pages in question is lawful in itself.

The ECJ nevertheless indicated that the rights to privacy and to the protection of personal data enshrined in the EU Charter of Fundamental Rights, although they override the search engine’s economic interest, are not absolute, and that therefore the **right to deletion of information will have to be assessed on a case by case basis**

depending on the nature of the information in question, on its sensitivity for the data subject and on the interest of the public to have access to that information, considering in particular the role played by the data subject in public life.

A first exchange of views between the EU data protection authorities will take place at the WP29 plenary meeting of 3-4 June 2014 in order to analyse the consequences of the ECJ's ruling and to identify guidelines in order to build a common approach of EU data protection authorities on the implementation of the ruling.

Background information

The Article 29 Working Party on the Protection of Individuals with regard to the Processing of Personal Data is an independent advisory body on data protection and privacy, set up under Article 29 of the Data Protection Directive 95/46/EC. It is composed of representatives from the national data protection authorities of the EU Member States, the European Data Protection Supervisor and the European Commission. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC. The Article 29 Working Party is competent to examine any question covering the application of the data protection directives in order to contribute to the uniform application of the directives. It carries out this task by issuing recommendations, opinions and working documents.

http://ec.europa.eu/justice/data-protection/article-29/index_en.htm