

# Italy

	2015	2016		
<b>Internet Freedom Status</b>	Free	Free	<b>Population:</b>	60.8 million
Obstacles to Access (0-25)	4	4	<b>Internet Penetration 2015 (ITU):</b>	66 percent
Limits on Content (0-35)	6	6	<b>Social Media/ICT Apps Blocked:</b>	No
Violations of User Rights (0-40)	13	15	<b>Political/Social Content Blocked:</b>	No
<b>TOTAL* (0-100)</b>	<b>23</b>	<b>25</b>	<b>Bloggers/ICT Users Arrested:</b>	No
			<b>Press Freedom 2016 Status:</b>	Partly Free

\* 0=most free, 100=least free

## Key Developments: June 2015 – May 2016

- Online journalists and bloggers continued to face legal threats and intimidation, notably for reporting on sensitive stories such as organized crime in some parts of the country (See **Prosecutions and Detentions for Online Activities** and **Violence and Intimidation**).
- In July 2015, leaks surrounding Italian company Hacking Team revealed extensive cooperation with authoritarian regimes. After considerable media scrutiny, the Italian government suspended its global license to export its software outside of the European Union in April 2016 (See **Technical Attacks**).
- Italy was the first European country to produce a “Declaration of Internet Rights” in July 2015, in a bid to increase awareness of digital rights and inspire legislative actions. The nonbinding declaration includes provisions that promote net neutrality and establish internet access as a fundamental right (See **Legal Environment**).

## Introduction

Italy's internet environment declined slightly during this period, as online writers have occasionally faced legal intimidation and other threats for covering sensitive stories.

For a country with an advanced economy, Italy's internet penetration lags behind that of many other European countries at around 65 percent of the population. Italian authorities do not generally engage in political censorship of online speech, and, as in previous years, no bloggers or social media users were imprisoned during the coverage period. However, defamation remains a criminal offense in Italy, and civil libel suits continue to threaten online writers.

Marking its "Internet day" on April 30, Italy celebrated the thirtieth anniversary of its first internet connection in 1986.<sup>1</sup> Italy's first computer network emerged in 1980, when a group of nuclear physicists connected all of the country's nuclear research institutes. Access to the internet was available to private users after 1995, and the number of internet service providers (ISPs) soared within a short period of time. Some obstacles to access remain, however, including a lack of familiarity with computers and the English language, as well as the dominance of commercial television, and the diversion of consumers' telecommunications spending to mobile telephony. Showcasing efforts to reduce the digital divide and promote the current government's optimism for the digital agenda, the premier recently appointed Amazon vice-president Diego Piacentini as "commissioner for digitalization."<sup>2</sup>

After a year of consultations led by a parliamentary commission, Italy was the first European country to present a crowdsourced "Declaration of Internet Rights" in July 2015. The nonbinding document includes provisions that promote net neutrality and establishes internet access as a fundamental right. While generally seen as a positive development, the text has also raised some criticism for falling short on certain issues such as anonymity, encryption, and data retention.

Several other legislative discussions have taken place over the past year. Presented to parliament in April 2015, Prime Minister Renzi revived the idea of a previously shelved tax on e-commerce, the so-called "Google Tax." If approved, the proposal would impose a 25 percent tax levy on multinational companies selling digital services and operating longer than six months in Italy with revenues of over five million euros.<sup>3</sup> Meanwhile, parliament discussed a bill related to net neutrality, which would require ISPs to treat all internet traffic equally, regardless of its source. However, other aspects of the text sparked criticism for potentially allowing "loopholes" in the prioritization of traffic.<sup>4</sup>

## Obstacles to Access

*Since the 1990s, the Italian government has supported the internet as a catalyst for economic growth, increased tourism, and more efficient government operations. This attitude continued to prevail in 2016, though aspirations for a fully connected Italy remained unfulfilled.*

---

1 Luca Annunziata, "30 aprile 2016, 30 anni di Internet in Italia" [April 30, 2016, 30 years of Internet in Italy], *Punto Informatico*, April 29, 2016, <http://bit.ly/1SBn7xb>.

2 Claudio Tamburrino, "Piacentini, un asso per il digitale in Italia" [Piacentini, an ace for the digital in Italy], *Punto Informatico*, February 11, 2016, <http://bit.ly/2f56oqs>.

3 Federico Guerrini, Italy's prime minister floats the idea of a 'digital tax' to get web giants to pay up," ZDNet, September 17, 2015, <http://zd.net/1LAJtao>; and Giuditta Mosca, "Digital tax, ecco cos'è e come funzionerà" [Digital tax, what it is and how it will work], *Wired*, September 16 2015, <http://bit.ly/2eDtlaz>.

