

The Right to Erasure and to be Forgotten



PRIVACY
PROTECTION
AUTHORITY



Ministry of Justice



The Drunk Pirate

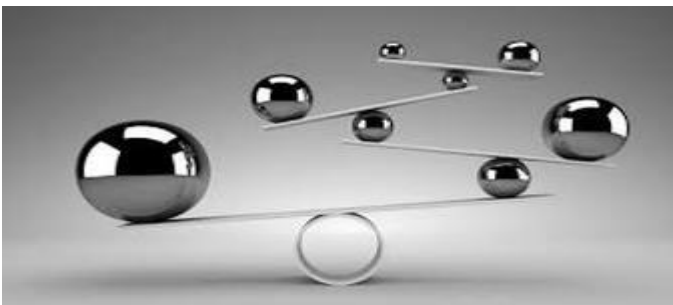


Mario Costeja



Difficulties Raised by Costeja

- Privacy v freedom of Speech
- Search engines may cause chilling effect to freedom of information and data flows
- How are DPAs supposed to decide when a link should be removed?



Guideline of WP29



WP29 Guidelines



The guidelines apply on a case where a search was conducted using the name of the data subject.

Right to privacy verses the right to access information, freedom of speech:

- Data subject holds a public position?
- Disclaimer of search engine with regards do deletion?
- Notice to original content about deletion?
- Minors?
- Data accuracy?
- Opinion?
- Age of data?
- Data relates to professional life or private life?

WP29 Guidelines



- Sensitive data? (health data, political stand, sexual orientation)
- Consent and withdrawal from consent
- Journalistic context?
- Legal obligation to make data accessible?
- Criminal offence? severity, when was the offence carried out?

GDPR





Applies to all controllers in following circumstances:

- No longer necessary
- Withdrawal of consent
- Objection and there are no overriding legitimate grounds for processing
- Unlawful processing
- Erasure to comply with the law
- Controller made data public- notify other controllers by reasonable means
- Age of data subject
- Direct marketing



Exceptions



- Exercising the right of freedom of expression and information
- Compliance with legal obligations
- Public interest in the field of health
- Archiving purposes in the public interest (scientific, historical, statistical)
- Establishment, exercise, or defense of legal claims



- Direct Marketing
- Consent?
- Data minimization?
- Purpose limitation?