

Italy

	2016	2017		
Internet Freedom Status	Free	Free	Population:	60.6 million
Obstacles to Access (0-25)	4	4	Internet Penetration 2016 (ITU):	61.3 percent
Limits on Content (0-35)	6	6	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	15	15	Political/Social Content Blocked:	No
TOTAL* (0-100)	25	25	Bloggers/ICT Users Arrested:	No
			Press Freedom 2017 Status:	Partly Free

* 0=most free, 100=least free

Key Developments: June 2016 – May 2017

- Following a constitutional referendum campaign marked by allegations of disinformation and fake news, political parties and actors have advocated for different solutions to tackle the phenomenon, including a controversial proposal to impose fines and prison sentences against those behind fake news reports (see "**Media, Diversity, and Content Manipulation**").
- A new bill voted by the Senate in March 2017 and approved in June 2017 mandated the government to regulate hacking for the purpose of criminal investigations, but raised concerns among privacy groups for lacking adequate safeguards (see "**Surveillance, Privacy, and Anonymity**").
- Amid growing scrutiny over surveillance software sales to government agencies and repressive regimes, Italy took some steps to limit the export of surveillance technologies to countries with poor human rights records. However, civil society organizations continued to demand greater transparency on export licensing for surveillance technologies (see "**Technical Attacks**").

Introduction

Italy's internet environment remained "Free," although online writers continued to face legal intimidation and other threats.

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. Moreover, debates surrounding several legislative proposals during the past year raised concerns due to their potential impact on internet freedom. The "fake news" debate was particularly lively in Italy, and politicians across the political spectrum have publicly discussed possible solutions to regulate the spread of disinformation on the internet.

Meanwhile, Italy has been discussing its own regulation of hacking powers for law enforcement investigations, and in June 2017 approved a law mandating the government to regulate the use of malware for such purposes. Italian and international non-governmental organizations, as well as the UN Human Rights Committee, have raised concerns about international human rights standards of legality, necessity, and proportionality. Concerns have also surrounded Italian companies' involvement in cyberweapons trade, and the lack of transparency in the way export licenses are granted.

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. 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.

Obstacles to Access

Since the 1990s, the Italian government has supported the internet as a catalyst for economic growth, increased tourism, and greater government efficiency. This attitude continued to prevail in 2017, though aspirations for a fully connected Italy remained unfulfilled.

Availability and Ease of Access

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.¹ 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 general, mobile phone use is much more widespread than internet access. Italy has one of lowest coverage rates of high speed broadband in the EU.²

¹ ITU, "ICT Facts and Figures: the world in 2017," ICT Facts and Figures: the world in 2015; See also: The Digital Economy & Society Index (DESI), 2016, <http://bit.ly/1UPeUWV>.

² 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. See: European Commission, "Broadband speeds and prices," accessed October 31, 2017, <http://bit.ly/2gQo5YT>

Key Access Indicators		
Internet penetration (ITU) ^a	2016	61.3%
	2015	65.7%
	2011	54.4%
Mobile penetration (ITU) ^b	2016	140%
	2015	151%
	2011	158%
Average connection speeds (Akamai) ^c	2017(Q1)	9.2 Mbps
	2016(Q1)	8.2 Mbps

^a International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2016," <http://bit.ly/1cblxxY>.

^b International Telecommunication Union, "Mobile-Cellular Telephone Subscriptions, 2000-2016," <http://bit.ly/1cblxxY>.

^c Akamai, "State of the Internet - Connectivity Report, Q1 2017," <https://goo.gl/TOH7L7>.

Significant geographical differences persist across the country: if in the Northern Italy internet penetration reaches 67 percent, in the Southern part of the country these figures are lower (55 percent). Of all connected Italians, 45 percent go online every day.³ Also the number of families owning an ADSL broadband connection improved from 64.4 to 67.4 percent in 2016. Of these, nearly 45 percent went online every day. The internet is particularly popular among Italian youth, with over 91 percent of people between 15 and 24 surfing the web.⁴

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. 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).⁵ In a similar attempt to showcase progress in Italy's digital agenda, the government approved a decree in February 2016 to cut costs for laying cables and established the Networks Register for Infrastructures (SINFI).⁶ With this stop-and-go approach, however, it remains unclear whether Italy will fulfill the EU goal.