4 EDRi, "Loopholes creeping into the Italian proposal on net neutrality," March 23, 2016, <http://bit.ly/2dkGxWo>.

## Availability and Ease of Access

According to the International Telecommunication Union (ITU), Italy had an internet penetration rate of 65.6 percent in 2015, an increase from 62 percent in 2014.<sup>5</sup> The Italian National Institute of Statistics (ISTAT) reported slightly lower internet penetration figures than the ITU, at 60.2 percent in 2015 (compared to 57.5 percent in 2014). Of these, nearly 40 percent went online every day, and 16.8 percent once a week. The internet is particularly popular among Italian youth, with over 91 percent of people between 15 and 24 surfing the web.<sup>6</sup>

Italians prefer to access fixed-line internet from home, with the workplace being the second most common access point, followed by schools and universities. Some 70 percent of men use the internet, compared to 62 percent of women.<sup>7</sup> Cost is not a significant barrier to access. The price for a broadband connection may range from €20 to €40 (US\$26-52) per month, compared to average monthly per capita income of around US\$2,700.<sup>8</sup>

While Italy's internet penetration rate is higher than the global average, it is much lower than the overall rate in Western Europe and lags behind in many ICT indicators in Europe.<sup>9</sup> Several factors have impacted Italy's relatively low penetration rate, including infrastructural limitations, overall household internet penetration, and unfamiliarity with the internet among older generations. In addition, Italy's devastating financial crisis 2008 still reverberated in 2015-2016, impacting consumer disposable incomes. Recent figures pointed to a slight decrease in home internet connections via desktop computers, compared to the constant growth of mobile devices with internet access.<sup>10</sup> In general, mobile phone use is much more widespread than internet access, with the penetration rate reaching 151 percent in 2015.<sup>11</sup> The majority of subscriptions are still prepaid, but flat tariffs are on the rise.<sup>12</sup>

ADSL (fixed) broadband connections (which reach up to 2 Mbps when advertised as "basic service") are available in about 98 percent of Italy's territory. However, fast broadband (more than 30 Mbps) is only slated to reach 50 percent of the territory in 2016-17. Italy has one of lowest coverage rates of high speed broadband in the EU,<sup>13</sup> covering only 21 percent of households compared to a European average of 62 percent.<sup>14</sup> In 2015, the average connection speed was 7.4 Mbps, with only 5.2 percent of Italians enjoying speeds over 15 Mbps.<sup>15</sup> There is no plan by telecom companies to achieve ultra-fast broadband (over 100 Mbps) anytime soon.

---

5 International Telecommunication Union (ITU), "Percentage of individuals using the Internet, 2000-2015," accessed October 7, 2016, <http://bit.ly/1cblxxY>.

6 Istituto Nazionale di Statistica (ISTAT), "Citizens, enterprises and the ICTs," December 22, 2015, accessed October 7, 2016, <http://bit.ly/2dyjiUw>.

7 ITU, "Gender ICT Statistics 2015," accessed October 7, 2016, <http://bit.ly/1cblxxY>.

8 For a recent comparison (April 2016) see for instance, SOS Tariffe, "Connessioni a Banda Larga," [Connections to broadband], <http://bit.ly/1Ou3hCV>.

9 ITU, "ICT Facts and Figures: the world in 2015," <http://bit.ly/1FOoa6p>; See also: The Digital Economy & Society Index (DESI), 2016, <http://bit.ly/1UPeUWV>.

10 Audiweb, "Sintesi dei dati sulla diffusione di internet in Italia" [Summary of data on the spread of the Internet in Italy], December 2015, accessed October 7, 2016, <http://bit.ly/2eBI51U>.

11 ITU, "Mobile-cellular subscriptions 2000-2015," accessed October 7, 2016, <http://bit.ly/1eKDWOQ>.

12 Autorità Per Le Garanzie Nelle Comunicazioni (AGCOM), *Communication Market Monitoring System*, January 2016, <http://bit.ly/2dQ9N8b>.

13 The EU Digital Agenda calls for 100 percent of the territory covered with 30Mbps and at least 50 percent with ultrafast (over 100Mbps) by 2020;

14 Telecom Italia Mobile, *Italia Connessa 2014: Agende Digitali Regionali*, 47-48.

15 Akamai, State of the Internet, Q4 2015 Report, <http://akamai.me/1UthiDG>.

The ambitious infrastructural plan, "Growth 2.0", was announced in 2012 to close Italy's digital divide between those areas that are served by high-speed connections and those that are not, but targets were repeatedly delayed through 2015.<sup>16</sup> The same plan also launched the "Digital Agenda" initiative (based on the EU Agenda 2020), intended to expand broadband access and e-government functions (including "digital identity," public e-services, "intelligent communities," and so on).<sup>17</sup> In a similar attempt to showcase progress in Italy's digital agenda, the government in February 2016 approved a decree to cut costs for laying cables and established the Networks Register for Infrastructures (SIN-FI).<sup>18</sup> With this stop-and-go approach, however, it remains unclear whether Italy will fulfill the EU goal.

