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The Right to be Forgotten in the Digital Age

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The Right to be Forgotten in the Digital Age

by

Ana Tskipurishvili*

Abstract

The digital reflection of our character and the digital footprints we are leaving have become a threat to our future development. In a digitalized world, people grow more concerned when it comes to the right to protection of their personal data. European regulators have long understood the need for adjustment and there have been many discussions on the European normative framework for privacy and data protection. The Right to be Forgotten is a legal precedent set by the Court of Justice of the European Union in 2014. However, the current regulation of the Right to be Forgotten is not a panacea for all privacy ills and concerns. Online entities, such as Google, Bing, and Yahoo!, have extensive discretion to implement the Right to be Forgotten, and offer no safeguards so as to promote consistency of decisions, or compliance with the principle of due process.

This working paper provides an overview of the Right to be Forgotten, how it emerged, developed and the problems it may face in the future. It proceeds to a further analysis of the meaning and impact, and presents a review of the different conceptions about it. Through scrupulous analysis, the working paper presents deep insights into the present and future relevance of the Right to be Forgotten in a digital epoch where every action and piece of data is on public display. The Right to be forgotten poses more questions than answers. Given the global nature of the Internet and the omnipresence of search engines, the questions at issue are universal.

Keywords: Right to be Forgotten; European Union; digital age; data privacy and protection; freedom of information; emerging legal concept; Google; processing of personal data; controller

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The Right to be Forgotten in the Digital Age

Introduction

"On 5 March 2010, Mario Costeja Gonzalez, a Spanish national resident in Spain, lodged with the AEPD a complaint against La Vanguardia Ediciones SL, which publishes a daily newspaper with a large circulation, in particular in Catalonia (Spain) ("La Vanguardia"), and against Google Spain and Google Inc. The complaint was based on the fact that, when an internet user entered his name in the search engine of the Google group ("Google Search"), he would obtain links to two pages of La Vanguardia's newspaper, of 19 January and 9 March 1998 respectively, on which an announcement mentioning his name appeared for a real-estate auction connected with attachment proceedings for the recovery of social security debts."[1]

The world has become digital and the information of any person can now be easily accessed on the Internet. How will they use that information? What if you've experienced defamation or learned that your private data is exposed to the public? What are the roles of remembering and the importance of forgetting? Internet privacy is sought by many, but achieved by few. Many people have faced the negative aspects of information proliferation and lack of control over personal information. Information found in the results of search engines shapes estimations of that individual, creating the potential for humiliation or the forfeiture of jobs or personal relationships. The working paper seeks to analyze the Right to be Forgotten that has been officially introduced by the European Commission on the 25th of January 2012.[2] The Court of Justice of the European Union ruling established the Right to be Forgotten in the landmark case *Google Spain* v. *Gonzalez*.[3]

If your personal data is being used unlawfully or is no longer needed you can ask for your data to be erased.[4] The entity making such crucial decisions is a multinational corporation.[5] Although *Google Spain* v. *Gonzalez* was fundamental for advancing privacy protection online, there are many issues left to examine and scrutinize. The debate is far from resolved, and poses difficult legal and ethical questions. The working paper discusses the Right to be

[1] CJEU, C-131/12, *Google Spain* v. *Gonzalez*, ECLI:EU:C:2014//:317, para. 14.
[2] Proposal for a General Data Protection Regulation COM/2012/011.
[3] CJEU, *Google Spain* v. *Gonzalez, supra* n. 1, paras. 91-94.
[4] European Union, *Data Protection and Online Privacy*, available at Data Protection and Online Privacy (consulted on 10 July 2022).
[5] CJEU, *Google Spain* v. *Gonzalez, supra* n. 1.

Forgotten in the European Union, search engines as data controllers and EU-only form of delisting. It is needful to explore interpretation and implementation, followed by diverse standpoints on the Right to be Forgotten. The working paper deals with case-law of the ECHR and balancing the fundamental rights in the digital era. It reviews the Right to be Forgotten outside the Europe, and concludes with observations. Given the hyper-connected nature of the Internet, "*the Right to be Forgotten is much more complicated than an individual simply requesting that an organization erase their personal data.*"[6]

I. The Right to be Forgotten before Google Spain v. Gonzalez

The Right to be Forgotten received a lot of press and attention after the 2014 judgment of the EU Court of Justice.[7] That was neither the start or the end of the history of this right. The Right to be Forgotten is not a novel concept. The Right to be Forgotten first derives from the right to erasure, a long-standing principle in European data protection laws.[8] In Europe, the intellectual roots of the Right to be Forgotten can be found in French law, which recognizes "*le droit à l'oubli"* or the "*right of oblivion*."[9] "*Le droit à l'oubli"* or the "*right of oblivion*" allows a convicted criminal who has served his time and been rehabilitated to object to the publication of the facts of his conviction and incarceration.[10] Other jurisdictions around the world have similarly adopted "*clean slate*" legislation, effectively wiping clean individuals' criminal records after a certain length of time has elapsed.[11] The CJEU did not invent and refer to a new RTBF but rather implemented an already existing right in a new context.

When Commissioner Viviane Reding announced the Right to be Forgotten on January 22, 2012. she noted the particular threat and risk to teenagers who might reveal compromising information that they would later come to regret. She articulated the core provision of the Right to be Forgotten: "*If an individual no longer wants his personal data to be processed or stored by a data controller, and if there is no legitimate reason for keeping it, the data should be removed from their system.*"[12] Her introductory speech made the perceived importance of the Right to be Forgotten clear: "*The EU will be at the forefront of privacy protection on the Internet and the right to be forgotten will provide a vehicle for doing so.*"[13]

[6] WOLFORD Ben, *Everything You Need to Know about the "Right to be Forgotten",* available at Everything You Need to Know about the "Right to be Forgotten" (consulted on 10 July 2022).
[7] *Ibid.*
[8] Data Protection Directive 95/46/EC.
[9] ROSEN Jeffrey, *Symposium Issue: The Right to be Forgotten*, 64 Stanford Law Review Online 88 (2012), available at The Right to Be Forgotten (consulted on 10 July 2022).
[10] *Ibid.*
[11] *Ibid.*
[12] REDING Viviane, Vice-President of the European Commission, *The EU Data Protection Reform 2012: Making Europe the Standard Setter for Modern Data Protection Rules in the Digital Age* (2012), available at Speech (consulted on 10 July 2022).
[13] *Ibid.*