Launched in 2016, a "Digital Team" led by Amazon vice-president Diego Piacentini involves professional figures of different internet-related sectors and it is supposed to lead the digital transformation process of Italian public administration, among other goals.⁷

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

3 Istituto Nazionale di Statistica (ISTAT), "Citizens, enterprises and the ICTs," December 21, 2016, <https://www.istat.it/it/files/2016/12/Cittadini-Imprese-e-nuove-tecnologie.pdf?title=Cittadini%2C+imprese+e+ICT+-+21%2Fdic%2F2016+-+Testo+integrale+e+nota+metodologica.pdf>

4 Istituto Nazionale di Statistica (ISTAT), "Citizens, enterprises and the ICTs," December 21, 2016,

5 D.L. 179/2012 in G.U. 46/2012, <http://bit.ly/1jsm8AT>; See also: Agenzia per l'Italia Digitale, "Agenda Digitale italiana," <http://bit.ly/1PpZcP9>.

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

7 Diego Piacentini, "Towards the new 'operating system' of the country," Medium.com, December 21, 2016 <https://medium.com/team-per-la-trasformazione-digitale/new-operating-system-country-technological-competence-plans-11b50a750ea7>

EU legislation to provide fair access to competitors (see ICT Market).⁸

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 mobile carriers, and all of them operate 3G and 4G networks.⁹

In December 2016, 3 Italia and Wind confirmed their fusion and they now operate as a single company under the name of Wind Tre Spa. With 31 million users, the company is now the biggest mobile operator in the country.¹⁰

Earlier in 2016, the French media giant Vivendi further raised its stake in Telecom Italia to just under 25 percent – the threshold for making a mandatory bid for Telecom Italia.¹¹ In April 2017 however, the Italian communications regulator AGCOM ruled that Vivendi had violated Italy's media antitrust law and gave the company a year to reduce its stakes in either Telecom Italia or the private broadcaster Mediaset.¹²

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.¹³ In late 2016, in the wake of the fake news debate, Giovanni Pitruzzella, Head of AGCOM, argued that regulation of false information on the internet was best done by the State rather than by social media companies such as Facebook. He also suggested the creation of an EU independent body set to label fake news and remove it from circulation or impose fines when necessary.¹⁴

Another important player governing the ICT sector is the Italian Data Protection Authority (DPA), known as "Garante della Privacy". 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

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

9 See: <https://opensignal.com/reports/2016/05/italy/state-of-the-mobile-network>

10 <http://www.ilpost.it/2017/01/03/wind-tre/>

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

12 "Italian Regulator Rules Vivendi Can't Keep Big Stakes in Both Mediaset, Telecom Italia," *The Wall Street Journal*, April 18, 2017, <http://on.wsj.com/2yxp88w>

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

14 "Italy antitrust chief urges EU to help beat fake news," *Financial Times*, December 30, 2016, <https://www.ft.com/content/e7280576-cddc-11e6-864f-20dcb35cede2>

to ban or block “processing operations that are liable to cause serious harm to individuals.”¹⁵ 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. Italian politicians have made increasing demands to tackle the proliferation of hate speech and fake news online, including a controversial proposal to impose fines and prison sentences on those behind fake news reports.

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. According to data gathered by Open Observatory of Network Interference (OONI),¹⁶ developed by the Tor Project, Italy’s blocking and filtering of the internet is limited and is primarily implemented by means of DNS tampering.¹⁷ Websites related to child abuse, gambling, copyright infringement, and terrorism are subject to blocking or removals. The 2014 antiterrorism law voted in April 15, 2015 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.¹⁸

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.¹⁹ In March 2017, an administrative court dismissed the challenge lodged by consumer organizations and ISP associations in 2014, ruling that the regulation is not in violation of EU and Italian law.²⁰

Content Removal

The Italian authorities sometimes request the removal of specific content, though the amount is limited. According to Facebook’s report from June to December 2016, 11 pieces of content were restricted based on court orders for defamation, harassment, and threats allegedly violating Italian law.²¹ Twitter’s Transparency Report for 2016 lists 6 requests for content removal from Italian

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

16 <https://ooni.torproject.org/>

17 <https://explorer.ooni.torproject.org/country/IT>

18 Sghirinzetti, “Italy: Anti-terrorism decree to strengthen government surveillance,” EDRI, April 22, 2015, <http://bit.ly/1RCR0KR>.

19 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>.

