

Judgment of the Court (Grand Chamber) of 13 May 2014 (request for a preliminary ruling from the Audiencia Nacional — Spain) — Google Spain SL, Google Inc. v Agencia Española de Protección de Datos (AEPD), Mario Costeja González

(Case C-131/12) ⁽¹⁾

(Personal data — Protection of individuals with regard to the processing of such data — Directive 95/46/EC — Articles 2, 4, 12 and 14 — Material and territorial scope — Internet search engines — Processing of data contained on websites — Searching for, indexing and storage of such data — Responsibility of the operator of the search engine — Establishment on the territory of a Member State — Extent of that operator's obligations and of the data subject's rights — Charter of Fundamental Rights of the European Union — Articles 7 and 8)

(2014/C 212/04)

Language of the case: Spanish

Referring court

Audiencia Nacional

Parties to the main proceedings

Applicants: Google Spain SL, Google Inc.

Defendants: Agencia Española de Protección de Datos (AEPD), Mario Costeja González

Re:

Request for a preliminary ruling — Audiencia Nacional (Spain) — Interpretation of Article 2(b) and (d), Article 4(1)(a) and (c), Article 12(b) and subparagraph (a) of the first paragraph of Article 14 of 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) and Article 8 of the Charter of Fundamental Rights of the European Union (OJ 2000 C 364, p. 1) — Concept of establishment on the territory of a Member State — Relevant criteria — Concept of 'use of equipment situated on the territory of a Member State' — Temporary storage of the information indexed by search engines — Rights to removal and blocking of data

Operative part of the judgment

1. Article 2(b) and (d) of 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 are to be interpreted as meaning that, first, the activity of a search engine consisting in finding information published or placed on the internet by third parties, indexing it automatically, storing it temporarily and, finally, making it available to internet users according to a particular order of preference must be classified as 'processing of personal data' within the meaning of Article 2(b) when that information contains personal data and, second, the operator of the search engine must be regarded as the 'controller' in respect of that processing, within the meaning of Article 2(d).
2. Article 4(1)(a) of Directive 95/46 is to be interpreted as meaning that processing of personal data is carried out in the context of the activities of an establishment of the controller on the territory of a Member State, within the meaning of that provision, when the operator of a search engine sets up in a Member State a branch or subsidiary which is intended to promote and sell advertising space offered by that engine and which orientates its activity towards the inhabitants of that Member State.
3. Article 12(b) and subparagraph (a) of the first paragraph of Article 14 of Directive 95/46 are to be interpreted as meaning that, in order to comply with the rights laid down in those provisions and in so far as the conditions laid down by those provisions are in fact satisfied, the operator of a search engine is obliged to remove from the list of results displayed following a search made on the basis of a person's name links to web pages, published by third parties and containing information relating to that person, also in a case where that name or information is not erased beforehand or simultaneously from those web pages, and even, as the case may be, when its publication in itself on those pages is lawful.

4. Article 12(b) and subparagraph (a) of the first paragraph of Article 14 of Directive 95/46 are to be interpreted as meaning that, when appraising the conditions for the application of those provisions, it should *inter alia* be examined whether the data subject has a right that the information in question relating to him personally should, at this point in time, no longer be linked to his name by a list of results displayed following a search made on the basis of his name, without it being necessary in order to find such a right that the inclusion of the information in question in that list causes prejudice to the data subject. As the data subject may, in the light of his fundamental rights under Articles 7 and 8 of the Charter, request that the information in question no longer be made available to the general public on account of its inclusion in such a list of results, those rights override, as a rule, not only the economic interest of the operator of the search engine but also the interest of the general public in having access to that information upon a search relating to the data subject's name. However, that would not be the case if it appeared, for particular reasons, such as the role played by the data subject in public life, that the interference with his fundamental rights is justified by the preponderant interest of the general public in having, on account of its inclusion in the list of results, access to the information in question.

⁽¹⁾ OJ C 165, 9.6.2012.

**Judgment of the Court (Second Chamber) of 15 May 2014 (request for a preliminary ruling from the
Handelsgericht Wien — Austria) — Michael Timmel v Aviso Zeta AG**

(Case C-359/12) ⁽¹⁾

**(Reference for a preliminary ruling — Consumer protection — Directive 2003/71/EC — Article 14(2)
(b) — Regulation (EC) No 809/2004 — Articles 22(2) and 29(1) — Base prospectus — Supplements to
the prospectus — Final terms — Time and method of publication of required information — Conditions
for publication in electronic form)**

(2014/C 212/05)

Language of the case: German

Referring court

Handelsgericht Wien

Parties to the main proceedings

Applicant: Michael Timmel

Defendant: Aviso Zeta AG

Intervener: Lore Tinhofer

Re:

Request for a preliminary ruling — Handelsgericht Wien — Interpretation of Article 14(2)(b) of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ 2003 L 345, p. 64) — Interpretation of Article 22(2) and Article 29(1)(1) of Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements (OJ 2004 L 149, p. 1) — Publication of information not known at the time of approval of the base prospectus — Scope of the obligation make the prospectus available to the public in a printed form — Conditions for publication of the prospectus in an electronic form — Public limited company having included in a prospectus entitled 'final terms' information which was not known at the time of approval of the base prospectus — Lack of lawful publication — Access to that prospectus subject to a registration procedure and costs