II. The Right to be Forgotten in the European Union

What does it mean to have the Right to be Forgotten? The CJEU held that individuals have a right to request, under certain conditions, that their "*inadequate, irrelevant, or excessive in relation to the purposes of the processing*" personal data no longer be displayed by search engines in response to searches of the individual's name in the landmark case *Google Spain* v. *Gonzalez.*[14] The RTBF is not an absolute right. Later, the CJEU issued two judgments regarding the territorial scope of the right to de-referencing,[15] and the conditions in which individuals may exercise the Right to be Forgotten in relation to links to web pages containing sensitive data.[16] In *G.C. and Others* v. *CNIL*, the CJEU decided that a search engine operator must only verify the lawfulness of its processing of sensitive data *ex post*, i.e. upon receiving a request for de-referencing.[17] The decisions demonstrate once again how difficult it is to balance fundamental rights and freedoms in the digital epoch. The Advocate General Szpunar rightfully emphasized that "*Reconciling the right to privacy and to the protection of personal data with the right to information and to freedom of expression in the internet era is one of the main challenges of our time.*"[18]

In 1995, the EU passed the European Data Protection Directive, establishing minimum data privacy and security standards, upon which each member state based its own implementing law.[19] As technology progressed, the EU recognized the need for modern protections. The General Data Protection Regulation (GDPR) was put into effect on May 25, 2018. The Right to be Forgotten is enshrined in Article 17 of the GDPR[20] and in Recitals 65 and 66.[21] In Article 17, the GDPR outlines the specific circumstances under which the Right to be Forgotten applies. Under Article 17, an individual has the right to have their personal data erased if: "*The personal data is no longer necessary for the purpose an organization originally collected or processed it; An organization is relying on an individual's consent as the lawful basis for processing the data and that individual withdraws their consent; An organization is relying on legitimate interests as its justification for processing an individual's data, the individual objects to this processing, and there is no overriding legitimate interest for the organization to continue with the processing; An organization is processing personal data for direct marketing purposes and the individual objects to this processing; An organization processed an individual's personal data unlawfully; An organization must erase personal data in order to comply with a legal ruling or obligation; An organization has processed a child's personal data to offer their information society services.*"[22]

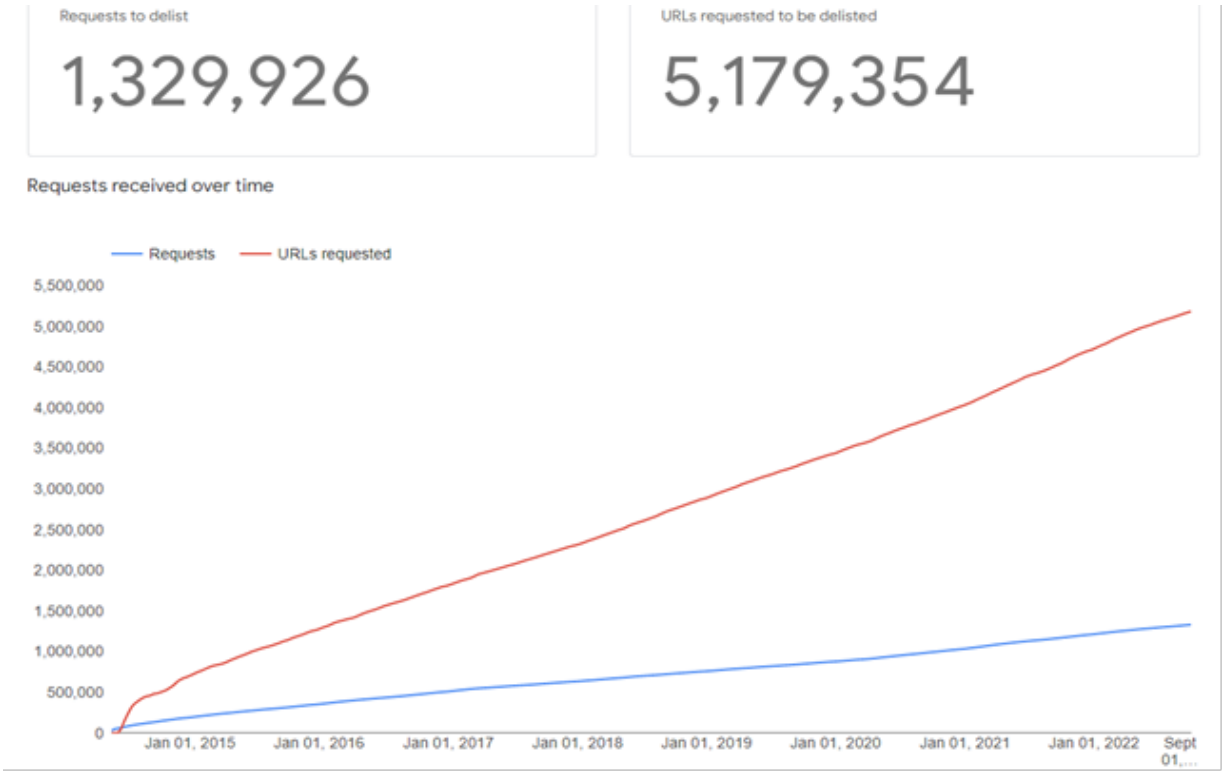
[14] CJEU, *Google Spain* v. *Gonzalez, supra* n. 1, para. 92.
[15] CJEU, C-507/17, *Google* v. *CNIL*, ECLI:EU:C:2019:772. Territorial scope of the Right to be Forgotten will be discussed in Section II(B).
[16] CJEU, C-136/17, *G.C. and Others* v. *CNIL*, ECLI:EU:C:2019:773.
[17] *Ibid*., para. 55.
[18] CJEU, C-136/17, *G.C. and Others* v. *CNIL*, Opinion of Advocate General Szpunar of 10 January 2019, ECLI:EU:C:2019:14, para. 1.
[19] European Data Protection Directive, *supra* n. 9.
[20] Article 17 of the General Data Protection Regulation.
[21] Recital 65 & 66 of the General Data Protection Regulation.
[22] WOLFORD Ben, *Everything You Need to Know about the "Right to be Forgotten," supra* n. 7.

A. Search engines as the architects of the Right to be Forgotten

The European Union's Right to be Forgotten is a protection designed to obscure reputation-damaging content from search results to preserve individual dignity and privacy. The entity making such crucial decisions on each individual erasure request is a multinational corporation rather than a court. The Court of Justice of the European Union delegated authority to review privacy appeals from individuals and determine whether to obscure content to search engines.[23] Google was tasked with determining the appropriate balance between the public's interest in having access to information and privacy protections.[24] The balancing test search engine performs is a vital legal process determining the boundaries of human rights and fundamental freedoms in the digital age. The Right to be Forgotten should be balanced against the right to data protection and privacy and the legitimate interest of the public in having access to the information sought. What does "*a fair balance*" mean?[25] There is a scarcity of information surrounding the balancing tests. It creates threats of favoritism and bias. There are no fundamental checks on the search engine's power to decide on each individual erasure request.

