



SOCIEDAD INTERAMERICANA DE PRENSA
INTER AMERICAN PRESS ASSOCIATION
SOCIEDADE INTERAMERICANA DE IMPRENSA

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Miami, November 14, 2017

Court of Justice of the European Union
Registry of the Court
Rue du Fort Niedergrünewald
L-2925 Luxembourg

Re: Case C-507/17, Google

The Inter American Press Association (IAPA), an independent, non-partisan and not-for-profit organization that brings together media in the Americas to promote and protect freedom of expression, reiterates its concern about the potential adverse consequences regarding access to information related to the National Commission on Informatics and Liberty (CNIL) of France demand that Google remove certain content “in all its sites in the world.”

Referring to the pending review by the Court of Justice of the European Union (CJEU) and following an appeal that the U.S. technology company submitted to France’s Council of State against CNIL, and payment of a 100,000 euros fine for non-compliance, the signers below reaffirm what was expressed in 2015 and 2016 to CNIL President Isabelle Falque-Pierrotin.

Our note of Oct. 7, 2016 stressed that “Freedom of expression will not be able to survive on the Internet if the laws of each nation are applied to all Web sites.” It added, “The concern of the IAPA is that the application of the CNIL criteria would induce countries with repressive and autocratic regimes” to attempt to impose internationally “the restrictions and censorship that are applied in their national jurisdiction.”

On that occasion we remarked that “global removal is a disproportionate and excessive measure given that the interpretation and jurisprudence that exist concerning the right to privacy and the attributes of freedom of expression and of the press have marked differences in various countries. Without going further, the First Amendment of the Constitution of the United States as well as similar constitutional criteria in many Latin American countries would not permit what France asks of Google due to the fact that it would infringe their own laws.”

Notable differences exist concerning freedom of expression between Europe and Latin America as noted at the preparatory meeting of the Internet Governance Forum held August 3-4, 2015 in Mexico City. European countries focus on the right to protect personal information while in Latin America this context is delimited by the American Convention on Human Rights. Hence,

extrapolating European criteria to our region would violate the jurisprudence of the Inter-American System.

Our organization considers that in addition to the abuse of jurisprudence, the demand to remove content globally and the very right “to oblivion” contradict the principle of contextualization on which the work of news media is based.

Some jurists and communication experts deny that the right “to oblivion” could be censorship, instead speaking of a “balance of interests” because the European Court of Justice ruling on May 13, 2014 dealt solely with petitions for removal of links to browsers and not to the source.

However, in our opinion this represents a restricted view of freedom of expression. It deals not only with content publication, but with the rights of distribution and circulation. To accept that point would be equivalent to claiming that freedom of the press is not affected if a newspaper were published without hindrance, yet street sales or distribution by geographical area were blocked.

We feel that eliminating the original publication or removing it from Internet searches would not only affect press freedom, but restrict citizens’ right to information. We ask ourselves to what extent will people be able to continue relying on information published on the Web if the facts are altered with unclear and changing criteria. Is it irrelevant that the one running for mayor in our city has been investigated for alleged embezzlement? Or that the one who takes our children to school years ago faced trial for alleged corruption of minors?

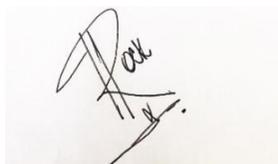
For all these reasons the IAPA is confident that the Court of Justice of the European Union, in its review, will take into consideration these observations and those of other international organizations, jurists, and rapporteurs of the Inter-American Commission on Human Rights who warn about the potential harmful effects of the so-called “right to oblivion” concerning the work of the journalists and about freedom of expression and of the press.

In order to consolidate democracy, it is essential to guarantee full freedom of expression. The preservation of good name, intimacy and image of persons can and must be assured through other institutes and legal mechanisms already prevailing, that enable the weighing of rights.

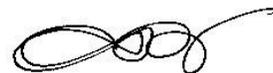
With respect,



Gustavo Mohme
IAPA President



Roberto Rock
Chairman, Comm.
Freedom of the Press



Carlos Jornet
Right to Oblivion Sub-Committee