

2.3. In the event that the answer to the foregoing question is affirmative, may the national data-control authority (in this case the Agencia Española de Protección de Datos — Spanish Data Protection Agency), protecting the rights embodied in Articles 12(b) and 14(a) of Directive 95/46/EC, directly impose on the search engine of the “Google” undertaking a requirement that it withdraw from its indexes an item of information published by third parties, without addressing itself in advance or simultaneously to the owner of the web page on which that information is located?

2.4. In the event that the answer to the foregoing question is affirmative, would the obligation of search engines to protect those rights be excluded when the information that contains the personal data has been lawfully published by third parties and is kept on the web page from which it originates?

3. Regarding the scope of the right of erasure and/or the right to object, in relation to the “derecho al olvido” (the “right to be forgotten”), the following question is asked:

3.1 must it be considered that the rights to erasure and blocking of data, provided for in Article 12(b), and the right to object, provided for by Article 14(a), of Directive 95/46/EC, extend to enabling the data subject to address himself to search engines in order to prevent indexing of the information relating to him personally, published on third parties’ web pages, invoking his wish that such information should not be known to internet users when he considers that it might be prejudicial to him or he wishes it to be consigned to oblivion, even though the information in question has been lawfully published by third parties?

⁽¹⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 L 281, p. 31).

Reference for a preliminary ruling from the Oberster Gerichtshof (Austria), lodged on 19 March 2012 — Pensionsversicherungsanstalt v Peter Brey

(Case C-140/12)

(2012/C 165/19)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Appellant on a point of law: Pensionsversicherungsanstalt

Respondent to the appeal on a point of law: Peter Brey

Question referred

Is a compensatory supplement to be regarded as a ‘social assistance’ benefit within the terms contemplated in Article 7(1)(b) of Directive 2004/38/EC ⁽¹⁾ of the European Parliament and of the Council of 29 April 2004?

⁽¹⁾ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77).

Action brought on 23 March 2012 — European Commission v French Republic

(Case C-143/12)

(2012/C 165/20)

Language of the case: French

Parties

Applicant: European Commission (represented by: G. Wilms and S. Petrova, acting as Agents)

Defendant: French Republic

Form of order sought

— declare that, by failing to issue permits in accordance with Articles 6 and 8, to reconsider and, if appropriate, to update the existing permits and to ensure that all the existing installations are operated in accordance with the requirements laid down in Articles 3, 7, 9, 10, 13, 14(a) and 9b) and 15(2) of the IPPC Directive, the French Republic has failed to fulfil its obligations under Article 5(1) of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (IPPC Directive) ⁽¹⁾;

— order French Republic to pay the costs.

Pleas in law and main arguments

Pursuant to Article 5(1) of the IPPC Directive, Member States are to take the necessary measures to ensure that the competent authorities see to it, by means of permits in accordance with Articles 6 and 8 or, as appropriate, by reconsidering and, where necessary, by updating the conditions, that existing installations operate in accordance with the requirements of Articles 3, 7, 9, 10 and 13, Article 14(a) and (b) and Article 15(2) not later than 30 October 2007.