The rules apply to search engines, such as Google, as they're also considered to be data controllers by the CJEU.[26] European Union citizens request that Google obscures personal details by completing an online form. If a request is successful, Google no longer displays links to the infringing article within search results for an individual's name, making personal details more challenging to retrieve.[27] Pursuant to the chart showing the total number of requests received and the total number of URLs requested to be delisted since 29 May 2014, requests to delist amounts to 1,329,926 and URLs requested to be delisted equals to 5,179,354 illustrating the great challenges faced by the company in order to comply with the CJEU ruling.[28] The practical result of the decision leaves much discretion in the hands of online entities, such as Google, Bing, and Yahoo!, to implement their own internal procedures for protecting personal data on the basis of individual complaints made to them.

[23] CJEU, *Google Spain* v. *Gonzalez*, *supra* n. 1.
[24] Google, *EU Privacy Removal,* available at EU Privacy Removal (last accessed 10 July 2022).
[25] *Ibid*., para. 81.
[26] *Ibid*., para. 21.
[27] Google, *Requests to Delist Content under European Privacy Law*, Requests to Delist Content under European Privacy Law (consulted on 10 July 2022).
[28] *Ibid.*



B. Territorial scope of the de-referencing: EU-only form of delisting

The European Court of Justice limited the territorial scope of the Right to be Forgotten. Google was served with a formal notice by the French data protection authority CNIL that, where it complies with the request of a data subject in a Right to be Forgotten case, compliance should not merely be limited to Google's domains across the EU, but also be extended to all of its domains across the world. CNIL was asking for the Right to be Forgotten to become applicable worldwide, even beyond the European Union.[29] *Google* v. *CNIL* is a long-awaited clarification of the geographical boundaries of the Right to be Forgotten. The importance of this decision lies in the fact that it has been viewed as a test of whether the European Union can extend its data protection and privacy standards beyond its territory. The Court held in case *Google* v. *CNIL* in September 2019, that a search engine operator cannot be required to carry out a dereferencing request on all the versions of the search engine, only "*on the versions of that search engine corresponding to all Member States* [...] *using, where appropriate, the technique known as "geo-blocking"* [...]."[30] There is no obligation under EU law for Google to apply the European right to be forgotten globally. The request does not have to be universally granted and its geographical scope will be limited to the place of residence

[29] *Ibid.*, paras. 30-39.
[30] CJEU, C-507/17, *Google* v. *CNIL*, *supra* n. 16, para. 43.

of the data subject. The decision clarifies that, while EU residents have the legal Right to be Forgotten, the right only applies within the borders of the bloc's 28 Member States.[31] However, the Court leaves a door open. While European Union law does not currently require de-referencing to be carried out on all versions of the search engine, it does not prohibit such a practice.[32]

According to Article 52 of the Treaty on European Union, the Treaties apply to the 28 Member States.[33] Although it was recognized that EU law can have extraterritorial effect, e.g. competition law, trademark rights, those situations represent *"extreme situations of an exceptional nature"*.[34] The Advocate General Szpunar held the present case not to be such an extreme situation requiring extraterritorial application of EU law.[35] Furthermore, the Advocate General saw a risk that this could result in reciprocal action from third countries to prevent access to information within the EU. He predicted a danger of leveling down to the detriment of freedom of expression. The Advocate General Szpunar found that outside the territory of the European Union law cannot, in fact, apply or, consequently, create rights and obligations.[36]

The question of extraterritoriality was discussed in *Glawischnig-Piesczek* v. *Facebook Ireland Limited*.[37] Judgment in *Glawischnig-Piesczek* v. *Facebook Ireland Limited* deals with the removal of comments by Facebook which are proven to be identical to defamatory comments found to be illegal. The CJEU did order a "*worldwide take down,*" it seems instead that the Court held that Member States are not prohibited from asking for worldwide implementation of the injunction.[38] The CJEU held that Member States may order a host provider to remove information or to block access to that information worldwide if this is in accordance with the applicable international law. The Court did not mention which provisions of international law are applicable.[39]

III. The Right to be Forgotten: Interpretation & implementation

The CJEU elevated the Right to be Forgotten from a domestic to a European right in the Google Spain judgment.[40] The decisions of the Court play a large role in developing European laws in the field of data protection. In his opinion delivered in *Google Spain* v. *Gonzalez*

[31] *Ibid.*, para. 74. The United Kingdom withdrew from the European Union on 31 January 2020. On the basis of the Withdrawal Agreement that has been ratified by both the European Union and the United Kingdom, a transitional period during which EU law continued to apply in the United Kingdom ended on 31 December 2020.
[32] CJEU, C-507/17, *Google* v. *CNIL*, *supra* n. 16, para. 72.
[33] Art. 52 of the Treaty on European Union. The UK voted to leave the EU in 2016 and officially left the European Union on 31 January 2020.
[34] CJEU, C-507/17, *Google* v. *CNIL*, Opinion of Advocate General Szpunar of 10 January 2019, ECLI:EU:C:2019:15, para. 53.
[35] *Ibid.*
[36] *Ibid.*, paras. 54-57.
[37] CJEU, C-18/18, *Glawischnig-Piesczek* v. *Facebook Ireland Limited*, Request for a Preliminary Ruling, ECLI:EU:C:2019:821.
[38] *Ibid.*, para. 93.
[39] *Ibid.*, paras. 88-103.
[40] CJEU, *Google Spain* v. *Gonzalez*, *supra* n. 1.

Advocate General Jääskinen rightfully held: "*I consider that the Directive does not provide for a general right to be forgotten in the sense that a data subject is entitled to restrict or terminate dissemination of personal data that he considers to be harmful or contrary to his interests. Consequently, the decision reached by the CJEU [Google Spain* v. *Gonzalez] leads to an unregulated right left within the hands of a private entity, leading to the possibility of abuse and arbitrary censorship*."[41] While *Google Spain* v. *Gonzalez* is welcoming, problems arise with the uncontrolled application of the Right to be Forgotten.

