

Privacy & Data Protection

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Headlines

- Enforced subject access request ban — delayed in UK, p.17
- Dutch regulator's teeth sharpened, p.19
- New Opinion on device fingerprinting, p.20

Contents

<i>Expert comment</i>	2
<i>Scrapping Safe Harbor: European scare mongering or a real possibility?</i>	4
<i>Privacy issues and drones: preparing for take-off</i>	7
<i>Enforced Subject Access — is it finally the end?</i>	10
<i>Right to be forgotten — guidance at last?</i>	13
<i>News & Views</i>	17

Working Party issues definitive guidance on take down requests

The Article 29 Working Party has published an Opinion on the implementation of the Court of Justice of the European Union ruling in *Google v AEPD and González*.

The 20 page document constitutes guidance for search engine operators on how to interpret the judgment, which has been controversial since it was made.

The guidance consists of two Parts — Part I contains the Working Party's interpretation of the findings of the case with respect to search engines, and Part II gives

a list of common criteria established by European data protection authorities for handling complaints concerning a search engine's refusal to de-list certain links to information.

Although the criteria are aimed at data protection regulators, they serve as useful pointers for search engine providers in creating their own procedures and processes for assessing de-listing requests.

The Opinion emphasises that the list is flexible, and each of the various criteria identified need to

be accounted for in a balancing exercise. Each case needs to be assessed on a case-by-case basis.

The publication of the Opinion follows the establishment earlier in 2014 of an electronic case-handling dashboard, in order to help EU data protection authorities deal with complaints.

An article on the guidance in the Opinion, together with full commentary on the criteria, is published on pages 13-15 of this edition.

CJEU makes waves again — this time, CCTV use and household exemption

The Court of Justice of the European Union has taken a strict interpretation of the 'household exemption' in the Data Protection Directive (95/46/EC), in a decision with far reaching consequences for both organisations and data protection regulators.

In response to a request for a preliminary ruling from the Czech Republic, the CJEU ruled that

domestic CCTV which films a public area cannot be exempt from the obligations contained in the Directive by virtue of the household exemption.

According to the CJEU, video surveillance by individuals that is carried out 'even partially' in a public space will be subject to the Directive, even if the camera capturing images of

people is directed 'outwards from the private setting of the person processing the data'.

The decision is likely to require data protection authorities to revise their guidance on the use of CCTV. It also is possible that the use of CCTV evidence captured in public spaces will increasingly be

[\(Continued on page 17\)](#)