EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

# FIFTH SECTION

# DECISION

Application no. 44582/21
Marcos DE PEDRO GURI
against Spain

The European Court of Human Rights (Fifth Section), sitting on 18 September 2025 as a Committee composed of:

Andreas Zünd*, President*,
María Elósegui,
Mykola Gnatovskyy*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 44582/21) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 31 August 2021 by a Spanish national, Marcos De Pedro Guri ("the applicant"), who was born in 1969, lives in Madrid, and was represented by Ana Georgina Guerrero Ron, a lawyer practising in Madrid;

the decision to give notice of the application to the Spanish Government ("the Government"), represented by their Agent, Alfonso Brezmes Martínez de Villarreal;

the parties' observations;

Having deliberated, decides as follows:

## SUBJECT MATTER OF THE CASE

1. In September 2011, while serving as Chief Executive Officer of a technology consultancy firm, the applicant arranged covert surveillance of a business lunch of the company's Board of Directors, which included the husband of a politically prominent figure. The surveillance operation came to light one year later during a police investigation that uncovered a large network of civil servants and private detectives engaged in the trafficking of confidential data. Following the discovery of the recordings, the applicant was dismissed from his position for breach of trust. On 6 June and 13 July

2012 two national newspapers published reports indicating that the applicant was under criminal investigation for illegal surveillance of the Board of Directors. However, as members of the Board had executed a notarised declaration of forgiveness and waived their right to initiate any legal proceedings, on 16 April 2015 an investigating judge discontinued the criminal proceedings against the applicant owing to the absence of a formal complaint from the affected individuals.

2. On 1 August 2016 the applicant requested Google to remove from its search results links to the above publications, arguing that the information was outdated, no longer of public interest and did not reflect his legal situation following the discontinuation of criminal proceedings. Google refused, leading the applicant to lodge a complaint with the Spanish Data Protection Agency, which on 12 April 2017 upheld the complaint on the grounds that the data were obsolete and no overriding public interest remained, though it rejected his request to remove autocomplete suggestions of results combining his name with terms such as "spy" or "espionage".

3. On appeal lodged by Google, on 27 December 2018 the *Audiencia Nacional* annulled the Agency's decision, noting that the information at issue related to the applicant's professional rather than personal or family life, and that the constitutional protections accordingly applied with lesser intensity in such circumstances. It observed that the applicant had remained professionally active in the information technology sector, having founded one company in 2012 and, since January 2017, served as President of another, so that his professional conduct continued to hold public relevance despite the articles dating from 2012. The court rejected the Agency's finding that the data were obsolete, pointing out that the discontinuance of the criminal proceedings had been due to the aggrieved parties' waiver of prosecution and not because the reported facts were false. Regarding the passage of time, it considered that the period between the 2015 discontinuance order and the 2016 erasure request was too short to render the information outdated. Citing Supreme Court judgment no. 12/2019 of 11 January 2019, it reiterated that the "digital right to be forgotten" could not serve to allow individuals to construct a past to their liking by compelling editors or search-engine operators to remove unfavourable information, as such a practice would disrupt the information mechanisms essential to democratic life.

4. By judgment of 17 September 2020, the Supreme Court dismissed the applicant's appeal on points of law against the decision of the *Audiencia Nacional*, endorsing that court's balancing of the right to data protection and freedom of information. It held that the data were professional in nature and thus did not involve the applicant's right to personal or family privacy, that his business activities were of clear public interest given the allegations of irregular practices by an executive of a company of significant economic weight, and that professional data do not fully benefit from the constitutional protection of personal data. Addressing the presumption of innocence, the

Supreme Court noted that the *Audiencia Nacional* had not drawn any adverse inference from the discontinuance of the criminal proceedings and had merely observed, without detriment to the applicant, that the proceedings ended because the injured parties waived prosecution. Citing the criteria in the Court of Justice of the European Union judgment in *Google Spain SL and Google Inc. v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González*, C-131/12, it concluded that the applicant's professional status, the subject matter of the articles, the absence of factual inaccuracy, and the short time between publication and the erasure request justified giving precedence to freedom of information over the right to be forgotten.

5. On 10 March 2021 the Constitutional Court declined to examine the applicant's *amparo* appeal, finding a clear absence of any violation of a fundamental right capable of protection through the *amparo* procedure.

6. As of the date of the present decision, entering the applicant's name into Google produces no autocomplete suggestions, and the top search results direct users to his professional profiles and business records. A notice at the foot of the results states that "Some results may have been removed under data protection law in Europe".

## THE COURT'S ASSESSMENT

### A. Alleged violation of Article 8 of the Convention

7. The applicant complained that the Spanish courts' refusal to order Google to de-index search results linking to the publications concerning discontinued criminal proceedings against him violated his right to respect for private life under Article 8 of the Convention.

8. The Government argued that the applicant no longer had status as a "victim" of the alleged violation because the links to the publications had been de-indexed, a Google search of his name no longer returned the contested news articles, and access to them was no longer possible by means of searching for his name. They further argued that the applicant had not demonstrated the requisite seriousness of an attack on his reputation capable of triggering Article 8 protection (they referred to *Hurbain v. Belgium* [GC], no. 57292/16, § 189, 4 July 2023), and stressed that the facts reported including alleged espionage involving a politically connected person remained of public interest, especially given the applicant's standing as a prominent businessman. While acknowledging the Court's position that criminal-proceedings data are sensitive (ibid., § 215), they considered the public-interest element decisive.