The Right to be Forgotten is very much debated at the global level. It is understandable partly due to practical issues regarding the interpretation and implementation. Since the 1995 EU Directive on Data Protection, individuals have been granted the right to have all personal data related to them deleted when they leave a service or close an account.[42] It is argued that the Right to be Forgotten is merely a rebranding of long-standing data protection principles.[43]

The focus for the CJEU was to interpret the 1995 Regulation and then apply it to the facts by determining whether: Google Spain undertook any "*processing of data*;" Google Spain is a "*controller*;" Google Spain is subject to the territorial reach of the 1995 Directive; and the "R*ight to be Forgotten*" extended to search results displayed on the Internet.[44] The CJEU found in the affirmative on all of the above questions. The CJEU established that Google Spain was processing data as it "*collects*," "*retrieves*," and "*organizes*" data. Google Spain argued that it was not processing "*personal*" data even though it processes data. As Google's processing of data does not discriminate between personal and non-personal data, Google stated that it was not actively seeking to process personal data and therefore could not fall within the scope of the 1995 Directive. However, this argument was rejected by the CJEU. The CJEU found that Google Spain was a "*controller*" as it determined the purpose and means of its data processing.[45] In finding that Google Spain fell within the jurisdictional reach of the 1995 Regulation, the CJEU established that while the data processing was not undertaken in Spain, the activities of Google Spain and its parent company took place within the same context. Google Spain, was responsible for advertising revenue within Spain. Pursuant to the CJEU, this made Google Spain an establishment of Google, therefore, subjecting both to the 1995 Directive.[46]

The Google Spain decision gave the Right to be Forgotten the status of legal enforceability inside the European Union. It is important to note that the CJEU did not provide any

[41] CJEU, C-131/12, *Google Spain* v. *Gonzalez,* Opinion of Advocate General Jääskinen delivered on 25 June 2013, para 108.
[42] Data Protection Directive, *supra* n. 32.
[43] GIURGIU Andra, *Challenges of Regulating a Right to be Forgotten with Particular Reference to Facebook,* Masaryk University Journal of Law and Technology (2013), available at Challenges of Regulating a Right to Be Forgotten (consulted on 10 July 2022).
[44] CJEU, *Google Spain* v. *Gonzalez, supra* n. 1.
[45] *Ibid.*
[46] *Ibid.*

guidance within its judgment as to how it should be applied, interpreted and implemented. Following the lack of direction from the CJEU, Google implemented a system that received criticism from the EU after the Ruling in *Google Spain* v. *Gonzalez*.[47] Though the decision taken by the CJEU is understandable in the light of the new digital challenges, it lacks certain fundamental aspects. We know very little of how these delinking choices are made. Not all data can be considered relevant for the implementation of the Right to be Forgotten as envisaged by the Court of Justice of the European Union in *Google Spain* v. *Gonzalez*.[48]

The landmark case *Google Spain* v. *Gonzalez* wasn't about defamation and it was not about correcting inaccuracy. The Court held that a successful claim did not have to show that harm or distress has been caused.[49] The decision in Google Spain "*opened the floodgates*" for the Right to be Forgotten,[50] confirming that the right existed under the 1995 Directive.[51] It narrowly focuses on regulating search engine operators while ignoring the original publishers. Within the first thirty-one days, Google received a reported 70,000 requests to remove 250,000 search results.[52] That is a lot of lost information. Legal uncertainty can lead to internal injustices and a complete absence of a unified jurisdiction to enforce the Regulation.[53]

In 2015, Google had set up an Advisory Council on the Right to be Forgotten to develop recommendations for "*performing the balancing act between an individual's right to privacy and the public's interest in access to information.*"[54] It is important to note that the Advisory Council held that "*Assessing harm to the data subject must be done on an ethical, legal, and practical basis.*"[55] Furthermore, the Advisory Council emphasized that "*The legal criteria for removing content altogether from the underlying source may be different from those applied to delisting, given the publisher's rights to free expression.*"[56]

In 2014, the CJEU ruling left many questions open. One question, for example, was whether Google was required to block requested names only for European domain names such as Google.co.uk and Google.fr, or more broadly for all Google search domains. Article 29 Data Protection Working Party reached a position on this issue, and explains in the new press release that "*limiting de-listing to EU domains on the grounds that users tend to access search*

[47] FIORETTI Julia, *EU Official Criticizes Google Meetings on the Right to be Forgotten Ruling*, available at EU Official Criticizes Google Meetings on Right to be Forgotten Ruling (consulted on 10 July 2022).
[48] CJEU, *Google Spain* v. *Gonzalez, supra* n. 1.
[49] TITZE Christopher, *How "Right to be Forgotten" Puts Privacy and Free Speech on a Collision Course,"* available at How "Right to be Forgotten" Puts Privacy and Free Speech on a Collision Course (consulted on 10 July 2022).
[50] LEVESQUE Jordan, *The Right to be Forgotten: No Solution to the Challenges of the Digital Environment, University of British Columbia* (2016), available at The Right to be Forgotten: No Solution to the Challenges of the Digital Environment (consulted on 10 July 2022).
[51] *Google Spain* v. *Gonzalez, supra* n. 1, para. 22.
[52] RITCHIE Alice, *Google Hit by 70,000 "Right to be Forgotten" Requests*, available at Google Hit by 70,000 "Right to be Forgotten" Requests (consulted on 10 July 2022).
[52] *Google Spain* v. *Gonzalez, supra* n. 1, para. 22.
[53] General Data Protection Regulation, *supra* n. 9.
[54] *Advisory Council to Google on the Right to be Forgotten - Final Report* (2015), available at Final Report (consulted on 10 July 2022), p. 1.
[55] *Ibid.*, p. 6.
[56] *Ibid.*, p. 4.

engines via their national domains cannot be considered a sufficient means to satisfactorily guarantee the rights of data subjects according to the ruling. In practice, this means that in any case de-listing should also be effective on all relevant .com domains."[57] The Working Party guidance also clarifies that Google is not required to block the surfacing of requested links if searches lead to the same result without using the individual's name. There was uncertainty as to who could make requests to Google. The Working Party has explained that although all persons "*have a right to data protection under EU law*," in practice, enforcement of the right by data protection authorities will "*focus on claims where there is a clear link between the data subject and the EU*," including scenarios where the requestor is a resident or citizen of the European Union.[58]

The Right to be Forgotten does not have the effect of "*forgetting*" information about a data subject. Instead, it requires Google to remove links returned in search results based on an individual's name when those results are "*inadequate, irrelevant or no longer relevant, or excessive.*"[59] However, what does it mean information to be *inadequate, irrelevant or no longer relevant, or excessive* in relation to those purposes and in the light of the time that has elapsed? Google is not required to remove those results if there is an overriding public interest in them "*for particular reasons, such as the role played by the data subject in public life.*"[60]

IV. Varied viewpoints on the Right to be Forgotten

The Right to be Forgotten is still a developing concept and the limits remain to be settled. On the one hand, the Right to be Forgotten aims at creating self-regulation of online presence, ability to remove embarrassing information from public view, opportunity to remove information that may jeopardize a data subject's finances, career, or personal safety, opportunity for fresh start *Google Spain* v. *Gonzalez* has wide-reaching implications. On the other hand, the Right to be Forgotten could hinder freedom of speech, expose people to danger, lead to revisionist history and censorship, and prevent learning from the past.[61] If it were the absolute right, the Right to be Forgotten would amount to nothing more than a rewriting of history.[62]

Standpoints on the Right to be Forgotten vary. Many believe that the Right to be Forgotten is necessary because of the digital environment's effects. Andrew Neville notes that simply because people want to know everything about a person does not grant them the right to circumvent that individual's rights to privacy.[63] Giancarlo Frosio states that the freedom of