## Restrictions on Connectivity

The government does not impose restrictions on ICT connectivity and access to social media and communication platforms. Telecom Italia, the former state telecom monopoly that owns the physical network, continues the process of "externalizing" the infrastructure since May 2013, as required by EU legislation to provide fair access to competitors (see ICT Market).<sup>19</sup>

## ICT Market

Access to the internet for private users is offered by 13 different ISPs. Telecom Italia has the largest share of the market, followed by Vodafone, Fastweb, and Tiscali. Telecom Italia Mobile (TIM), Vodafone, Wind, and 3 Italia are the major carriers, and all of them operate third-generation (3G) networks. As elsewhere, sales of tablet computers have been on the rise among the younger generation since 2010 and are likely to keep growing in the coming years. The French media giant Vivendi has further raised its stake in Telecom Italia to just under 25 percent, the threshold for making a mandatory bid for Telecom Italia.<sup>20</sup>

One of the most noticeable changes in early 2016 was Italy's biggest power company ENEL's entrance into the market with its "Open Fiber" program, challenging Telecom Italia's own plans for high-speed broadband.<sup>21</sup> ENEL aims to install fiber optic cables to private homes via new broadband (30 Mbps) for 7.5 million households. Because of the physical proximity of electricity switches to houses and buildings, the company has a strong advantage.<sup>22</sup> Some 224 Italian cities would be connected via "fiber to the home" (FTTH) in the next three years, with a price tag of 2.5 billion Euros. Telecom giants such as Vodafone and Wind have already partnered with ENEL.<sup>23</sup> Some obstacles re-

---

16 Alessandro Longo, "Lombardo (Infratel): 'Banda larga fra le pastoie della burocrazia,'" *Corriere Digitale*, April 18, 2014, <http://bit.ly/1VOtBGO>.

17 Italian text at: D.L. 179/2012 in G.U. 46/2012, [in Italian] <http://bit.ly/1jsm8AT>; See also Agenzia per l'Italia Digitale, "Agenda Digitale italiana," <http://bit.ly/1PpZcP9>. *Achieving the Objectives of the Digital Agenda for Europe (DAE) in Italy: Prospects and Challenges*. The six "strategic areas of the "Digital Agenda" include infrastructure and cyber security, e-commerce, e-government, e-learning (e-books, digital policy literacy and e-participation), research and innovation in ICT, and smart cities and communities

18 Legislative decree of February 15, 2016, n. 33, <http://bit.ly/2cXO558>.

19 Telecom Italia, "Telecom Italia: CDA approva il progetto di societizzazione della rete di accesso," Press release, May 30, 2013, <http://bit.ly/1PaTZf5>.

20 "Vivendi ups Telecom Italia stake to just below bid threshold," *Reuters*, March 11, 2016, <http://reut.rs/1V5H4gs>.

21 Repubblica "Enel: piano da 2,5 miliardi per la fibra in 224 città," [Enel: 2.5 billion for fiber in 224 cities], *Repubblica*, March 23, 2016, <http://bit.ly/1UEYIs6/>.

22 The electricity grid reaches 32 million household customers, compared to the 21 millions of Telecom Italia fixed line network.

23 "Enel, c'è l'accordo con Wind e Vodafone per la fibra, [Enel agreement with Wind and Vodafone for fiber], *Repubblica*, April 6, 2016, <http://bit.ly/1PUedF1>.

main, however: first, ENEL's network would have to be connected to the Telecom Italia infrastructure; and second, in those areas where this operation will not be profitable (some 20 percent of the territory), the state will have to bear the costs, provided it finds the necessary funds.

## Regulatory Bodies

The main regulatory body for telecommunications is the Authority for Communications (AGCOM), an independent agency that is accountable to the parliament. Its responsibilities include providing access to networks, protecting intellectual property rights, regulating advertisements, and overseeing public broadcasting. The parliament's majority party appoints AGCOM's president. In recent years, AGCOM has paid particular attention to digital copyright issues. In December 2015, Italy's Constitutional Court dismissed an appeal that challenged the constitutionality of AGCOM's online copyright enforcement regulation issued in 2014, which empowers the regulatory authority to order internet or hosting providers to block websites or remove allegedly infringing content (See Blocking and Filtering and Content Removal).<sup>24</sup>

Another important player governing the ICT sector is the Italian Data Protection Authority (DPA). Set up in 1997, the DPA is tasked with supervising compliance with data protection laws by both governmental and nongovernmental entities. It also has the authority to ban or block "processing operations that are liable to cause serious harm to individuals."<sup>25</sup> It is generally viewed as professional and fair in carrying out its duties.

## Limits on Content

*The Italian authorities do not engage in significant blocking or filtering of internet content, although measures to block illegal materials without a court order have worried digital rights activists.*

## Blocking and Filtering

Italy does not block or filter content of a political, social, or religious nature, while Facebook, Twitter, YouTube, and international blog-hosting sites are all freely available. However, certain websites related to gambling, copyright infringement, and terrorism are subject to blocking or removals (see Content Removal). The 2014 antiterrorism law voted in the Senate on April 15, 2015 also allows the public prosecutor to order the blocking or removal of terrorist websites. Similar to the system used to block child pornography sites, the Interior Ministry compiles a blacklist of terrorist websites for ISPs to block.<sup>26</sup>

Since 2006, online gambling has been permitted only via state-licensed websites, and ISPs are required to block access to international or unlicensed gambling sites identified on a blacklist compiled by the Autonomous Administration of State Monopolies (AAMS). The list of banned sites is available on the AAMS website and updated regularly.<sup>27</sup> A similar blacklist system is in place for

---

24 EDRI, "Italian Constitutional Court avoids decision on blocking," January 26, 2016, <http://bit.ly/2d03zR7>.

25 The Italian Data Protection, "The Italian Data Protection Authority: Who We Are," November 17, 2009, <http://bit.ly/1Lr0vvy>.

