

Working paper on freedom of expression and right to privacy regarding on-line publications

- adopted at the 35th meeting, 14-15 April 2004 in Buenos Aires -

Bearing in mind that over 10 years have passed since the Internet has been used for on-line publication, it is necessary to reconsider the relationship between the fundamental human rights to freedom of expression and to privacy. In recent cases persons who published personal data on the Internet demanded that right to freedom of expression allows them to neglect the right to privacy of the concerned persons.

It must be emphasized that these rights have equal precedence and in general neither should overrule the other.

The level of personal data protection in on-line documentation should be a carefully balanced compromise between individual right to privacy and the right to freedom of expression.

If the information regarding private and family life, private correspondence, and dwelling relate to an identified or identifiable natural person, the main provisions concerning personal data protection must be applied and in balance. The right to freedom of expression should not prevail over the right to privacy.

Notwithstanding any special privileges for journalistic activities that may be allowed by law, the following overriding principles should continue to apply regarding on-line-publications:

- The data must be collected in a legal and a fair way.
- There must be a right to reply and to rectification of untrue factual information.
- There must be a right to access to published data.
- There should be established a mechanism to deal with complaints.

Journalists are not obliged to check up and disclose to data subject or any other body, the source of information, except in situations provided by law.

* Regarding their problems of jurisdiction Norway and Sweden were not able to support the document.