[57] *Article 29 Data Protection Working Party - Guidelines on the Implementation of the Court of Justice of the European Union Judgment* (2014), available at Guidelines (consulted on 10 July 2022), p. 9. The Article 29 Working Party is the independent European working party that dealt with issues relating to the protection of privacy and personal data until 25 May 2018 (entry into application of the GDPR).
[58] *Ibid.*, p. 3.
[59] *Google Spain* v. *Gonzalez*, *supra* n. 1, para. 97.
[60] *Advisory Council to Google on the Right to be Forgotten - Final Report*, *Final Report, supra* n. 51, p. 3.
[61] MINC Aaron, *What is the Right to be Forgotten?* available at What is the Right to Be Forgotten? (consulted on 10 July 2022).
[62] WOLFORD Ben, *Everything You Need to Know about the "Right to be Forgotten," supra* n. 7.
[63] NEVILLE Andrew, *Is It a Human Right to be Forgotten? Conceptualizing the World View*, 15 Santa Clara Journal of International Law 158 (2017), available at Is it a Human Right to be Forgotten? Conceptualizing the World View (consulted on 15 August 2022)., p. 171-172.

expression remains untouched as the Right to be Forgotten does not apply to newsworthy information and public figures, and de-linked content remains published in its original Internet location.[64] Danielle Citron emphasized that "*For those who fear that their lives could be ruined by a severe invasion of privacy, the ability to have content erased could be life-saving.*"[65] Online harassment and invasion of privacy can lead to psychological disorders, as noted by Lindsey Cook.[66] "*Individuals are entitled to "start over" in a digital sense.*"[67] The Right to be Forgotten prevents discriminatory employment practices, and ensures a remedy for victims of cyber harassment."[68]

In an open letter to Google, over eighty academics called on Google to increase transparency around the balancing tests.[69] Article 29 Working Party recommended that data controllers should be as transparent as possible by providing the criteria used in delisting decisions.[70] Google did not explain how it arrived at the decision.[71] David Drummond notes that the challenge involves making decisions with limited guidance from the Court and "*vague and subjective tests*" about which information is in the public's interest.[72] Rachel Hulvey states that many have called on Google to disseminate decision-making and more broadly share details explaining how Google evaluates cases, similar to judicial bodies. "'*Any type of supranational decision-making faces threats to impartiality.*"[73] Michel Reymond eloquently states that data controllers are provided with extensive discretion, and offers no safeguards so as to promote consistency of decisions, or compliance with the principle of due process.[74] It is becoming a Court or government, but without the fundamental checks on its power.[75] Jef Ausloos offers a critical appraisal of potential abuses.[76] Alex Hern underlines that *"It is wrong in principle to leave search engines themselves the task of deciding whether to delete information or not"* and criteria to decide on individual's request are *"based on vague, ambiguous and unhelpful criteria.*"[77]

[64] FROSIO Giancarlo, *The Right to be Forgotten: Much Ado about Nothing,* 15 Colorado Technology Law Journal 307 (2017), available at The Right to be Forgotten: Much Ado about Nothing (consulted on 15 August 2022), p. 334.
[65] CITRON Danielle, *Hate Crimes in Cyberspace,* Harvard University Press (2014), 352 p., p. 11.
[66] COOK Lindsey, *The Right to be Forgotten: A Step in the Right Direction for Cyberspace Law and Policy*, 6 Journal of Law, Technology and the Internet 121 (2015), available at The Right to Be Forgotten: A Step in the Right Direction for Cyberspace Law and Policy (consulted on 15 August 2022), p. 124-128, p. 131.
[67] *Ibid*., p. 124-125.
[68] *Ibid*., p. 126.
[69] KISS Jemima, *Dear Google: Open Letter from 80 Academics on "Right to be Forgotten"* (2015), Dear Google: Open Letter from 80 Academics on "Right to be Forgotten" (consulted on 15 August 2022).
[70] *Article 29 Data Protection Working Party - Guidelines on the Implementation of the Court of Justice of the European Union Judgment, supra* n. 54.
[71] *Advisory Council to Google on the Right to be Forgotten - Final Report, supra* n. 51.
[72] DRUMMOND David, *We Need to Talk about the Right to be Forgotten* (2014), available at We Need to Talk about the Right to be Forgotten (consulted on 15 August 2022).
[73] HULVEY Rachel, *Companies as Courts? Google's Role Deciding Digital Human Rights Outcomes in the Right to be Forgotten* (2022), available at Discussion Paper (consulted on 10 July 2022), p. 9.
[74] REYMOND Michel, *The Future of the European Union "Right to Be Forgotten*," 2 Latin American Law Review 81 (2019), available at The Future of the European Union "Right to be Forgotten" (consulted on 10 July 2022).
[75] TIPPMAN Sylvia & POWLES Julia, *Google Accidentally Reveals Data on "Right to be Forgotten" Requests* (2015), available at Google Accidentally Reveals Data on 'Right to be Forgotten' Requests (consulted on 10 July 2022).
[76] AUSLOOS Jef, *The Right to Erasure in EU Data Protection Law: From Individual Rights to Effective Protection,* Oxford University Press (2020), 560 p.
[77] HERN Alex, *Lords Describe Right to Be Forgotten as "Unworkable, Unreasonable, and Wrong*," available at Lords Describe Right to be Forgotten as "Unworkable, Unreasonable, and Wrong" (consulted on 10 July 2022).

Christopher Canieso poses an interesting question: "*If the online companies that collect data are responsible, then to whom are they accountable*?"[78] George Brock notes that "*The judgment stores up trouble for the future by leaving important questions unresolved.*"[79] Meg Jones states that "*The existing perspectives are too limited, offering easy forgetting or none at all.*[80] Cécile Terwangne interestingly mentions that "*There should be much more results from exercising the Right to be Forgotten than the traditional binary "keep or erase.*""[81] Edward Lee notes that the Court of Justice of the European Union in *Google Spain* v. *Gonzalez* did not hold *"how to operationalize or put into practice, in the EU, a procedure and a set of criteria for determining claims invoking the right to be forgotten in search engine results.*"[82]

Furthermore, Joannes Massing noted that "*The decision thereby generates an imbalance in the equilibrium between personality rights and communication freedoms that threatens to undermine the liberal outline of the right to free speech."*[83] Christopher Bavitz emphasizes that the Right to be Forgotten can pose jurisdictional questions.[84] Authors explain that "*there are good arguments for the EU to apply its high data protection standards outside its borders, but that such an extraterritorial application faces challenges, as it may clash with duties of international comity, legal diversity, or contrasting rulings delivered by courts in other jurisdictions.*"[85] Victor Mayer-Schönberger proposed to reintroduce the concept of forgetting in the digital age through expiration dates for information. The aim is to shift the default back from retaining information forever to deleting it after a certain amount of time.[86] As Victor Mayer-Schönberger points out, in the digital age the balance has shifted from forgetting as a norm to the default of remembering due to cheap storage, easy retrieval in other words, "*Today, forgetting has become costly and difficult, while remembering is inexpensive and easy.*"[87] The Right to be Forgotten is an emerging legal concept with great implications for policies, freedom of expression, and privacy. The debate on the Right to be Forgotten is far from resolved and requires careful consideration of legal and technical measures.