26 Sghirinetti, "Italy: Anti-terrorism decree to strengthen government surveillance," EDRI, April 22, 2015, <http://bit.ly/1RCR0KR>.

27 The blacklist is available (in Italian) at <http://www.aams.gov.it/site.php?id=2484>.

websites containing child pornography. A law passed in February 2006 (Law No. 6) called for the establishment of a National Center for the Fight against Child Pornography on the Internet within the Postal and Communications Police Service. Based on its own research and on complaints from citizens, the center maintains a list of sites deemed inappropriate and forwards it to ISPs for blocking.<sup>28</sup> As with the AAMS list, the child pornography blacklist is publicly available, though some child advocates have raised concerns that this encourages visits to the sites by users with circumvention tools. ISPs also offer subscribers “family internet” packages that block access to adult pornography and sites with violent content, in exchange for a small premium.

Decisions related to the blocking of websites for copyright violations are implemented by the *Guardia di Finanza* (Finance Guard or GdF), a law enforcement agency that handles issues of cybercrime, fraud, and trafficking.<sup>29</sup> A 1941 law explicitly amended by the Berlusconi government in 2005 to include online communication has led to a few cases in which websites containing news were blocked for copyright.<sup>30</sup>

A controversial resolution on online copyright enforcement enacted in March 2014 enables AGCOM to issue administrative blocking orders to ISPs for specific websites that infringe on copyright, even those that only contain links for downloading copyright protected content. The regulation also gives AGCOM the power remove content upon review by an internal panel but without prior judicial approval if a copyright violation is detected.<sup>31</sup> In September 2014, consumer organizations and ISP associations challenged the regulation, although a definitive decision was still pending.<sup>32</sup>

## Content Removal

The Italian authorities sometimes request the removal of specific content, though the amount is limited. According to Google’s latest Transparency Report, the government sent 125 content removal requests between July to December 2015, including 59 percent of them for “defamatory” content, 22 percent for privacy and security reasons, and 10 percent for bullying and harassment.<sup>33</sup>

Foreshadowing the May 2014 Court of Justice of the European Union (CJEU) ruling in favor of the so-called “the right to be forgotten,” in April 2012 the Italian Supreme Court imposed an obligation on publishers to update their online archives to ensure that outdated facts do not inadvertently damage a person’s reputation. But the court also pointed out that online news outlets cannot be held liable for stories deemed damaging to a person’s reputation if events recounted in the article are true, even if they are incomplete or outdated.

---

28 Polizia di Stato, “Centro nazionale per il contrasto alla pedopornografia sulla rete,” [National Center for the Fight against Child Pornography on the Internet] May 10, 2010, <http://bit.ly/1LFdZQ4>.

29 The Italian Police, acting on order by a judge in Rome, who ruled in favor of a film distribution company (Sunshine Pictures), ordered 27 Italian and international ISPs to proceed with a DNS blockade to prevent Italian users to see a French movie “Un Monstre à Paris” distributed by the company. Mauro Vecchio, “Italia, maxisequestro dello sharing in corso,” *Punto Informatico*, April 15, 2013, <http://bit.ly/1L85TCA>.

30 Altalex, “L. 633/1941 in G.U. July 16, 1941, <http://bit.ly/1Lh2qPS>; and in particular it is art. 171/a/bis, amended by the D.L. 7/2005 in G.U. April 1, 2005, <http://www.altalex.com/index.php?idnot=5918>.

31 AGCOM, “Regolamento in materia di tutela del diritto d’autore sulle reti di comunicazione elettronica,” December 12, 2013, <http://bit.ly/1WXMfys>; See also: European Parliament, “Subject: Internet censorship in Italy—via administrative procedure,” July 13, 2011, February 2, 2013, <http://bit.ly/1MsiZrQ>.

32 Italian Constitutional Court avoids decision on blocking,” EDRI, January 26, 2016, <http://bit.ly/2d03zR7>.

33 Google, “Removal Request by Country,” *Transparency Report*, July-December 2015, accessed October 7, 2016, <http://bit.ly/2dYvB1P>.

Since the CJEU's 2014 "right to be forgotten" ruling, Italian courts have ruled in favor of the new right. On December 3, 2015, for example, a Civil Court of Rome upheld the CJEU's reasoning on the "right to be forgotten" but rejected the plaintiff's request, in a case that sought to balance such a right with the right to information in the public interest.<sup>34</sup> Separately in June 2016, the Supreme Court upheld a 2013 court decision in favor of the removal of an inconvenient news article from a website's archives after two years, deeming that the time elapsed between the publication date and the request for removal "sufficed to satisfy the public interest as far as its right to be informed was concerned."<sup>35</sup>

Because of Italy's civil-law system, some judges may occasionally still issue rulings imposing responsibilities on intermediaries to regulate user-generated content, though judges have repeatedly affirmed that intermediaries should not be liable for the content posted by users. Many in the Italian legal community now believe that, based on existing jurisprudence and thanks also to the provisions laid out in the EU's e-Commerce Directive,<sup>36</sup> service providers should not be required to censor search results. Likewise, at the end of 2011, Italy's Supreme Court declared that editors of online magazines are not responsible for defamatory comments posted by readers (thus taking into account the difference between the printed and electronic press). Attempts at introducing bills that would require websites to engage in pre-publication censorship have mostly stalled.