20 <https://torrentfreak.com/blocking-pirate-sites-without-a-trial-is-allowed-italian-court-rules-170403/>

21 <https://govtrequests.facebook.com/country/Italy/2016-H2/>

authorities between July and December, but no content was withheld.²² According to Google's latest Transparency Report, the government sent 148 content removal requests between July to December 2016, including 66 of them for defamatory content, 41 for privacy and security reasons, and 23 for hate speech.²³

Italian courts have ruled in favor of the so-called "right to be forgotten" since the European Union (CJEU) ruling in May 2014. On December 3, 2015, 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.²⁴ In a problematic move in 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."²⁵

In May 2017, the Italian parliament approved a new cyberbullying law after several high profile cases of cyberbullying came to light.²⁶ The bill had raised concerns for instituting far too easy of a process for content removal from social media.²⁷ Minors over the age of 14 (or their parents) can demand outlets to remove damaging content within 48 hours of a request.²⁸ While it was subject to several changes during the parliamentary debate, the latest version of the text has been viewed as more accurate and balanced.²⁹

Media, Diversity, and Content Manipulation

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.

The Italian government does not proactively manipulate news websites. Following a constitutional referendum campaign marked by allegations of disinformation and fake news however, Italian politicians have made demands to address the proliferation of hate speech and fake news online.³⁰ In November 2016, an analysis by *Buzzfeed* found that the anti-establishment Five Star Movement was running a network of websites and social media networks that disseminated fake news and pro-

22 <https://transparency.twitter.com/en/countries/it.html>

23 <https://transparencyreport.google.com/government-removals/by-country/IT>

24 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>.

25 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/2cPSINg>.

26 "Italy passes law to fight cyberbullying," Reuters, May 17, 2017, <http://in.reuters.com/article/italy-cyberbullying/italy-passes-law-to-fight-cyberbullying-idINKCN18D2HW>

27 "La nuova legge sul cyberbullismo," *Il Post*, May 17, 2017, <http://www.ilpost.it/2017/05/17/legge-cyberbullismo/>

28 "Cyberbullismo, sì definitivo della Camera. Ecco cosa prevede la legge," May 17, 2017, <http://tg24.sky.it/politica/2017/05/17/Cyberbullismo-camera-approva-legge-cosa-prevede.html>

29 "Cyberbullismo, dopo le critiche la legge cambia e punta alla prevenzione," *Valigia Blu*, February 2, 2017, <http://www.valigiablu.it/cyberbullismo-legge/>

30 "Top Italian politician Laura Boldrini is calling out Mark Zuckerberg for ignoring hate speech and fake news," *Quartz*, February 15, 2017, <https://qz.com/911293/top-italian-politician-laura-boldrini-is-calling-out-mark-zuckerberg-for-ignoring-hate-speech-and-fake-news/>

Kremlin content.³¹ In early 2017, a widely criticized bill to tackle the spread of fake news and hate speech was presented for parliamentary discussion by MP Adele Gambaro. According to this bill, online news organizations could be fined up to €5,000 for publishing “false, exaggerated or biased” news reports and failing to remove them within 24 hours. If fake news is deemed to damage the public interest or seeks to undermine the democratic process, publishers would face heftier fines and prison sentences.³²

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.

Online publishing is 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. Some restrictions on Internet content that are 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.³³ With the exception of one case from late 2000s, these rules have generally 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

While usually less technologically advanced than those working in other Western European countries, Italian civil society organizations have actively started to campaign on transparency and social issues, with a particular focus on open data and freedom of information initiatives, with some results.

For instance, after two years of a civil society campaign called “FOIA4Italy,” a new access to information law was approved by the Council of Ministers in May 2016 and came into force on December 23, 2016.³⁴

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

31 “Italy’s Most Popular Political Party Is Leading Europe In Fake News And Kremlin Propaganda,” BuzzFeed, November 29, 2016, <http://bzfd.it/2hsly6v>

32 “Italy debates fines and prison terms for people who spread fake news,” thelocal.it, February 16, 2017, <https://www.thelocal.it/20170216/italy-mulls-introducing-fake-news-fines>

33 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/I01_62.htm.

34 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>.

online journalists and social media users, particularly in the ambiguous form they have been applied to the online sphere.

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.³⁵ Italy was the first European country to adopt a crowdsourced “Declaration of Internet Rights” in July 2015. The non-binding 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 like such as anonymity, encryption, and data retention.

