

3 или 5 присяжных. Присяжные заседатели рассматривают вопрос о причинах наступления смерти и личности потерпевшего при невыясненных обстоятельствах. Жюри коронера выносит вердикт большинством голосов. Граждане участвуют в судебных разбирательствах в качестве присяжных заседателей в течение одной или трех недель, в коронерском расследовании – несколько дней. Лица, исполнившие обязанности присяжных заседателей, не вызывают в суд в течение двух лет. Присяжным заседателям выплачиваются суточные в размере, не превышающем 360 гонконгских долларов в день. Согласно законодательству Гонконга, работодатель, препятствующий работнику исполнять обязанности присяжного заседателя, может быть оштрафован на сумму до 25 000 гонконгских долларов или лишен свободы сроком до 3 месяцев. В Гонконге с середины 1980-х годов развиваются институты альтернативного разрешения споров, в которых участвуют граждане, в частности институт медиации.

Литература

1. Поляцко А.О., Юринець Ю.Л. Теоретико-правові засади розвитку та функціонування інституту суду присяжних в Україні. *Порівняльно-аналітичне право*: Електронне наукове фахове видання. 2018. № 5. С. 41-46.

2. Руденко В.Н. Участие граждан в отправлении правосудия в современном мире. Екатеринбург: УрО РАН, 2011. 644 с.

UDC 342.7:001.102(043.2)

Nisan Yüce, Attorney at Law,
Izmir Bar Association, Izmir, Republic of Turkey

RIGHT TO BE FORGOTTEN

The right to be forgotten is a relatively recent although comprehensively discussed and established fundamental human right, which is directly in relation with the freedom of expression. The place of the Internet in our lives nowadays has brought along our personal data be used and shared without our consent, and information which we prefer not to be known by anyone be easily found by people unrelated to us, through their computers and smartphones. This has led international organizations and governments to establish new concepts and regulate rules in order to secure people's fundamental personal rights. The right to be forgotten may be summed up as the right of natural and legal persons to have their personal data in any form such as information, photographs, or documents be removed from or not be included among the results of Internet searches made under their own names and other directories, under various circumstances. The right to be forgotten differs from the right to privacy in terms of the subject: While the right to privacy regards nonpublic information,

the right to be forgotten is about information that once was open to the knowledge of third parties.

The right to be forgotten was first mentioned as a right that draws attention to privacy and protection of personal data by Viviane Reding, Vice-President of the European Commission, in January 2012 [1]. The first case where the right to be forgotten is a subject to examination by legal authorities is the *Mario Costeja González v. Google Inc*, *Google Spain* Judgment of the Court of Justice of the European Union (CJEU), in May 2014 [2]. The CJEU states in this decision the extent of the responsibilities of the operator of a search engine and the scopes of the processing of data in regard of the EU Directive 95/46/EC, and accepts search engines as data controllers due to their data processing activities. Furthermore, despite not being located in a member country, carrying out its data processing activities through Google Spain, a company Google Inc. has established within the borders of a member country, CJEU puts Google Inc. in the scope of Directive 95/46/EC. Consequently, based on the examinations carried out under the Directive, the CJEU has decided that individuals have the right to request search engines to remove links containing their personal data from search results under the specified conditions.

The decision has led many companies and institutions to implement new methods and practices, such as accepting applications by creating a form for claims regarding the right to be forgotten, and studies of governments and international organizations to set more detailed and specific regulations regarding the matter started all around the globe. The most important development as an international regulation is the Regulation (EU) 2016/679, referred as General Data Protection Regulation (GDPR), which entered into force in May 2016 and applies since May 2018 [3]. The GDPR comprehensively defines the material and territorial scope of the DGPR, the definition of the terms, the principles of processing personal data, the rights, liabilities, and penalties; and clearly states that the right to be forgotten can be exercised based on the individual's inability to analyze risks in terms of consent given at childhood. Nevertheless, the foremost importance about the DGPR is that while prior studies have made the right visible, the DGPR directly embodies the issue with its Art. 17, titled as "Right to erasure ('right to be forgotten')."