[78] CANIESO Christopher, *The Right to be Forgotten* in MORAN Seana, *Ethical Ripples of Creativity and Innovation* (2016) 193 p., p. 194.
[79] BROCK George, *The Right to be Forgotten: Privacy and the Media in the Digital Age* (2016) 160 p., p. 3.
[80] JONES Meg, *Ctrl+Z: The Right to be Forgotten,* NYU Press (2016), 256 p.
[81] TERWANGNE Cécile, *The Right to be Forgotten and Informational Autonomy in the Digital Environment* in GHEZZI Alessia, PEREIRA Ângela G. & VESNIĆ-ALUJEVIĆ Lucia, "The Ethics of Memory in a Digital Age: Interrogating the Right to be Forgotten," Palgrave Macmillan UK (2014), 82 p.
[82] LEE Edward, *Recognizing Rights in Real Time: The Role of Google in the EU Right to Be Forgotten, 49 University of California, Davis Law Review 1021* (2016), available at *Recognizing Rights in Real Time: The Role of Google in the EU Right to be Forgotten* (consulted on 10 July 2022), p. 1035.
[83] MASSING Joannes, *Assessing the CJEU's "Google Decision:" A Tentative First Approach* in MILLER Russell A., "Privacy and Power: A Transatlantic Dialogue in the Shadow of the NSA-Affair," Cambridge University Press (2014), 435 p.
[84] BAVITZ Christopher, *The Right to be Forgotten and Internet Governance: Challenges and Opportunities*, 2 Latin American Law Review 21 (2019), available at The Right to be Forgotten and Internet Governance: Challenges and Opportunities (consulted on 10 July 2022), p. 3.
[85] FABBRINI Federico & CELESTE Edoardo, *The Right to be Forgotten in the Digital Age: The Challenges of Data Beyond Borders*, 21 German Law Journal 55 (2020), available at The Right to Be Forgotten in the Digital Age: The Challenges of Data Protection Beyond Borders (consulted on 10 July 2022), p. 65.
[86] MAYER-SCHÖNBERGER Viktor, *Delete: The Virtue of Forgetting in the Digital Age*, Princeton University Press (2009), 237 p.
[87] *Ibid.,* p. 62-92.

V. The Right to be Forgotten and the ECtHR

What is the role of the ECHR in the EU's fundamental rights commitments? It is important to explore the interplay that can be identified between the protections of privacy enshrined in the EU and ECHR systems. The European Convention on Human Rights does not explicitly guarantee the Right to be Forgotten. The Right to be Forgotten took another step forward in human rights law today when the European Court of Human Rights ruled in favor of a man with historical convictions relating to a fatal road accident.[88] In *Hurbain* v. *Belgium* the editor of Belgian newspaper appealed a domestic order ordering him to anonymize an article in its electronic archive naming the driver, convicted in 2000.[89] The ECtHR shed further light on the scope of this right in the online sphere, and revealed which factors should be examined when balancing the right to freedom of expression of the publisher and the public under Article 10 of the ECHR against the right to privacy of the individual under Article 8 of the ECHR.[90] The Court held that the test laid down in *Axel Springer* v. *Germany* was important in balancing the right to private life and freedom of expression.[91] The ECtHR weighed the right to freedom of expression and the Right to be Forgotten and ruled that the measure imposed could be regarded as "*proportionate to the legitimate aim pursued and as striking a fair balance between the competing rights at stake*."[92]

In *Biancardi* v. *Italy,* relating to a similar request, the Court provided additional guidance on the application of the *Springer*-test in an online context.[93] *Biancardi* v. *Italy* is a widening of the scope of the Right to be Forgotten in two ways: the Court confirmed that journalists and newspapers operating online are liable for de-indexing articles when requested to do so and in the balancing act of the right to freedom of expression and the right to private life, the latter gains greater weight when the case concerns de-indexation.[94] For all the discussion about the GDPR, it should not be forgotten and overlooked that Article 8 of the European Convention of Human Rights encompasses important aspects of data protection.[95] The CJEU has developed a large body of case law in that regard. The case-law of the ECtHR adds to this jurisprudence. It will be interesting to see whether the case-law established in *Hurbain* v. *Belgium* and *Biancardi* v. *Italy* will expand further in the future.

The ECtHR's decision in the case *M.L. and W.W.* v. *Germany* should also be discussed. *M.L. and W.W.* v. *Germany* concerned a possible violation of Article 8 of the ECHR, which grants the right to respect for private life.[96] The Court shared the findings of the German Federal

[88] CROSS Michael, *ECtHR Bolsters "Right to be Forgotten*," available at ECtHR Bolsters "Right to be Forgotten" (consulted on 10 July 2022).
[89] ECtHR, 57292/16, *Hurbain* v. *Belgium*, Judgment of 22 June 2021, paras. 2-29.
[90] *Ibid*., paras. 74-134.
[91] ECtHR, 39954/08, *Axel Springer* v. *Germany,* Judgment of 7 February 2012.
[92] ECtHR, 57292/16, *Hurbain* v. *Belgium*, *supra* n. 87, paras. 132-134.
[93] ECtHR, 77419/16, *Biancardi* v. *Italy,* Judgment of 25 November 2021.
[94] *Ibid.*
[95] Art. 8 of the European Convention of Human Rights.
[96] ECtHR, 65599/10 & 60798/10, *M.L. and W.W.* v. *Germany,* Judgment of 28 June 2018.

