The right to keep news online and its boundaries in the EU

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Abstract

The research delves into the contemporary understanding of the right to keep news information fully available online, demonstrating its key importance and focusing on three possible legal limitations: (i) immorality claims, (ii) rights to erase personal information, and (iii) press publishers' rights.

The focus is on the EU, where individuals frequently seek Courts to remove specific information from websites. Recently, in Portugal, the case Caesar DePaço vs Wikipedia led to the removal of publicly available information about a public figure from a Wikipedia page, with the court ordering Wikipedia editors to be identified.[1]

We plan to conduct a comparative analysis of legislation and Court decisions on similar cases across the EU. We aim to identify the most compelling arguments that justify information removal online, including on Wikipedia pages.

Introduction

- This research tackles common questions among Internet actors that long await certain legal answers: do we have or need a "right" to keep news information available online? What does "news information" exactly mean? If such a right exists, what can limit it?
- For any Internet user or website, awareness of this right and its boundaries is crucial for legal risk assessment, compliance, and strategic litigation purposes.
- The legal diversity stemming from the EU can help understand or inspire other countries. At the same time, the EU features common legal norms regulating behaviors on the Internet. In particular,
    - Right to information is a well-defined fundamental right;
    - Protection of personal data and private life is fully harmonized;[2]
    - Copyright rules recently became more uniform concerning rights of press publishers online.[3]
- Being an articulated topic, it is essential to identify and highlight which legal claims are strong enough to safeguard and limit the public interest in keeping news available online.

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Related work

- The rights of information and press freedom, in the EU and beyond, are long-studied topics that maintain a highly timely relevance in light of technological and societal changes.[4 5]
- From a privacy perspective, limits encompass the so-called right to be

forgotten,[6 7 8] overlooking other important legal aspects, e.g. disclosure of personal data, violations of private life or image rights.[9]
- From a morality standpoint, limits to information rights have attracted some scattered studies and case law.[10]
- The new press publishers' right of EU copyright law has generated much debate over the last years, touching upon the threats to freedom of expression and information, without fully exploring it. [11 12]
- The absence of a comprehensive study on the rights and valid claims to maintain or remove news information online is a gap to be filled, to inform the conduct of websites and users.

Methods

- Comparative study of 8 EU Member States selected based on inclusive representation of the region;
- Sources include EU and national legislation, case law and administrative decisions, academic doctrine;
- All sources collected by desk research via academic repositories and library resources of NOVA School of Law;
- Qualitative analysis of sources by legal systematic and interpretative techniques;
- Interactive graphic representation of the most relevant sources (legal mapping).

Expected outputs

- **Deliverable 1 - Research paper** (approx. 15-20 pages including Executive Summary);
- **Deliverable 2 - Interactive legal mapping website** in collaboration with COMMUNIA;
- **Deliverable 3 - Selection of main legal arguments** resulting from the research findings (approx. 3-5 pages);
- **Deliverable 4 - Hybrid conference** in partnership with Wikimedia Portugal and Creative Commons Portugal.

Our main **target audience** includes key Internet players (e.g. website managers, platforms, news outlets), judges and administrative bodies, lawyers, policymakers, academic researchers.

Risks

- Difficulties to achieve a representative sample of EU countries relevant beyond the region, due to limited language skills (low risk).
    - Mitigation: Network of national legal experts to be contracted upon need.
- Difficulties in reaching and making findings impactful to a broader audience, beyond legal experts' circles (low risk).
    - Mitigation: Diversifying the audiences through occasions to disseminate findings, and taking care of visibility and promotion.

Community impact plan

- Ensure that research findings are accessible and comprehensible to the public at large by
    - Publishing open access;
    - Mindful language in the Research paper;
    - Executive summary;
    - Selection of main legal arguments;
    - Interactive legal mapping.
- Amplify our community impact in EU and beyond through the hybrid

conference. We reached Communia Legal Director Teresa Nobre, Wikimedia Portugal President André Barbosa, and Creative Commons Portugal Legal Lead Diogo Morais Oliveira and Coordinator Fátima São Simão, who confirmed dissemination support and participation of their networks.

Evaluation

To assess and ensure high scientific quality of each Deliverable, we commit to:

- Workshop the research internally at academic doctoral and faculty seminars at NOVA School of Law and NOVA IPSI;
- Present the research at a minimum of 3 international academic conferences;
- Submit the research paper to a double peer-reviewed internationally ranked journal;
- Collaborate with top experts on community impact events, legal mapping, and web design.[13] [14] [15]

Budget

A budget of US $ 50,000 is sought to cover:

- FTE of each applicant's research time over 9 months;
- Additional bibliographical resources;
- Website creation and design;
- Registration and travel costs for 3 conference presentations;
- Hybrid conference organization;
- University overheads.

Prior contributions

The applicants are researchers at NOVA IPSI Knowledge Centre on Intellectual Property and Sustainable Innovation. Since 2021, the Centre has been contributing to legal research on, among others, right to information online, with academic papers, legal opinions, and academic events.

Prof. Giulia Priora's extensive work in IP and copyright law covers various topics, including the right to access news,[16] [17] [18] privacy constraints,[19] [20] [21] the new EU press publisher's right,[22] and co-authorship in online creation.[23] [24]

Amanda Costa Novaes is currently developing a research project on morality principles, copyright law, consumer and data protection. Her contributions include analyses on morality principles[25] and hostile designs,[26] data and information transfers,[27] and application of data protection and copyright rules in AI settings.[28]

Eduardo Santos, along solid experience in legal practice and digital rights advocacy, carries out academic research on access to information and education [29] [30] [31] and technological enforcement of copyright and data protection rules.[32]

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