

# EU judges to hear arguments in Google test privacy case

Claire Davenport, Reuters

(Reuters) - [Google](#) [1] will do battle with Spain's data protection authority in Europe's highest court on Tuesday in a landmark case with global implications which poses one of the thorniest questions of the Internet age: When is information really private?

The issue before the European Court of Justice has been boiled down to this poser: If a person fails to pay social security contributions and their house is auctioned off as a result, do they have the right to ask [Google](#) [1] to delete such damaging information from search results?

Behind that lies complex arguments over freedom of information, the right to protect data, what it means to be a publisher and who ultimately polices the web.

Lawyers for Google will argue the search engine company should not have to erase lawful content which it did not create from its massive search index.

Spanish officials will argue that Google should delete information from its index where an individual's privacy is breached.

Tuesday's hearing in Luxembourg opens arguments but it could be nine months to a year before a ruling is handed down.

It is based on a complaint made by a Spanish man who made a Google search using his name and uncovered an announcement in a newspaper from several years earlier saying a property he owned was up for auction because of non-payment of social security.

One of Spain's top courts, the Audiencia Nacional, upheld his complaint and ruled Google should delete the information from its results. The case was referred to the Court of Justice in March last year after Google challenged the decision.

Supporters say that if Google is asked to delete such information it will create a slippery slope leading to all sorts of data being deleted for spurious reasons, and it would essentially make Google the responsible party.

### CONTROLLER OR HOST?

The European court will try to determine if Google can be considered the "controller" or just a host of information. It will also assess whether a search engine run by a company based in California such as Google can be subject to EU privacy law.

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Spain's data regulator has said EU judges must consider if EU citizens have to go to U.S. courts to exercise their privacy rights and whether Google "is responsible for the damage the diffusion of personal information can cause for citizens".

The hearing will also test a draft European law that aims to strengthen citizens' privacy. The rules proposed by the European Commission in 2012 and being debated by the European Parliament would give people "the right to be forgotten" - that is, the right to have personal data deleted, in particular from the web.

The proposal has sparked sharp criticism from industry experts who say Internet content could be manipulated at the expense of freedom of speech if such a principle were to be enshrined in European law.

In a blog, Google's global privacy counsel, Peter Fleischer, said such a right created false expectations.

"I regularly hear requests from people to 'remove all references to me, Mrs. X, from the Internet'," Fleischer said, adding that he was expressing his own views, not the company's.

"No law can or should provide such a right," he said.

[Spain](#) [2] referred the case to the EU's highest court to clarify how the EU draft law should be applied, particularly in relation to Google. It said the outcome of the hearing would be relevant not only in Spain but in all EU countries.

Spain's data protection agency said almost 200 verdicts in similar cases had been challenged in the Audiencia Nacional.

(Reporting By Claire Davenport; Additional reporting by Clare Kane in Madrid; Editing by Pravin Char)

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