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NOTE

From: Publications Office of the European Union
To: Working Party on e-Law (e-Law)
Subject: Anonymisation of personal data published in official documents
- State of play

1. The Publications Office (OP) continues experiencing a rising number of requests for removal of personal data. The requests concern various websites and various types of documents published by the OP.
2. The legal basis for the removal of personal data stem from Regulation (EC) No 45/2001¹. Additionally the Court of Justice of the European Union in its case law (e.g. in the case 131/12 [the so-called "Google case"]²) recognises the right to be forgotten.

¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data,

<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1464339125611&uri=CELEX:32001R0045>

² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62012CA0131&qid=1464357052205&from=FR>

3. The Publications Office in all cases when it is not an author of a document or metadata is a processor in the sense of Article 2 (a) of the Regulation mentioned above. For this reason according to Article 21 of the same regulation the OP has to act on instructions from the controller, unless required to do otherwise by national or Union law. This means that – except in the case of an order from the European Data Protection Supervisor (EDPS) or a court – the Publications Office is not entitled to remove or correct data in the documents. Instead the OP asks the responsible author service to decide on the legitimacy of the request. This procedure was for instance followed for a number of requests concerning personal data of contact persons or individual secondary beneficiaries in EU-financed contracts on TED. Temporary solutions may be applied while the issue is under discussion or during the time needed for the implementation of the final technical solution.
4. Handling specific cases
 - a) Personal data anonymisation in the Official Journal
 - i) On 26 September 2016, the first Official Journal with anonymised personal data (republishing OJ C 102 A of 27 March 2015) was produced and published on the EUR-Lex website. This anonymised version erases the name concerned by the anonymisation request in the reserve list of an open EPSO competition. It also includes the following comment: "Information erased within the framework of the protection of individuals with regard to the processing of personal data."
 - ii) The republication follows the solution agreed with the Legal Services of the Council and of the Commission, which is to blank-out the personal data in question in the authenticated issue of the Official Journal as well as in the concerned act, both published on EUR-Lex. The agreement defines that in such a case a new version would be published on EUR-Lex with an appropriate disclaimer about the reasons for blanking-out the data, while the original version would be kept in the repository. The original version is not available for the public, however its preservation serves as a proof that the Official Journal in question was correctly published and authenticated on the date stated on its cover page.

- b) Request for removal of personal data from a judgement under the JURE collection
- iii) Another type of request received recently by the Publications Office concern metadata and the text of a judgment published under the JURE collection. The representative of a party in proceedings before a national court requested the Publications Office not only to anonymise the names in the bibliographic notices, but also to remove the text of the judgment. The position of the Publications Office is that as the obligation to publish JURE judgments stems from a legal act - the Lugano Convention³ - therefore, similarly to the acts published in the Official Journal, the OP can only anonymise the judgment and the metadata, but the document itself cannot be removed.
- v) Recently the Publications Office has also exchanged notes with EDPS on whether there could be efficient mechanisms preventing search engines from finding information or documents related to an individual who requested that the search engines do not link his/her personal data with a judgment concerning him or her. As it seems, there is currently no technical solution which would guarantee that a search engine would not access such information or documents.
- vi) Moreover, as the only (imperfect) technical solution would prevent the document to be found not only by the name but also by any other term, there is an important legal question at stake: can the benefits from the point of view of data protection (unclear and hard to estimate), obtained by applying such a solution limiting transparency of and accessibility to EU law be considered justifiable and proportionate?
- vii) Seeing the growing number of anonymisation requests, raising awareness among the EU institutions of whether it is necessary to publish personal data would allow anticipating and reducing the number of such applications. Likewise, it would be beneficial to enable the data subjects to ask for anonymisation before publication if this right exists.

³ Article 3 of Protocol 2 to the Lugano Convention. Text: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22007A1221\(03\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22007A1221(03))