In Turkey, the right to be forgotten has its constitutional basis from Art. 20, with the Constitutional amendment made in 2010, which constitutes that "Everyone has the right to request the protection of his/her personal data" [4]. The first case-law about the subject was in June 2015, when the Turkish Court of Appeals made direct reference to the aforementioned decision of CJEU by using the term "right to be forgotten" [5]. The first case to evaluate the right to be forgotten as a fundamental right, however, was in March 2016 [6], in which the applicant has requested their name to be deleted from the archive database of an internet-based news site. The Constitutional Court has assessed the case

with two general principles of the Constitution: Right to protect and improve one's spiritual existence; and Freedom of Expression and Dissemination of Thought and Freedom of the Press. Following this Judgment, Turkish Personal Data Protection Law No. 6698 has entered into force in March 2016 [7]. The Law regulates the purpose and the scope, definitions, the processing of personal data, the difference between processing "Special categories of personal data" and "personal data", rights and obligations, Data Controllers' Registry, Personal Data Protection Authority (PDPA), and other related topics. Within the scope of this Law, many applications were submitted to the PDPA with request for the applicant's personal data to be deleted from various websites or media organizations, which has led to the latest development in Turkey: The Decision of the Personal Data Protection Board dated 22/07/2020 and numbered 2020/559 regarding "the transfer of personal data abroad based on Convention No. 108" [8]. With this decision, it is announced to the public that the applications concerning the Right to be forgotten are considered as a supreme concept within the framework of the Constitution and Law No.6698, and in this context, the relevant persons shall apply to the search engines regarding their requests to remove the search results from the index based on the procedures and periods specified in the provisions of the Law, and if the data controllers refuse or do not respond to the applicant, they may apply to the Board, whilst also directly applying for judicial remedies to restrict or deny access to the subjects of the application.

To sum up, with the growing pace and place of the Internet putting the processing of personal data under a new light, it is now accepted as a fundamental human right to request to be removed from any databases under the provisioned circumstances, thus, "to be forgotten." However, while the right to be forgotten must be exercised with utmost care, it must also be ensured that it does not conflict with the freedom of expression and freedom of the press; the balance between legal interest and rights must be maintained.

Literature

1. Viviane Reding's speech during The EU Data Protection Reform 2012: Making Europe the Standard Setter for Modern Data Protection Rules in the Digital Age, Munich, 2012. URL: https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_12_26 (date of access: 18.01.2021).

2. Judgment in Case C-131/12 Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González, Court of Justice of the European Union Press Release No 70/14, Luxembourg. 2014. URL: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2014-05/cp140070en.pdf> (date of access: 18.01.2021).

3. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation). URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679> (date of access: 18.01.2021)

4. Constitution of Republic of Turkey. URL: https://global.tbmm.gov.tr/docs/constitution_en.pdf (date of access: 18.01.2021).

5. Republic of Turkey Court of Appeals Assembly of Civil Chambers Judgment, Merits. No. 2014/4-56 Decree No. 2015/1679, 17 June 2015.

6. Republic of Turkey Constitutional Court Plenary Judgment of applicant N.B.B. Application no: 2013/5653, 3 March 2016. URL: <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2013/5653> (date of access: 18.01.2021).

7. Turkish Personal Data Protection Law No. 6698. URL: <https://www.kvkk.gov.tr/Icerik/6649/Personal-Data-Protection-Law> (date of access: 18.01.2021)

8. Decision of the Personal Data Protection Board dated 22/07/2020 and numbered 2020/559 regarding the transfer of personal data abroad based on Convention No. 108. URL: <https://www.kvkk.gov.tr/Icerik/6812/2020-559> (date of access: 18.01.2021).

UDC 342(043.2)

Nizar Bandar, PhD student,
Consul of Ukraine to the Kingdom of Saudi Arabia,
Riyadh, Saudi Arabia,

IMPACT OF TRAVEL RESTRICTIONS RELATED TO THE COVID-19 PANDEMIC ON MIGRATION FLOWS BETWEEN UKRAINE AND SAUDI ARABIA

As a result of the COVID-19 pandemic, many countries and regions have imposed quarantines, entry bans, or other restrictions for citizens of or recent travelers to the most affected areas [1]. With measures introduced by governments to ‘flatten the curve’ of infections, the COVID-19 pandemic is already greatly impacting mobility and migration. Travel restrictions are passed to contain the virus, including by prohibiting entry of residents from other countries, and some countries have closed their borders entirely. Labour migration has been temporarily suspended in some countries while, in others, migration processing and assistance to asylum seekers are being slowed down. Generally, the adopted restrictions have unambiguously influenced all types of migration flows between countries, such as tourism, employment, study, private visits, pilgrimage, work visits, etc.

Saudi Arabia introduced some of the most stringent preventive measures in the world, which were aimed at preventing a large spread of the coronavirus in the country. At the beginning of a pandemic, all international flights was suspended, except in exceptional cases, for a period of two weeks, as of 15 March 2020. The Saudi Ministry of Foreign Affairs recently issued a statement announcing that all religious visits (Umrah) to the sacred Muslim sites of Mecca and Medina have to be cancelled or postponed for the time being. In