

The 'right to be forgotten' in the digital era: Has the appropriate balance been struck between conflicting rights?

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Abstract

As information technology is becoming an integral part of modern society there is a growing concern that individuals are losing control over their personal data and face significant difficulties to understand the means and context in which such data are processed through the different Web 2.0 and Web. 3.0 platforms and services.

Against such concern the proposed EU Data Protection Regulation introduces a 'right to be forgotten' that would allow individuals to have full control over their personal data that they have published on the Internet and decide on their possible use.

Even though the limits of the newly codified right are outlined in article 17 of the proposed Regulation, various objections have been raised on how this concept might apply in practice and who would be responsible to strike the appropriate balance between conflicting rights, such as the freedom of speech, the freedom of society to record history and the legitimate interest to build data centric bases.

The purpose of this paper is to identify the scope of the new right to be forgotten, measure its implications for the information society, address its limits by taking into account the technical obstacles, present the legal and contractual obligations for its implementation in practice and examine how the appropriate balance between conflicting rights should be struck.

Keywords: EU Data Protection Regulation, right to be forgotten, freedom of speech, privacy, right to informational self-determination, data portability.