**Summary and Outcome**

On the 10th of August 2020, the National Civil Court of Appeals upheld a previous judgment that partially admitted the plaintiff's claim by ordering Google Inc to remove the content that showed scenes of fights and arguments between the plaintiff and other interviewees in television programs. Yet rejected her petition to remove the content associated with the criminal proceedings on the grounds of considering that certain existing information refers to a fact that influenced a specific time and, therefore, constituted part of the society's collective memory. The plaintiff, Natalia Denegri, got media attention in the mid-1990s for being linked to a tv scandal known as the "Coppola case".presented a legal recourse against the search engine, demanding the search engine requesting the right to be forgotten. Ms. Denegri claimed that although more than two decades had passed, the information continued to appear in the search results. She also claimed the information belongs to a past that she wished to forget and that the content was old, irrelevant, unnecessary, and obsolete, without any journalistic pertinence. This is the first case in which the Argentinian judicial power has recognized the "right to be forgotten.

**Facts**

Natalia Denegri, an Argentine businesswoman, host, and producer, presented an urgent legal recourse against Google Inc., demanding the search engine disassociate content related to media events and the criminal case brought against Diego Maradona's ex-representative, Guillermo Coppola, for which he was imprisoned for three months in 1996.

She admitted the events did occur and pointed out that she was a victim of a criminal investigation unlawfully orchestrated when she was a minor. However, she pointed out that the information provided by the results of this search was embarrassing and that it belonged to a past she wished to forget. She noted that such information was old, irrelevant, unnecessary, obsolete, and without any informative and journalistic significance.

More, the plaintiff considered that the events that took place 24 years ago infringed her rights to honor and privacy. According to Ms. Denegri, such rights trump the public's right to information.

On the 20 of April, 2020 the National Civil Court partially admitted the claim of Natalia Denegri and ordered Google to "deindex" all the images and videos related to the widely known "Coppola case" for being harmful to her image and honor. In the decision, the presiding Judge Hernán Horacio Pagés held that such content lacked journalistic interest and had no cultural or informative value. Yet, Judge Pagés did not esteem it had sufficiently been demonstrated in the case that the journalistic content of the written press was associated with morbidity or eccentricity. Thus, they had not found the requirements that enable the application of the right to be forgotten.

As a result, Ms. Denegri appealed the partial acceptance of her claim. She emphasizes freedom of expression. She criticizes that the judge did not indicate which content should be deindexed, which would turn Google into a content censor.

Google also appealed the judgment claiming that the characterization of the right to be forgotten by the First Instance judge had been erroneous, as any law does not regulate it. Additionally, the platform explained that Ms. Denegri should have sued the media that disseminated the news rather than Google since it is merely a search engine. Google further indicated that Ms. Denegri had voluntarily participated in media programs she claimed aggravated her.

**Decision**

Judge Claudio Kiper presided over the decision and was supported by judges Liliana Abreut and José Benito Fajre. The primary question before the Apelatte Court was whether the lower instance body had correctly pondered the right to honor and privacy versus the right to freedom of expression, disseminating news, and access to information.

The Court clarified that the rights enshrined in the Constitution are not absolute but are subject to limitations and restrictions. Yet the instant case presented a peculiar nuance since the plaintiff invoked the "right to be forgotten". In the Court's opinion, accepting such a claim would imply recognizing the veracity of the news disseminated by the search engine, but if the information is harmful, lacks public, historical, or scientific interest, and is buried with time. In contrast, the Court explained that if the news were false and defamatory, there would be other remedies without invoking the passage of time.

Additionally, the Court recognized that no specific rule regulates the right to be forgotten. However, the absence of regulation was unnecessary since it should be approached as a derivation of the rights to honor or privacy. Thus, the right to be forgotten could be a helpful tool to enforce such rights. Likewise, the Court considered that under certain circumstances, the law regulating habeas data could also be used by analogy.

 In the Court's reasoning, what matters in cases where the so-called right to be forgotten is invoked is to identify what rights are at stake, seek a balance, and then make a decision. Yet, it recognized it is not a simple task because the balancing exercise must consider the public's right to be informed and the press's right to disseminate. That said, the Court recognized that censorship is not allowed as a general rule, regardless of the possible subsequent liabilities. Nevertheless, in the immediate case, the Court considered there was no censorship since it revolved around news and broadcasts that were reproduced 24 years before, which was reasonable.