Several laws present a threat to internet freedom in the country, however. 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.³⁶ Critics worried that the law would be applied broadly and may sanction legitimate instances of free expression that fall within international norms for protected speech.³⁷

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.³⁸ 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. In March 2017, the United Nations Human Rights Committee expressed renewed concerns that “forms of expression including defamation, libel and blasphemy remain criminalized, including with punishment of imprisonment, and that article 13 of the Press Law and that Article 595 of the Criminal Code imposes harsher punishment for defaming public officials, including the head of state.”³⁹

Political debates have increasingly focused on how best to tackle the spread of disinformation and hate speech online, and in early 2017, Italian politicians introduced a new legislative proposal to ban fake news. The proposal, signed by 28 MPs, introduces jail time for publishing news that could create public unrest. Other suggested sanctions include fines.⁴⁰ As of mid-2017, the proposal was still a draft and had not yet been assigned to a parliamentary commission. The text has received strong criticism (see Media, Diversity, and Content Manipulation).⁴¹

35 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.

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

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

38 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>.

39 “Concluding observations on the sixth periodic report of Italy”, United Nations, Human Rights Committee, March 2017: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fITA%2fCO%2f6&Lang=en

40 “Fake news, ddl bipartisan contro chi diffonde bufale dannose sul Web,” *Il Sole 24 Ore*, February 15, 2017, <http://bit.ly/2IP0hG1>

41 “La legge contro le fake news: un misto di ignoranza e voglia di censura,” *Valigia Blu*, February 16, 2017, <http://www.valigiablu.it/legge-fakenews-censura/>

Prosecutions and Detentions for Online Activities

Defamation is a criminal offense in Italy according to the criminal code. Civil libel suits against journalists, including those operating online, are a common occurrence. The financial burden of lengthy legal proceedings may have chilling effects on journalists and their editors. Ossigeno per l'Informazione, an organization that tracks threats to journalists in Italy, has reported 550 "frivolous defamation suits" against media since 2011, which includes cases against online media.⁴²

Surveillance, Privacy, and Anonymity

Despite the 2013 Snowden revelations and reports of eavesdropping by the British and American governments' intelligence organizations on Italian phone calls and internet traffic, Italy has not engaged in a thorough public debate.^{43 44}

The country's authorities are widely perceived to be engaged in regular wiretapping, and the news media regularly publicize wiretap information that is leaked to them.⁴⁵ The use of hacking by Italian law enforcement is has also been documented, and in May 2017, the United Nations Human Rights Committee raised concerns that "intelligence agencies are intercepting personal communications and employing hacking techniques without explicit statutory authorization or clearly defined safeguards from abuse."⁴⁶ In July 2016 however, the Supreme Court of Italy ruled that hacking was constitutional and in accordance with human rights law.⁴⁷

Italian lawmakers have made several attempts to regulate hacking in recent years.⁴⁸ A proposal known as the "Trojan Bill" sought to amend Article 266 to reflect the Supreme Court's judgment, as well as establish a more robust system for authorizing remote and covert hacking.⁴⁹ In March 2017, the Senate voted on another bill proposed by Justice Minister Andrea Orlando to reform the

42 See: <http://notiziario.ossigeno.info/tutti-i-numeri-delle-minacce/dati-aggregati-tavola-3/>

43 "Revealed: How the Nsa Targets Italy," *L'Espresso*, December 5, 2013, <http://espresso.repubblica.it/inchieste/2013/12/05/news/revealed-how-the-nsa-targets-italy-1.144428>

44 "Datagate, così ci spiano Stati Uniti e Gran Bretagna," *L'Espresso*, October 24, 2013, <http://espresso.repubblica.it/internazionale/2013/10/24/news/cosi-ci-spiano-stati-uniti-e-gran-bretagna-1.138890>

45 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.

46 "Concluding observations on the sixth periodic report of Italy", United Nations, Human Rights Committee, March 2017: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fITA%2fCO%2f6&Lang=en

47 Corte di Cassazione, supra note 3, Reasons for the Decision, para. 11 ("limited exclusively to proceedings relating to offences of organized crimes, the Court allows the real-time interception of conversations or communications by installing a "computerized sensor" in portable electronic devices (e.g. personal computer, tablet, smartphone, etc.) also in private homes under Art. 614 of the Code of Criminal Procedure, even if those dwelling are not identified in the warrant or if it is not determined that they were used to conduct criminal activity") (in the original Italian "Limitatamente ai procedimenti per delitti di criminalità organizzata, è consentita l'intercettazione di conversazioni o comunicazioni tra presenti mediante l'installazione di un captatore informatico in dispositivi elettronici portatili (ad es., personal computer, tablet, smartphone, ecc.) - anche nei luoghi di privata dimora ex art. 614 c.p., pure non singolarmente individuati e anche se ivi non si stia svolgendo l'attività criminosa")