Court, which had reiterated that the media had the task of participating in the creation of democratic opinion, in part by making available to the public old news items that had been preserved in their archives.[97] It emphasized that the approach to covering a given subject was a matter of journalistic freedom and that Article 10 of the Convention left it to journalists to decide what details ought to be published, provided that these decisions corresponded to the profession's ethical norms. Including the full name of a person in an article about them is important, the Court held, especially when reporting on criminal proceedings that had attracted considerable attention and remained undiminished with the passage of time.[98] The ECtHR clarified the difference between search engines and the publication of information in the internet through media. To be more precise, the media made the information available, while search engines only contributed to the distribution of the information. The activity of the media concerned the core of freedom of expression, which was not the case for search engines.[99]

It is noteworthy to mention that the European Court of Human Rights decided on the case of *Times* v. *The United Kingdom* in 2009, which dealt with defamatory lawsuits and freedom of media.[100] In its judgment the ECtHR qualified the importance of the Internet for the promotion of the values protected by Article 10 of the ECHR.[101] The Court claimed that, due to the important role the internet plays in enhancing the public's access to news and facilitating the dissemination of information. The Court held that Internet Archives fall within the ambit of the protection afforded by Article 10."[102]

VI. Fundamental rights in the digital age

Being two distinct fundamental rights, the coexisting state of the Right to be Forgotten and freedom of expression has already been discussed by the competent authorities through balancing in situations when they clash and collide *Google Spain* v. *Gonzalez* should be interpreted and implemented in light of the rights to privacy and data protection, as well as rights to freedom of expression and access to information. It is equally essential to ensure that the implementation of the Right to be Forgotten does not affect other fundamental rights and freedoms in the digital epoch. It is crucial to invoke the conceptual frameworks established in various instruments that outline fundamental freedoms and rights in Europe. The right to privacy is enshrined in Article 7 of the Charter of Fundamental Rights of the European Union[103] and in Article 8 of the European Convention on Human Rights.[104] It

[97] *Ibid.*
[98] *Ibid.*
[99] *Ibid.*
[100] ECtHR, 23676/03 and 3002/03, *Times Newspapers* v. *The United Kingdom*, Judgment of 10 March 2009.
[101] *Ibid.*
[102] *Ibid.*
[103] Art. 7 of the Charter of Fundamental Rights of the European Union.
[104] Art. 8, *supra* n. 100.

ensures respect for private life and freedom from interference by the public authorities except in accordance with the law. The right to data protection is stipulated by Article 8 of the Charter.[105] It asserts that data is processed fairly, for specified purposes, and on the basis of consent or some other legitimate basis laid down by law. It ensures that data which have been collected can be accessed and rectified. Freedom of expression and information is enshrined in Article 10 of the Convention[106] and Article 11 of the Charter.[107] There are differences between the protections of privacy set out in the EU and ECHR systems.

The *Google Spain* v. *Gonzalez* invokes a data subject's right to object to, and require cessation of, the processing of data. The Court held that "*the operator of the search engine as the person determining the purposes and means of that activity must ensure, within the framework of its responsibilities, powers and capabilities, that the activity meets the requirements of Directive 95/46 in order that the guarantees laid down by the directive may have full effect and that effective and complete protection of data subjects, in particular of their right to privacy, may actually be achieved.*"[108] The Court stated that "*a fair balance"* should be sought between that interest and the data subject's fundamental rights under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union."[109] Moreover, the CJEU noted in the *Google Spain* v. *Gonzalez* that "*As the data subject may, in the light of his fundamental rights under Articles 7 and 8 of the Charter, request that the information in question no longer be made available to the general public on account of its inclusion in such a list of results, those rights 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 fundamental rights is justified by the preponderant interest of the general public in having, on account of its inclusion in the list of results, access to the information in question.*"[110]

Article 29 Data Protection Working Party emphasized that a balance of the relevant rights and interests has to be made and the outcome may depend on the nature and sensitivity of the processed data and on the interest of the public in having access to that particular information. The interest of the public will be significantly greater if the data subject plays a role in public life.[111] Although all data relating to a person is personal data, not all data about a person is private. There is a basic distinction between a person's private life and their public or professional *persona*. As a general rule, information relating to the private life of a data subject who does not play a role in public life should be considered irrelevant. However, public figures also have a right to privacy, albeit in a limited or modified form.[112]

[105] Art. 8, *supra*. n. 108.
[106] Art. 10, *supra*. n. 100.
[107] Art. 11, *supra*. n. 108.
[108] CJEU, *Google Spain* v. *Gonzalez*, *supra* n. 1, para. 38.
[109] *Ibid*., para. 81.
[110] *Ibid*., paras. 97-100.
[111] *Article 29 Data Protection Working Party - Guidelines on the Implementation of the Court of Justice of the European Union Judgment, supra* n. 59, p. 2.
[112] *Ibid*., p. 16.

The processing carried out by the operator of a search engine is liable to affect significantly the fundamental rights to privacy and to the protection of personal data when the search by means of that engine is carried out on the basis of an individual's name, since that processing enables any internet user to obtain through the list of results a structured overview of the information relating to that individual that can be found on the internet. The legal system lacks a unifying vision and transparency. Ethical implications should be explored. To protect other rights, such as freedom of expression, some data may not be automatically deleted. For example, controversial statements made by people in the public eye, might not be deleted if public interest is best served by keeping them online.[113] Furthermore, the concept of "*best interests of the child*" has to be taken into account.[114] This concept can be found, *inter alia*, in Article 24 of the EU Charter of Fundamental Rights: "*In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.*"[115]

Dutch Court, in particular, the Court of Amsterdam, was mindful of the need to balance free speech against privacy rights and pointed out that *"the judgment does not intend to protect individuals against all negative communications on the Internet, but only against 'being pursue' for a long time by 'irrelevant', 'excessive' or 'unnecessarily defamatory' expressions.*"[116] Accordingly, there will be some situations in which the right to free expression will trump and prevail over the right to privacy online.

Any further expansion of the Right to be Forgotten would create more ambiguity and potential threats to impartiality. It would put a significant burden on media outlets and online archives, which would face a great number of requests to have content removed, altered, or anonymized. To correct the lack of information surrounding the balancing tests conducted by a firm, the European Union should legislate that search engines release information about decision-making procedures.[117]

VII. The Right to Be Forgotten outside Europe

The Right to be Forgotten has gained prominence since a matter was referred to the Court of Justice of the European Union.[118] At the time of this writing, the Right to be Forgotten is a contentious and rapidly-evolving issue. The *Google Spain* v. *Gonzalez*, sparked global debate about who should ultimately be responsible for the protection and erasure of private information online. Following the 2014 ruling of the CJEU, the Right to be Forgotten has

[113] European Union, *Data Protection and Online Privacy*, *supra* n. 5.
[114] Charter of Fundamental Rights of the European Union, *supra* n. 108
[115] *Ibid.*, Art. 24.
[116] SPAUWEN Joran & BRINK Jens van den, *Dutch Google Spain Ruling: More Freedom of Speech, Less Right to be Forgotten for Criminals*, available at Dutch Google Spain Ruling: More Freedom of Speech, Less Right to be Forgotten For Criminals (consulted on 10 July 2022).
[117] HULVEY Rachel, *Companies as Courts? Google's Role Deciding Digital Human Rights Outcomes in the Right to be Forgotten, supra* n. 71, p. 10.
[118] Google, *Requests to Delist Content under European Privacy Law*, *supra* n. 19.

been incorporated in the newly adopted GDPR,[119] and has increasingly been gaining ground worldwide. The Right to be Forgotten has raised both significant interest and concern from domestic courts, policymakers, companies, and civil society, as differing global positions regarding this emerging right remain.

