



INTERNATIONAL FEDERATION OF LIBRARY ASSOCIATIONS AND INSTITUTIONS
FEDERATION INTERNATIONALE DES ASSOCIATIONS DE BIBLIOTHECAIRES ET DES BIBLIOTHEQUES
INTERNATIONALE VEREINIGUNG BIBLIOTHEKARISCHER VERBÄNDE UND EINRICHTUNGEN
FEDERACION INTERNACIONAL DE ASOCIACIONES DE BIBLIOTECARIOS Y BIBLIOTECAS
МЕЖДУНАРОДНАЯ ФЕДЕРАЦИЯ БИБЛИОТЕЧНЫХ АССОЦИАЦИЙ И УЧРЕЖДЕНИЙ
国际图书馆协会与机构联合会
الاتحاد الدولي لجمعيات ومؤسسات المكتبات

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Application of Right to be Forgotten Rulings: The Library Viewpoint

To whom it may concern,

I am writing to you from IFLA, the International Federation of Library Associations and Institutions. With members in over 140 countries, IFLA is the global voice of the library community, representing hundreds of thousands of libraries worldwide, and their hundreds of millions of users.

Libraries have long played an essential role in providing access to knowledge for all, in support of widely accepted human rights principles. For this access to be meaningful, libraries and their users also rely on freedom of expression, which allows for the creation and sharing of knowledge in the first place.

The internet age has brought opportunities and challenges. It has facilitated the creation and sharing of, and access to, knowledge, complementing the traditional role of libraries. However, as the volume of information available digitally increases exponentially, traditional indexing and discovery techniques are not keeping up. To ensure that information on the Internet is discoverable, search engines provide an essential tool for researchers and the general public.

In line with the fundamental human right of access to information, the role of libraries is not to make value judgements the motivation of their users when searching, but rather to work with them to ensure that they use these new digital possibilities effectively to find the information they need.

Therefore, if certain search results are hidden or removed from search results, this has much the same effect as deleting the original content. It should be remembered that there are legal responses available in cases where content is untrue, defamatory, or illegally published. However, the right to be forgotten affects materials over which there is no question as their veracity or legitimacy.

Following the Google Spain decision, IFLA therefore published a statement on the right to be forgotten in 2016. This noted that ‘some information on the Internet can be unfairly damaging to an individual’s reputation or security where it is untrue, where it is available illegitimately or illegally, where it is too personally sensitive or where it is prejudicially no longer relevant, among other possibilities’.

However, it stressed that any decisions on de-indexing should take account of the broader public interest in preserving a complete historical record (a point recognized by the General Data Protection Regulation provisions on archiving), and not unduly restrict the right of access to information. In short, decisions need to be balanced and proportionate.

In our statement, we notably suggested that libraries should be ready to suggest that people should use other domains when information is not available on a local version of a search engine. For IFLA, the ability to look at different sources is not only a key pillar of information literacy, but also helps ensure that the harm to the public interest of de-indexing works would be kept within bounds.



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The upcoming judgment of the French court is therefore a cause for concern. It potentially sets a precedent for systematically denying access to information not just in one country, but for everyone, everywhere, without regard to the harm caused to legitimate research.

In the case at hand in France, the search engine has removed search results on the version of its site that specifically targets local users (google.fr). It has subsequently extended the application of the right to be forgotten decision to users accessing any version of its website from local IP addresses. As such, websites which are targeting users other than those in the local jurisdiction are also affected. This step already reduces options available to libraries and library users, and could be seen as disproportionate by many European users.

However, blanket application of RTBF decisions, made according to national law reflecting local preferences, imposes a potentially very significant burden on the public interest. In order to respect the necessity of finding balance, such an approach cannot and should be the rule.

As well as challenging the universally accepted human right to information, the position taken by the CNIL would also raise a number of difficult questions about territoriality.

We would question the appropriateness of insisting that the judgement of a court in one country should govern the relationship between information providers and users in another jurisdiction.

Moreover, by looking to impose one interpretation of the balance between the rights to access to information and to privacy globally, it also reduces the ability of judges in other national jurisdictions to find the appropriate balance locally, reflecting local culture and values.

This can lead to conflicts of law, for example between Mexican Law (which allows for those convicted of delinquency to benefit from the right to be forgotten) and Texan Law (which orders the publication of this information). It could lead to conflict with US judges, who would place First Amendment free speech rights above foreign law.

There is also the risk of more far-reaching political difficulties, as regimes less friendly to freedom of expression and access to information look to impose their own values on others. We could face a race to the bottom, with only the most bland information available, or see search engines operate only in small numbers of jurisdictions, risking a fragmentation of the internet.

IFLA continues to support privacy, as well as transparency in the way right to be forgotten decisions are taken. However, privacy must be balanced with access to information, and transparency must not be confused with over-simplistic application of decisions. We therefore call on the Court to leave other judges, in France, Europe and around the world, the space necessary to respond appropriately to the facts of each individual case.

Yours faithfully,

Gerald Leitner
Secretary-General, IFLA