[FR] Bill Intended to Reconcile Protection from Unacceptable Use of One's Image with Freedom of Expression

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A bill "intended to give a legal framework to protection from the unacceptable use of one's image and to reconcile this with freedom of expression" was tabled this summer by two Members of Parliament. It has been sent to the legal committee for examination. The aim of the text, which covers protection of the image of objects as well as people, is to make it impossible for anyone to "take legal action claiming protection from unacceptable use of an image without furnishing proof of malicious intent and actual prejudice", according to the wording of the explanatory memorandum of the bill.

This text is therefore intended above all as a compromise in order to prevent court action being brought vexatiously by the subjects of images, thereby hampering freedom of expression. The authors of the text take as their starting point the observation that thousands of court orders have been made against photographers, organisers of exhibitions and press and book editors in recent years. This illustrates the fact that the mere use of the image of a person and more recently, the image of an object without any prejudice being caused, has become objectionable.

The purpose of the bill is therefore both to acknowledge recognition of the entitlement to protection from the unacceptable use of one's image in current case law and to render admissible applications to the courts dependent on prejudice, which is not the case at present. Thus the text proposes inserting an Article 9-2 in the Civil Code, to read as follows: "Everyone is entitled to protection from the unacceptable use of his/her image. This entitlement is the right that each person has in respect of the reproduction or use of his/her own image. The image of a person may nevertheless be reproduced or used if the person suffers no real, serious prejudice as a result", and an Article 544-1, to read as follows: "Everyone is entitled to protection from the unacceptable use of the image of his/her property. The liability of the user of the image of another person's property may not be sought, however, in the absence of disturbance caused to the owner of the property by such use".

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Proposition de loi visant à donner un cadre juridique au droit à l'image et à concilier ce dernier avec la liberté d'expression du 16 juillet 2003

http://www.assemblee-nationale.fr/12/propositions/pion1029.asp

Bill of 16 July 2003 intended to give a legal framework to protection from the unacceptable use of an image and to reconcile this with freedom of expression

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