9. The applicant accepted that the links had been removed but maintained his status as a "victim" on the basis that the information had been excessively disseminated in the past, could have been retained or registered, and concerned irrelevant or excessive personal data, so that its prior availability

had already infringed his rights. He further argued that the prolonged online availability of what he considered inaccurate information had damaged his professional career, preventing him from holding senior posts and forcing him to become self-employed with a consequent reduction in income. He relied on the authorities' earlier acknowledgment that the information was obsolete, excessively disseminated by the search engine, and no longer of legitimate public interest. He maintained that Article 8 was engaged because the search results linked him to a discontinued criminal investigation without indicating its closure.

10. The Court observes at the outset that the applicant did not object to the original publication of the 2012 newspaper articles. His complaint was directed solely against Google's indexing of those articles and the display of links in search results generated by entering his name. The Court's analysis is therefore confined to the latter aspect.

11. Both parties acknowledge, and it has been verified by the Court, that searches of the applicant's name on Google no longer yield the disputed links or autocomplete suggestions. In these circumstances, the specific processing complained of has ceased, and no risk of its recurrence has been alleged. In so far as the applicant claimed that the disputed search results could have been previously saved or otherwise retained, he did not explain how such saving could have been technically possible in a manner that would allow the information to be disseminated to the same extent as through a search engine, nor why any third party would have had a reason to do so. In the absence of any evidence of continuing indexing or of the likelihood of further dissemination via Google searches, the Court considers that the applicant can no longer claim to be a "victim" of the alleged violation.

12. Even assuming that the applicant can still claim to be a "victim" on account of past prejudice to his right to respect for private life, the Court reiterates that, for Article 8 to apply, an attack on a person's reputation must attain a certain degree of seriousness and be made in a manner that prejudices the individual's enjoyment of the right to respect for private life. Moreover, Article 8 cannot be relied upon to complain of a loss of reputation which is the foreseeable result of the person's own conduct, such as misconduct entailing a measure of legal responsibility with predictable adverse effects on private life (see *Hurbain*, cited above, § 189).

13. The Court observes firstly that the reputational consequences alleged by the applicant arose directly from his own conduct in organising surveillance of the board members while serving as Chief Executive Officer. Any harm to his reputation was a foreseeable consequence of this lack of integrity, which led to both his dismissal and the opening of a criminal investigation against him. The discontinuation of the criminal proceedings was not based on a finding that the surveillance had not occurred or had not been arranged by the applicant, but resulted from the deliberate choice of the affected parties not to pursue legal proceedings against him.

14. Secondly, the alleged interference concerned only the applicant's professional standing and career prospects. While such repercussions may fall within Article 8 where sufficiently serious, the applicant has not shown that the indexing of the publications affected the organisation of his private life or that an alleged reduction in his revenue had any impact on his "inner circle" (compare *Denisov v. Ukraine* [GC], no. 76639/11, § 122, 25 September 2018). Moreover, he carried on working in the same line of business in managerial positions, which indicates that his opportunities to establish and maintain relationships, including those of a professional nature, have not been impaired (ibid., § 123). Although negative publicity from allegations of misconduct may cause discomfort, the threshold for Article 8 application requires a significant effect on a person's private life, which has not been established here.

15. Thirdly, as noted above, the complaint before the Court is directed not against the original publications, the accuracy of which is moreover undisputed, but against their indexing by a search engine. This indexing did not add new information about the applicant's personal life or disclose any private details. Available for a limited period of time in the past, it merely facilitated access to material already in the public domain concerning his professional conduct and the ensuing institutional response. In these circumstances, the connection between the impugned processing and the applicant's private life is too remote to bring the complaint within the scope of Article 8 of the Convention.

16. The Court, in addition to its conclusion regarding the applicant's lack of "victim" status, finds that the circumstances complained of do not fall within the scope of "private life" for the purposes of Article 8 of the Convention. It follows that this part of the application is incompatible *ratione personae* with the provisions of the Convention and also manifestly ill-founded, and must be rejected in accordance with Article 35 §§ 3 and 4.

## B. Alleged violation of Article 6 § 2 of the Convention

17. The applicant further complained under Article 6 § 2 of the Convention that the reasoning and language employed by the *Audiencia Nacional* in its judgment questioned and undermined his presumption of innocence.

18. Assuming a sufficient nexus between the de-indexing proceedings and the earlier discontinuation decision for Article 6 § 2 to apply (see *Allen v. the United Kingdom* [GC], no. 25424/09, § 102 *et passim*, ECHR 2013), the Court must assess whether the contested statements by the *Audiencia Nacional* cast doubt on the applicant's innocence or reflected legitimate judicial reasoning necessary for the determination before it. The *Audiencia Nacional* stated that the discontinuation of the criminal proceedings was not due to any lack of truthfulness of the reported facts but because the affected

parties had formally renounced legal action after granting forgiveness, and that this did not affect the accuracy of the published information.

19. The Court considers that these statements did not amount to a determination that the applicant had committed criminal acts. Rather, they constituted an attempt by the domestic court to explain why the dismissal order did not establish the falsity of the published information for the purposes of assessing whether the continued availability of that information served a legitimate public interest. The Court further observes that the Supreme Court expressly addressed the applicant's presumption of innocence complaint and found that any reference to the reasons for the discontinuation decision was incidental to the main reasoning, without implying negative consequences for the applicant, and amounting only to a statement of fact about the basis for discontinuation.

20. Reading the contested judicial decision as a whole and within its proper context, the Court does not discern language that would lead readers to conclude that the applicant was guilty of criminal conduct or that cast doubt upon his innocence. The domestic courts' reasoning formed part of a legitimate assessment of the accuracy and continued public relevance of published material within the framework of data protection dispute, rather than a determination of criminal responsibility.

21. It follows that this complaint is also manifestly ill-founded and must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 16 October 2025.

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| Martina Keller<br>Deputy Registrar | Andreas Zünd<br>President |