## Media, Diversity, and Content Manipulation

Even in the absence of legal requirements, content hosts may exercise some informal self-censorship regarding content that could prove controversial or create friction with powerful entities or individuals. Online writers also exercise caution to avoid libel suits by public officials, whose litigation—even when unsuccessful—often takes a significant financial toll on defendants. Individuals writing about the activities of organized crime in some parts of the country may be especially at risk of reprisals. The Italian government does not proactively manipulate news websites.

Blogging is very popular in Italy, though television remains a leading medium for obtaining news. Most policymakers, popular journalists, and figures in the entertainment industry have their own blogs, as do many ordinary citizens. Social-networking sites, especially Facebook and Twitter, have emerged as crucial tools for organizing protests and other mass gatherings, such as concerts, parties, or political rallies, although, at times, some content may be aggressive. It is now "mandatory" for all parties to be adept at communicating via Facebook, Twitter, and other social media.

Some restrictions on internet content uncommon in other Western European countries remain in place in Italy. Drawing on a 1948 law against the "clandestine press," a regulation issued in 2001 holds that anyone providing a news service, including on the internet, must be a "chartered" journalist within the Communication Workers' Registry (ROC) and hold membership in the national journalists' association.<sup>37</sup> With the exception of one case from late 2000s, these rules have generally

---

34 Nctm, "Right to be forgotten, right to reputation and privacy: comment to the decision no. 23771/2015 of the civil court of Rome," April 2016, <http://bit.ly/2dQZn8c>.

35 The Supreme Court's ruling occurred outside the period of coverage of this report. See: Guido Scorza, "A ruling by the Italian Supreme Court: News do 'expire.' Online archives would need to be deleted," *L'Espresso*, July 1, 2016, <http://bit.ly/29aeJ5c>; See also: Athalie Matthews, "How Italian courts used the right to be forgotten to put an expiry date on news," *The Guardian*, September 20, 2016, <http://bit.ly/2cPSINq>.

36 European Commission, "E-Commerce Directive," 2000/31/EC, <http://bit.ly/1iuT1su>.

37 Diritto Tecnologia Informazione, Legge March 7, 2001, n. 62, "Nuove norme sull'editoria e sui prodotti editoriali," [New Rules on Publishing and Publishing Products] accessed August 21, 2012, [http://www.interlex.it/testi/101\\_62.htm](http://www.interlex.it/testi/101_62.htm).

not been applied to bloggers and, in practice, millions of blogs are published in Italy without repercussions. Nonetheless, many people who create websites on a range of issues (including scholarly research) still continue to collaborate with registered journalists to protect themselves from potential legal action.

## Digital Activism

Starting with the 2013 general elections, social media and the web proved to be a major innovation in Italian politics. Online tools were central, not only as a communication medium, but also to measure political sympathies by measuring “likes,” hashtags, and tweets for the many political players.<sup>38</sup> The Five Star Movement, a political party led by former comedian Beppe Grillo, based their political campaign almost exclusively on the internet and declined to take part in political talk-shows or television interviews. Beppe Grillo’s blog and social media remain central platforms to convey the Movement’s political goals and programs.<sup>39</sup>

Civil society organizations have also actively promoted and contributed to open data and freedom of information initiatives. Since 2014, a public campaign called “FOIA4Italy” has called for the adoption of a freedom of information act. After a first version was circulated in January 2016, an improved version was finally approved by the Council of Ministers in May 2016.<sup>40</sup>

## Violations of User Rights

*Violations against users’ rights are uncommon in Italy, although cases of legal intimidation and threats against online writers are occasionally reported. Criminal defamation laws remain a grave threat to online journalists and social media users, particularly in the ambiguous form they have been applied to the online sphere. A new antiterrorism law passed in April 2015 extended the period ISPs must keep users’ metadata from 12 to 24 months, despite a ruling from Europe’s high court striking down such requirements as an affront to human rights. On the other hand, Italy was the first European country to produce a “Declaration of Internet Rights” in July 2015, in a bid to increase awareness of digital rights and inspire legislative actions.*

## Legal Environment

As a signatory to the European Convention on Human Rights and other relevant international treaties, freedoms of speech and the press, as well as the confidentiality of correspondence, are constitutionally guaranteed in Italy.<sup>41</sup> Yet, given the country’s civil law system, inconsistent judicial interpretations are not unusual. This has created some uncertainty when judges issue conflicting decisions on similar cases related to internet freedom, such as intermediary liability. For this reason, online free

---

38 Luca Annunziata, “Chi vince le elezioni su Internet?” *Punto Informatico*, February 8, 2013, <http://bit.ly/1L887BP>.

39 See <http://www.beppegrillo.it>

40 FOIA4Italy, “L’Italia ha un Freedom of Information Act,” [Italy has a Freedom of Information Act], May 19, 2016, <http://bit.ly/2d19ipS>; See also: “Ecco il testo del decreto Foia, la trasparenza della PA parte da dicembre,” *Repubblica*, May 19, 2016, <http://bit.ly/2dTLOsZ>.