As the CJEU is a pioneer when it comes to the Right to be Forgotten, the decision might also indirectly affect the legislation and Court decisions in non-EU States.[120] Are *ultra vires* judgments by domestic courts a possibility in the future, in the field of data protection?

During the recent years, the nature of the Internet that never forgets catalyzed the debates. The Right to be Forgotten has been discussed by courts in various parts of the world and came in different approaches. For example, in the United States, publication of someone's criminal history is protected by the First Amendment, leading Wikipedia to resist the attempts by two Germans convicted of murdering a famous actor to remove their criminal history from the actor's Wikipedia page.[121] Brazil's federal supreme Court has deemed the Right to be Forgotten as unconstitutional.[122] In 2021, the Brazilian Federal Supreme Court dismissed the extraordinary appeal by family members of the victim of a notorious 1958 murder who had sought redress for the reconstruction of the case on a 2004 TV show without their permission.[123] In a ruling of "*general repercussion*," one that serves as guidance for decisions in similar cases, the High Court in *Globo Comunicações* v. *Curi* rejected the family members' claim that they had the Right to be Forgotten.[124]

The Federal Court of Canada held that the Personal Information Protection and Electronic Documents Act applies to internet search engines when they index webpages and present search results in response to searches of an individual's name.[125] While the existence of the Right to be Forgotten is not expressly provided for in Personal Information Protection and Electronic Documents Act, it will be interesting to see whether the upcoming reforms to Canadian privacy legislation will address this issue more directly.

The Japanese Supreme Court issued the decision on the RTBF, declining to enforce the right against Google. According to the Supreme Court, deletion "*can be allowed only when the value of privacy protection significantly outweighs that of information disclosure*," and the Court set forth a series of factors relevant to that determination.[126] High Court of India in *V*. v. *High Court*

[119] General Data Protection Regulation, *supra* n. 21.
[120] GLOBOCNIK Jure, *The Right to be Forgotten is Taking Shape: CJEU Judgments in GC and Others (C-136/17) and Google* v. *CNIL (C-507/17)*, GRUR International 1 (2020), available at The Right to Be Forgotten is Taking Shape: CJEU Judgments in GC and Others and Google v. CNIL (consulted on 10 July 2022), p. 9.
[121] ROSEN Jeffrey, *Symposium Issue: The Right to be Forgotten*, *supra* n. 10.
[122] Library of Congress, *Brazil: Federal Supreme Court Decides Right to be Forgotten is not Supported by Constitution*, available at Brazil: Federal Supreme Court Decides Right to Be Forgotten Is Not Supported by Constitution (consulted on 10 July 2022).
[123] *Ibid.*
[124] *Ibid.*
[125] Federal Court of Canada, 2021 FC 723, *Reference re Subsection 18.3(1) of the Federal Courts Act*, T-1779-18, para. 97.
[126] thejapantimes, *Japanese Court recognizes "Right to be Forgotten*," available at Japanese Court Recognizes "Right to be Forgotten" in suit against Google (consulted on 10 July 2022).

of Karnataka recognized the RTBF. The purpose of this case was to remove the name of the petitioner's daughter from the cause title since it was easily accessible and defamed her reputation.[127] Needless to say, there are different approaches to this right in non-EU states.

Conclusion

Information may last indefinitely. It is a threat that has never held more weight than it does in the digital age. We live in the epoch of "*Streisand effect*"[128] and the case of the "*Drunken pirate.*"[129] The damage caused can be severe, affecting relationships, career, success, and any number of other opportunities. The working paper does not advocate an ignorant future, but one that acknowledges, admits, and accepts that with the passage of time people change, our ideas advance and our views adjust. Nowadays, the Right to be Forgotten has evolved, and it appears in a more multifaceted way. The Right to be Forgotten has potential to be innovative, emancipating and viable. Due to technological evolution, it is likely that the Right to be Forgotten in some of its new manifestations will become increasingly relevant and applicable in our societies. "*As the right to be forgotten gains traction and clarity through successive articulations, there will be winners and losers.*"[130] The prerogatives depend on various factors of both private and public nature, features and conflicting interests, which again require careful balancing, circumspection and consideration.

The Right to be Forgotten presents a real risk of bias, impartiality, obscurity, ambiguity and devaluing privacy. Such problems cannot be overlooked and disregarded as they risk damaging the openness of the Internet. The Right to be Forgotten, which exists in the European Union, and allows for mandatory delisting of results from search engines, must be balanced against other human rights and fundamental freedoms. The working paper supports the opinion that enforceability can only be accomplished through the combination of legal, technical and ethical measures. Article 17 of the GDPR, which empowers businesses to remove content from the Internet, is a step that shall be exercised with caution.[131] The fact that instituting the Right to be Forgotten causes a lack of transparency surrounding information about businesses or persons cannot be escaped.[132] Data controllers, such as Google, Bing, and Yahoo!, should be as transparent as possible by providing criteria used in delisting

[127] VASHISHTHA Sanjay, *The Evolution of Right to be Forgotten in India*, available at The Evolution of Right to be Forgotten in India (consulted on 10 July 2022).
[128] CACCIOTTOLO Mario, *The Streisand Effect: When Censorship Backfires*, available at The Streisand Effect: When censorship backfires - BBC News (consulted on 10 July 2022). "*She sued aerial photographer Kenneth Adelman for displaying a photograph of her home in Malibu, California, published as part of a series of photos of the California coastline that he was taking for a photographic project. Her legal action was later dismissed under California law - but she was probably more upset by the 420,000 visits in a month to the site where her photo was published. Naturally, these all came after the news of her legal action made headlines around the world.*"
[129] This is the case of Stacy Snyder, a teacher who was denied her teaching certificate because of an online photo that showed her in costume wearing a pirate's hat and drinking from a plastic cup. The university administration considered it to be unprofessional behavior for a teacher thus refusing her the teaching certificate. Removing the photo was no option to repair the damage as it has been cataloged by search engines and achieved by web crawlers.
[130] KELLY Michael & SATOLA David, *The Right to be Forgotten*, University of Illinois Law Review (2017), p. 65, available at The Right to be Forgotten (consulted on 10 July 2022).
[131] Art.17, *supra* n. 13.
[132] MINC Aaron, *What is the Right to be Forgotten? supra* n. 58.

decisions. Information about how Google arrives at decisions across countries and cases provide more awareness and transparency of how the balancing tests are performed by authorized entities.

* * *

List of abbreviations

AEPD	Agencia Española de Protección de Datos
Art.	Article
CJEU	Court of Justice of the European Union
CNIL	Commission Nationale de l'Informatique et des Libertés
ECD	E-Commerce Directive
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
e.g.	For example
EU	European Union
GDPR	General Data Protection Regulation
Ibid.	In the same place
n.	Note
p.	Page
Para.	Paragraph
RTBF	Right to be Forgotten
URL	Uniform Resource Identifier
v.	Versus

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