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Facebook Can Be Forced to Delete Content, E.U.'s Top Court Rules

Comments posted on the social network about an Austrian politician became a battle over the reach of European defamation laws on the internet.



By Adam Satariano

LONDON — Europe's top court said on Thursday that an individual country can order Facebook to take down posts, photographs and videos and restrict global access to that material, in a ruling that has implications for how countries can expand content bans beyond their borders.

The European Court of Justice's decision came after a former Austrian politician sought to have Facebook remove disparaging comments about her that had been posted on an individual's personal page, as well as "equivalent" messages posted by others. The politician, Eva Glawischnig-Piesczek, a former leader of Austria's Green Party, argued that Facebook needed to delete the material in the country and limit worldwide access.

The decision is a blow to big internet platforms like Facebook, placing more responsibility on them to patrol their sites for content ruled illegal.

The case has been closely watched because of its potential ripple effects for **regulating internet content.** The enforcement of defamation, libel and privacy laws varies from country to country, with language and behavior that is allowed in one nation prohibited in another. The court's decision highlights the difficulty of creating uniform standards to govern an inherently borderless web and then enforcing them.

Facebook and other critics had warned, before the decision, that letting a single nation force an internet platform to delete material elsewhere would limit free speech. Implementing such a global ban would likely require the use of automated content filters, which civil society groups and others have cautioned could lead to the takedown of legitimate material because filters cannot detect nuances used in satire and some political commentary.

Opponents had also argued that allowing the removal of an original post and then expanding that ban to posts considered "equivalent" added some potential for unintended consequences.

Supporters counter that defamation laws haven't been enforced appropriately in the internet age and are needed to force platforms like Facebook to do more to combat internet trolls, hate speech and other personal attacks that spread on the web.

Facebook sharply criticized the ruling. "This judgment raises critical questions around freedom of expression and the role that internet companies should play in monitoring,

interpreting and removing speech that might be illegal in any particular country,” the company said in a statement.

“It undermines the longstanding principle that one country does not have the right to impose its laws on speech on another country. It also opens the door to obligations being imposed on internet companies to proactively monitor content and then interpret if it is ‘equivalent’ to content that has been found to be illegal.”

Ms. Glawischnig-Piesczek did not respond to requests for comment.

The decision highlights a widening gap between the United States and Europe on regulating the technology industry. Europe has imposed tougher policies on privacy, antitrust, copyright and content moderation, while the United States has traditionally had a more hands-off approach.

Yet as Europe has enacted tougher policies, **courts are being asked to clarify their reach, including if Facebook, Google and other platforms must apply the rules beyond the borders of the 28-nation European Union.**

Last week, the European Court of Justice [limited the reach of the privacy law known as the “right to be forgotten,”](#) which allows European citizens to demand Google remove links to sensitive personal data from search results. The court said Google could not be ordered to remove links to websites globally, except in certain circumstances when weighed against the rights to free expression and the public’s right to information.

On Thursday, the Luxembourg-based court turned its attention to the reach of European defamation laws. It ruled that a national court of a European Union country could order Facebook to remove posts considered defamatory in regions beyond its jurisdiction.

The decision should not be expected to lead to a flood of orders against Facebook to take down content globally, said David Erdos, deputy director of the Center for Intellectual Property and Information Law at Cambridge University. The opinion was narrowly crafted, he said, and urged national courts to weigh any bans carefully against international laws.

“Courts will be feeling their way for years to come,” he said.

The difference between today’s decision and last week’s ruling limiting the reach of the right to be forgotten is that an **Austrian court had specifically found, within its decision, that the offensive comments toward Ms. Glawischnig-Piesczek were illegal.**

The court on Thursday said that while Facebook wasn’t liable for the disparaging comments posted about Ms. Glawischnig-Piesczek, it had an obligation to take down the posts after a court ruled them defamatory. Facebook, the court said, “did not act expeditiously to remove or to disable access to that information.”