41 An English copy of the constitution is available at, Constitution of the Italian Republic, <http://bit.ly/1hARFPS>; See especially art.15 and 21 Cost.

expression advocates have focused their efforts on proposing legal amendments to improve protections and prevent censorship rather than engaging in public interest litigation.<sup>42</sup>

Several laws present a threat to internet freedom in the country. Italy passed a new antiterrorism law in April 2015 that broadened language in the criminal code on terrorist recruitment as well as the endorsement or incitement of terrorism to include their action via online channels.<sup>43</sup> Critics worry that the law will be applied broadly and may sanction legitimate instances of free expression that fall within international norms for protected speech. On a positive note, the government withdrew provisions from the bill that would have authorized law enforcement agencies to remotely break into private computers. Prime Minister Renzi noted that the delicate issue needed further discussion.<sup>44</sup>

Defamation is a criminal offense in Italy: according to the criminal code, “aggravated defamation” is punishable by prison terms ranging from six months to three years and a minimum fine of EUR 516 (US\$580). In cases of libel through the press, television, or other public means, there is no prescribed maximum fine.<sup>45</sup> Though these provisions are rarely applied, civil libel suits against journalists, including by public officials and politicians, are a common occurrence, and the financial burden of lengthy legal proceedings may have chilling effects on journalists and their editors.

Although nonbinding, Italy was the first European country to adopt a “Declaration of Internet Rights” in July 2015.<sup>46</sup> The declaration includes provisions that promote net neutrality and establish internet access as a fundamental right. While generally seen as a positive development, the text has also raised some criticism for falling short on certain issues such as anonymity, encryption and data retention.<sup>47</sup>

## Prosecutions and Detentions for Online Activities

Although no online activists have been detained or prosecuted by law enforcement agencies for disseminating or accessing information on the internet, legal threats against online journalists and bloggers were documented during the coverage period. According to the non-profit organization Ossigeno per l’Informazione, which tracks threats to journalists in Italy, 22 lawsuits with “clear intent of intimidation” were reported in June 2015 alone, many of them targeted against reporters of online news outlets.<sup>48</sup> It is likely that other cases are not publicly reported. Concerns also remained over the enforcement of criminal libel on platforms such as Facebook.<sup>49</sup>

In one case, journalist Antonio Brindisi was sued by residents of the island Gorgona because they felt

---

42 Andrea Monti (lawyer specialized on Internet freedom and activist), in a conversation with author, February 20, 2012.

43 Sghirinzetti, “Italy: Anti-terrorism decree to strengthen government surveillance.”

44 “Tolto dal decreto antiterrorismo l’emendamento sui computer,” *Internazionale*, March 26, 2015, <http://bit.ly/1Lr1CeP>

45 Organization for Security and Cooperation in Europe Representative on Freedom of the Media, *Libel and Insult Laws: A matrix on where we stand and what we would like to achieve*, (Vienna: OSCE, 2005), 79, <http://www.osce.org/fom/41958>.

46 “Declaration of Internet Rights,” <http://bit.ly/2d0Sr6T>.

47 Oreste Pollicino and Marco Bassini, “An Internet Bill of Rights? Pros and Cons of the Italian Way,” LSE Media Policy Project Blog, August 5, 2015, <http://blogs.lse.ac.uk/mediapolicyproject/2015/08/05/an-internet-bill-of-rights-pros-and-cons-of-the-italian-way/>; See also: “Massimo Russo, “Ecco la bozza di Internet bill of rights, ora tocca ai cittadini migliorarla,” *Wired*, October 13, 2014, <http://bit.ly/1v6TKGU>.

48 Ossigeno per l’Informazione, “The most dangerous news of June 2015 reported by Ossigeno,” July 8, 2015, <http://bit.ly/1KSPzG5>; For a list of incidents reported by Ossigeno per l’Informazione to date, see: <http://bit.ly/1j0mLC1>.

49 See for example: Adriana Apicella “Diffamazione a mezzo stampa, è reato anche su Facebook,” [Libel, also a crime on Facebook], *Justicetv.it*, January 17, 2013, <http://bit.ly/2dYQ5rh>; Mauro Vecchio, “Diffamazione, stampa e social pari sono?” *Punto Informativo*, January 15, 2013, <http://bit.ly/1L88ZGK>; “Cassazione: è diffamazione parlar male su Facebook anche senza fare nomi,” *La Repubblica*, April 16, 2014, <http://bit.ly/1PaZqKX>.

offended by satirical remarks on the website “www.ilgorgon.eu.” According to Ossigeno per l’Informazione, Brindisi was convicted of defamation by a court in Livorno in October 2015 and sentenced to pay a fine of 1,500 Euros, even though his blog had been taken down since 2012.<sup>50</sup>

## Surveillance, Privacy, and Anonymity

Widespread technical surveillance is not a concern in Italy, and monitoring of personal communications is permissible only if a judicial warrant has been issued. Wiretapping is generally restricted to cases involving ongoing legal proceedings, except for terrorism investigations. In such instances, “pre-emptive wiretapping” may occur even if no formal prosecutorial investigation has been initiated. More lenient procedures are also in place for Mafia-related investigations.<sup>51</sup> The country’s authorities are widely perceived to be engaged in regular wiretapping,<sup>52</sup> and the news media regularly publicize wiretap information that is leaked to them.

