The right to be forgotten in the Google case (case C-131/12): A clear victory for data protection or a hurdle for the Internet?

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Abstract

The right to be forgotten is a new right that is introduced in the Draft Proposal for a General Data Protection Regulation of 2012, which has been widely discussed. Critics, on the one hand, disagree with its necessity and hold the view that it represents the biggest threat to the free speech on the Internet in the coming years. Viviane Reding, former EU Justice Commissioner and currently Vice-President of the EU Commission, on the other hand, described this right as a modest expansion of existing data privacy rights. The ECJ with its decision of 13 May 2014 in case C-131/12 confirmed this view, interpreting the provisions of Directive 95/46/EEC in such a way as to include a right 'to be forgotten' on the Net. The case referred particularly to search engines and their obligation to remove links to web pages from their lists of results, following requests of data subjects on the grounds that information should no longer be linked to their name by means of such a list and taking into account that even initially lawful processing of accurate data may, in the course of time, become incompatible with the directive where those data are no longer necessary in the light of the purposes for which they were collected or processed. This ruling addresses only one aspect of the 'right to be forgotten', which concerns the role of Internet Intermediaries, but has wider implications that need to be examined.