

**Privacy and free speech on the  
Internet – taking the household  
exemption online.**

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# General Data Protection Regulation

## Article 17 Right to be forgotten and to erasure



„The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data...”

# Privacy and free speech

- The scope of R2B4 – different categories of content:
  - #1 „I post something online...”
  - #2 „...and someone else re-posts it.”
  - #3 „Someone else posts something about me.”
- What about search engines? (*Case C-131/12 Google Spain, S.L., and Google Inc. v Agencia Espanola de Proteccion de Datos*)

# Search engines

- Personal data in search results - individual profiling?
- The right to information – „...search engines should be allowed to freely crawl and index information that is **openly available on the Web and intended for mass outreach**” (Recommendation CM/Rec (2012)3 on the protection of human rights with regard to search engines)

# Case C-101/01 Criminal proceedings against Bodil Lindqvist

- Article 3 (2) “This Directive shall not apply to the processing of personal data (...) by a natural person in the course of a purely personal or household activity” (household exemption)
- The Court: “clearly not the case with the processing of personal data consisting in publication on the internet so that those data are made accessible to an indefinite number of people”

# Household exemption online?

- “(...) when access to profile information extends beyond self-selected contacts, such as access to a profile is provided to all members within the SNS or the data is indexable by search engines, access goes beyond the personal or household sphere.” (Article 29 Data Protection Working Party opinion 5/2009 on online social networking)

# Private and public spheres

- Dichotomy or a continuum?
- Does „online” always equal „public”?

data which is  
published seeking  
broad  
dissemination

data which  
although in the  
public space is not  
intended for mass  
communication

data which is not  
intended for mass  
communication in  
aggregate

Thank you!