In March 2008, Parliament approved a law (No. 48 of 2008) that ratified the Council of Europe’s Convention on Cybercrime, which established how long internet-related communication data should be retained.<sup>53</sup> This matter was further refined with the inclusion in the Italian legislative system of the 2006 EU Data Retention Directive.<sup>54</sup> Although the Court of Justice of the European Union struck down the directive in 2014, Italy passed an antiterrorism law in April 2015 that extended the period ISPs must keep users’ traffic records (metadata), as opposed to the content of communications—from 12 to 24 months.<sup>55</sup> Providers must retain information such as broadband internet data, internet telephony, internet use via mobile phone, and email activity. The records can only be disclosed in response to a request from a public prosecutor (a judge) or a defendant’s lawyer, and, like their counterparts elsewhere in Europe, Italy’s law enforcement agencies may ask ISPs to make such information readily available so that they can respond to the needs of criminal investigations. Given the technical burden of this directive, most ISPs now use a third-party service that offers the necessary security guarantees for encryption and data storage.

As Italy moves towards greater e-governance, some concerns have been raised over the protection of user data in the hands of public agencies, as well as the security of digital data and the risk of identity theft.<sup>56</sup> As part of the Italy’s digital agenda, the Digital Italy Agency (AgID) recently introduced an eID system called Public System of Digital Identity (SPID).<sup>57</sup> Launched in March 2016, SPID creates a “unique” PIN number that allows users to log into different public administration web services, including social security, pension, and tax agencies and municipalities. Only three providers are authorized to grant this “digital identity”: Infocert, Tim (mobile telecom), and Poste (PosteID).

---

50 Ossigeno per l’Informazione, “Blog obscured for 3 years, managers condemned only now,” October 15, 2015, <http://bit.ly/1LuVD8I>.

51 Privacy International, “Italy: Privacy Profile,” in *European Privacy and Human Rights 2010* (London: Privacy International, 2010).

52 Although it is difficult to determine the real number of people affected by wiretaps (estimates range from 25,000 to over 130,000), many individuals who are caught up in wiretaps have no incriminating connection to the main target of the eavesdropping. The current law stipulates that such peripheral communications cannot be transcribed and any recordings should be destroyed right away, though this is not always carried out in practice. Thus it may happen that some exchanges are recorded and leaked to the media. This is the problem that the proposed bill on electronic surveillance was meant to address.

53 For a useful timetable of the required retention periods, see Gloria Marcoccio, “Convention on cybercrime: novità per la conservazione dei dati,” [Convention on Cybercrime: News on Data Retention] *Diritto Tecnologia Informazione*, April 10, 2008, <http://www.interlex.it/675/marcoccio7.htm>.

54 D.L. 109/2008.

55 Sghirinzetti, “Italy: Anti-terrorism decree to strengthen government surveillance.”

56 M. Calamari “Lo SPID è nato morto?,” *Punto Informatico* April 21, 2016, <http://bit.ly/2fQLhso>.

57 [http://www.spid.gov.it/press-kit/SPID\\_8marzo\\_Presentazione.pdf](http://www.spid.gov.it/press-kit/SPID_8marzo_Presentazione.pdf).

In the past, the national postal service Poste Italiane's certified electronic mail (PEC) service was named as the public agency most damaging to individual privacy at the "Annual Big Brother Awards," an event hosted by civil society privacy activists, for its gross mishandling of private information kept by the government's Registro delle Opposizioni, a register of people who wish to keep their contact information hidden from advertising companies.<sup>58</sup> Nevertheless, it is now mandatory for all businesses to use the PEC service in their communications with the public administration to cut costs and reduce paperwork.

## Intimidation and Violence

Cases of intimidation or physical violence in response to online activity are reported sporadically, although individuals who expose the activities of organized crime in some parts of the country may especially be at risk of reprisals. In August 2015, the parliamentary anti-mafia committee voiced concerns about the high number of "acts of hostility" against investigative journalists by organized crime groups, recording 2,060 such incidents between 2006 and 2014. This included "traditional methods" of intimidation such as burning of cars, verbal threats and even sending bullets through the mail, but also increasing legal threats.<sup>59</sup> It is likely that many other cases are not publicly reported.<sup>60</sup>

As recorded by Ossigeno per L'Informazione, online journalists and bloggers have not been spared from abuse, with a number of threats or attacks reported during the coverage period. In a shocking case, anti-Mafia blogger and former lawyer Mario Piccolino of Freevillage.it was shot dead in his office on May 29, 2015. Although immediate speculation surrounding the cause of this attack pointed to Piccolino's anti-mafia writing,<sup>61</sup> the murder appeared to be the result of a personal vendetta linked to a civil lawsuit.<sup>62</sup>

In July 2015, Mimmo Carrieri, an environmentalist who reports for the online outlet Viv@voce, was assaulted and stripped of his phone and camera while he was documenting camping abuses in a restricted area, even though he was already under police protection since 2012.<sup>63</sup> In September 2015, journalist Daniele Camilli of the online outlet *TusciaWeb* of Viterbo, who covers organized crime, received an anonymous letter that called for two organized crime families to use force against the journalist and his outlet.<sup>64</sup> In May 2016, Jacopo Norfo, journalist and chief editor of *Casteddu Online*, was insulted and intimidated on Facebook for publishing critical articles about hiring practices in Sardinia by the left-wing party SEL (Left, Ecology and Freedom).<sup>65</sup>

---

58 Cristina Sciannamblo "Big Brother Awards Italia: tutti i vincitori," *Punto Informatico*, June 6, 2011, <http://bit.ly/1OubcQG>.

