

The right to be forgotten.

The European Court of Justice's decision that individuals have the right to have search engine results removed where they affect privacy rights will have huge implications, not just for search engines, but also for social media operators and, in fact, any business with European operations. Content providers may now find themselves with obligations to comply with data protection laws even where they are not involved in making decisions about the online content provided.

The European Court of Justice's (ECJ) decision that individuals have the right to have search engine results removed where they affect privacy rights will have huge implications, not just for search engines, but also for social media operators and, in fact, any business with European operations (*Google Spain SL and Google Inc v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González C-131/12*).

The decision is binding in all EU member states, so internet search engines with EU operations will have to handle requests from individuals who want the deletion of search results that link to pages containing their personal data.

This puts search engines in a very difficult situation: either they de-activate the name search, which would result in information that has been legally published being available to a limited audience only, or they risk complaints to data protection agencies (DPAs) and the courts. Search engines will have to assess each case carefully before making any decision, and incur the additional costs of handling complaints and legal challenges.

Social media operators and other content providers may now find themselves with obligations to comply with data protection laws even where they are not involved in making decisions about the online content provided.

The implications for other businesses with European operations are also far-reaching: the ECJ's very broad interpretation of "establishment" extends the jurisdictional reach of EU law to cover organisations outside the EU whenever users in the EU are targeted. Essentially, if an EU subsidiary is intertwined with the goals and purposes of a non-EU parent company and if a service is aimed at the local EU member state market, EU law may be found to apply to the non-EU entity.

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