In the same vein, the Court held that if each individual decided what information about them could be made known, the right to information could be seriously infringed. Further, it affirmed that the so-called right to be forgotten is of restrictive interpretation.

Regarding the news items, the Court distinguished between those referring to the criminal investigation of the so-called "Coppola" case and those reproducing scenes of fights and arguments between the plaintiff and other interviewees in television programs.

In regards to the fraudulent criminal investigations which led to the conviction of a former federal judge, the Court concurred with the quo's reasoning that it was a fact of public interest. In the Court's opinion, it had not found sufficient justification for removing the news related to this fact from the search engine. Further, it considered that since it had been previously proven that the plaintiff was the victim of illegal maneuvers, such dissemination benefited her rather than harmed her.

The Court then highlighted that the blocking of access to digital content by search engines must be preceded by an examination of the lawfulness of the content. The Court referenced the 2013 Inter-American Commission on Human Rights (IACHR) Report of the Special Rapporteur on Freedom of Expression and the Internet to reinforce the preview argument. The report establishes that blocking of digital content shall only be exceptionally admissible under the strict terms set in Article 13 of the American Convention. Likewise, it mentioned that the IACHR has regarded that content blocking measures cannot be used to control or limit the dissemination of specially protected speech or speech that has a presumption of protection when a competent authority has not rebutted such presumption.

Moreover, the Court held that following the Joint Declaration on Freedom of Expression and the Internet, the mandatory blocking of IP addresses, as requested in the present case, constituted an extreme measure.

The Court acknowledged the right to be forgotten, as recognized by the Court of Justice of the European Union in the case of "Costeja v. Google," as an alternative to conceal the tension between the rights to freedom of expression and the right to honor or privacy. Per the Costeja criterium, the plaintiff must justify the reasonability of the request and prove that the affected rights prevail over the right of freedom of speech.

Then the Court moved on to analyze the plaintiff's claim related to the dissemination of the videos showing scenes of fights and arguments between the plaintiff and other interviewees in television programs.

In the Court's view, the right to be forgotten seeks to prevent immediate access to information that hinders or makes the social reintegration of individuals and their families almost impossible.

The Court deemed that their removal was, in fact, applicable since the content lacked social and journalistic interest and was related to contents of no cultural or informative value. Moreover, regarding this claim, the Court considered that the right to honor was affected, but not the right to privacy since the plaintiff exposed herself publicly.

Finally, the Court analyzed Google's complaint regarding the fact that it has been ordered to pay the costs, despite the partial progress of the lawsuit. In the Court's view, such a grievance could not be admitted since the general principle established by Article 68 of the Procedural Code is that of imposing the imposition of costs on the losing party. More, the Court estimated that if the search engine had accepted some of Ms. Denegri's claims, this litigation would not have occurred.

In light of the above, the Court ordered Google to remove the content that showed scenes of fights and arguments between Ms. Denegri and other interviewees in television programs. orderd the search engine to "remove all links from its search engines", including Youtube platform, among the words "Natalia Denegri", "Natalia Ruth Denegri" or "Natalia Denegri Coppola case", as well as any eventual image or video obtained twenty years ago or exhibits scenes in which the plaintiff may have starred in or that may show verbal or physical aggression, insults, discussions, singing and/or dancing scenes, or tv reports on Denegri's private life.

Yet rejected her petition to remove the content associated with the criminal proceedings on the grounds of considering that certain existing information refers to a fact that influenced a specific time and, therefore, constituted part of the society's collective memory.

**Decision Direction- Mix Outcome**

The Court restricted expression by holding the individual’s right to honor over freedom of expression by ordering the search engine to deindex the content showing scenes of fights and arguments between the plaintiff and other interviewees on television. The Court deemed the right to be forgotten was applicable since the content lacked social and journalistic interest and was related to contents of no cultural or informative value.

Yet, at the same time, the decision expands freedom of expression by considering the petition to remove the content associated with criminal proceedings unfounded because the information was relevant to the public interest.