59 Anti-Mafia Parliamentary Committee, "Report on the State of Information and on the Condition of Journalists threatened by Organised Crime," August 5, 2015, <http://bit.ly/2dAMvUN>.

60 "How the Mafia Intimidates and Controls the Italian Media," *Vice*, March 15, 2016, <http://bit.ly/21tm8zE>.

61 "'Execution' of lawyer kills hope that residents can defeat Mafia," *The Independent*, June 6, 2015, <http://ind.pn/2dyEFwa>.

62 Ossigeno per L'Informazione, "Suspect murderer of Formia blogger arrested," June 23, 2015, <http://bit.ly/1K84Cvm>.

63 Ossigeno per L'Informazione, "Surrounded and threatened journalist calls for more protection," July 22, 2015, <http://bit.ly/1Vvu8A1>.

64 Ossigeno per L'Informazione, "Viterbo Anonymous Asks The Casamonicas to Punish Reporter and Website," September 16, 2015, <http://bit.ly/2dQK7rN>.

65 Ossigeno per L'Informazione, "Sardinia, Death Threats to Casteddu Online Reporter," June 3, 2016, <http://bit.ly/1X3Dvcw>.

## Technical Attacks

The country's official cybersecurity strategy has been in place since December 2013.<sup>66</sup> The most common forms of technical attacks in Italy are the defacement or launching of denial-of-service (DoS) attacks against websites—mostly government-linked ones—as a form of political protest.<sup>67</sup> In February 2016, Ossigeno per l'Informazione reported that the news portal Immezcla.it, which covers immigration issues in the Mediterranean, was attacked and its contents were erased.<sup>68</sup> The online newspaper *La Voce di Venezia* also reported that its Facebook page was targeted by a hacking group called "Insane Army" on April 13 and 14, 2016.<sup>69</sup> Other cyberattacks—particularly against banks, government institutions, and business websites—remain a problem in Italy, as in other European Union member states. Nevertheless, Italy does not rank highly on the list of countries identified as points of origin for cybercrimes.<sup>70</sup>

In July 2015, the Milan-based private security firm Hacking Team was hacked, leading to the release of several hundred gigabytes of emails and other data that was later posted to Wikileaks.<sup>71</sup> The company provides software applications to intelligence agencies around the world and had been criticized in the past for cooperating with nondemocratic regimes and lacking sufficient considerations of users' privacy.<sup>72</sup> In April 2016, however, the Italian government suspended its "global" authorization to export its software. While this would not affect countries within the European Union, the company would be required to seek approval from Italian authorities to request individual licenses for each country outside of the EU.<sup>73</sup> This decision came in the midst of growing scrutiny of surveillance software sales and followed the torture and death of the Italian PhD student Giulio Regeni in Egypt, which was also one of the countries on the list of Hacking Team customers.

---

66 Presidency of the Council of Ministers, *National Plan for Cyberspace Protection and ICT Security*, December 2013, <http://bit.ly/1Lr3Gn4>; and Presidency of the Council of Ministers, *National Strategic Framework for Cyberspace Security*, December 2013, <http://bit.ly/1qVEWpW>.

67 The Police and the judiciary are often targeted, see for example "Gli hacker colpiscono ancora: attaccato sito della polizia campana," *Corriere della Sera*, February 17, 2013, <http://bit.ly/1L8atk1>.

68 Ossigeno per l'Informazione, "Reggio Calabria: hackers attack online newspaper and erase it," March 2, 2016, <http://bit.ly/2dGXxra>.

69 "Attacco hacker alla pagina Fb del sito "La voce di Venezia"" [Hacker attack to the Fb page of the website "Voice of Venice"], Nuova Venezia, April 15, 2016, <http://bit.ly/2dCqxAJ>.

70 An independent report by HostExploit shows Italy scoring quite well on a "badness" scale (France, Germany and the United Kingdom, all get a worse score). These results are graphically visible in here: Global Security Map, "Italy," accessed 19 May 2015, <http://globalsecuritymap.com/#it>.

71 Wikileaks, "Hacking Team," <https://wikileaks.org/hackingteam/emails/>.

72 Alfonso Maruccia, "L'orgoglio ferito di Hacking Team," *Punto Informatico*, July 23, 2015, <http://bit.ly/1LFkyIL>. See also the conclusions by CitizensLab here, "Tag Archives: Hacking Team," <https://citizenlab.org/tag/hacking-team/>; and by computer security expert Bruce Schneier here: Bruce Schneier, "Hacking Team Is Hacked," *Schneier on Security* (blog), July 6, 2015, <http://bit.ly/1RD0iWY>.

73 "Hacking Team Has Lost Its License to Export Spyware," April 6, 2016, Motherboard, <http://bit.ly/1q9kiUD>.