

ARTICLE 29 Data Protection Working Party



Brussels, 16 January 2015

Dorothee Belz
Microsoft Associate and General Counsel

By e-mail : dorothee.belz@microsoft.com

Dear Ms Belz,

You will find herewith the common guidelines on the implementation of the judgment of the Court of Justice of the European Union in the case “Google Spain and Inc. v. Agencia española de protección de datos (AEPD) and Mario Costeja González” (C-131/12), which were adopted by the Working Party on 26 November 2014.

These guidelines aim at ensuring a consistent and uniform implementation of the ruling across Europe, and they contain the common criteria to be used by data protection authorities when addressing complaints.

They recall that the CJEU ruling confirmed the applicability of Directive 95/46/EC to a search engine 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.

De-listing decisions must be implemented in such a way that they guarantee the effective and complete protection of data subjects’ rights and that EU law cannot be circumvented. In that sense, limiting de-listing to EU domains on the grounds that users tend to access search engines via their national domains cannot be considered a sufficient means to comply with the ruling. In practice, this means that in any case de-listing should also be effective on all relevant domains, including .com.

Moreover, search engines should not as a general practice inform the webmasters of the pages affected by removals of the fact that some web pages cannot be accessed from the search engine in response to a specific name-based query. There is no legal basis for such routine communication under EU data protection law. However, taking into account the important role that search engines play in the dissemination and accessibility of information posted on the Internet and the legitimate expectations that webmasters may have with regard to the indexing and presentation of information in response to users’ queries, the Working Party

This Working Party was set up under Article 29 of Directive 95/46/EC. It is an independent European advisory body on data protection and privacy. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC.

The secretariat is provided by Directorate C (Fundamental rights and Union citizenship) of the European Commission, Directorate General Justice, Freedom and Security, B-1049 Brussels, Belgium, Office No MO59 02/34

Website: http://ec.europa.eu/justice_home/fsj/privacy/index_en.htm

asks search engines to be more transparent, provide the de-listing criteria they use, and make more detailed statistics available (such statistics should concern de-listing requests that were accepted and refused).

We hope that you will find these criteria useful as part of your own complaint-handling activity.

Furthermore, we would be grateful if you could tell us how you will respect national applicable laws with regard to the processing of delisting requests.

Finally, the Working Party wishes that you provide it with the complete list of the establishments to which the EU data protection authorities should address their findings in the handling of local complaints, specifically in order to deal with cases where Microsoft has no establishment on their national territory. National data protection authorities may contact these establishments when dealing with specific issues related with the complaints that they received.

Yours sincerely,

On behalf of the Article 29 Working Party,



Isabelle FALQUE-PIERROTIN
Chairwoman

Attached document:

- Guidelines on the implementation of the court of justice of the European Union judgment on

“Google Spain and Inc v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González” C-131/12