48 Carola Frediani, Intercettazioni col trojan, ecco la proposta di legge, *La Stampa*, January 31 2017) <http://www.lastampa.it/2017/01/31/italia/cronache/intercettazioni-col-trojanecco-la-proposta-di-legge-MP8BJ2PB0jCwMt84ofRSIM/pagina.html>

49 Proposta di Legge, Disciplina dell'uso dei Captatori legali nel rispetto delle garanzie individuali. The full Italian bill, and its summary in English are available at <http://www.civiciinnovatori.it/wp-content/uploads/2017/02/Sintesi-PDL-captatori-EN.pdf>

criminal justice system.⁵⁰ Approved in June 2017, the law mandates the government to regulate hacking for the purpose of criminal investigations. Organizations such as Privacy International have contended that the law fails to meet the standard of legality, necessity, and proportionality, and does not establish sufficient minimization procedures, effective oversight, or safeguards from abuse.⁵¹

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.⁵² This matter was further refined with the inclusion in the Italian legislative system of the 2006 EU Data Retention Directive.⁵³ Although the Court of Justice of the European Union struck down the directive in 2014, Italy passed an anti-terrorism 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.⁵⁴ 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.⁵⁵ 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).⁵⁶ 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).

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. 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.⁵⁷ As recorded by Ossigeno per L'Informazione, over 400 Italian journalists and bloggers were subjected to threats

50 Changes to the Criminal Code, Criminal Procedure Code and Penal Procedure Bill (15 Mar. 2017), available at <http://www.senato.it/service/PDF/PDFServer/BGT/01009188.pdf>.

51 Privacy International, "Privacy International's Analysis of the Italian Hacking Reform, under DDL Orlando," March 5, 2017, <http://bit.ly/2zwWUgC>

52 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>.

53 D.L. 109/2008.

54 Sghirinzetti, "Italy: Anti-terrorism decree to strengthen government surveillance."

55 M. Calamari "Lo SPID è nato morto?", *Punto Informativo* April 21, 2016, <http://bit.ly/2fQLhso>.

56 See: <https://www.spid.gov.it/>

57 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>.

of different kinds in 2016.⁵⁸ It is likely that many other cases are not publicly reported.

Technical Attacks

The country's official cybersecurity strategy has been in place since December 2013.⁵⁹ Common forms of technical attacks in Italy include defacement or distributed denial-of-service (DDoS) attacks against websites as a form of political protest. Other cyberattacks—particularly against banks, government institutions, and business websites—remain a problem in Italy. In early 2017, the malware EyePyramid was detected. The software was created to target high profile public officials and law firms.⁶⁰

Awareness regarding Italian involvement in the cyberweapons market has grown, and companies have faced growing scrutiny over surveillance software sales to government agencies and repressive regimes. In July 2015, a leak of internal documents from the Milan-based surveillance technology firm Hacking Team revealed details about some of the company's clients across the world, including countries with poor human rights records.⁶¹ The company had been criticized in the past for cooperating with nondemocratic regimes and lacking sufficient considerations of users' privacy.⁶² 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.⁶³

According to a study published by the UK-based NGO Privacy International in August 2016, three other companies based in Italy market intrusion technology.⁶⁴ In January 2017, the Italian Coalition for Civil Liberties and Rights, Privacy International and the Hermes Center for Transparency and Digital Human Rights wrote a public letter to the Italian Ministry for Economic Development asking to reconsider the export authorization for Italian company, AREA, which had been investigated after selling their products in Syria and Egypt.⁶⁵ The ministry issued a press release stating that the company's export authorization to Egypt had been suspended and would be revoked.⁶⁶ However, civil society organizations have continued to demand greater transparency on export licensing and countries involved.⁶⁷

58 Ossigeno, "412 Nomi Giornalisti Minacciati In Italia Nel 2016," December 30, 2016, <http://notiziario.ossigeno.info/2016/12/ossigeno-412-giornalisti-minacciati-in-italia-nel-2016-76140/>

59 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>.

60 "Tutti i dettagli e i misteri di EyePyramid," *La Stampa*, January 12, 2017, <http://www.lastampa.it/2017/01/12/italia/cronache/tutti-i-dettagli-e-i-misteri-di-eyepyramid-S3vOtTe6smhbJbBlrogpCj/pagina.html>

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

62 Alfonso Maruccia, "L'orgoglio ferito di Hacking Team," *Punto Informatico*, July 23, 2015, <http://bit.ly/1LFkylL>. 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>.

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

64 Privacy International, "Privacy International launches the Surveillance Industry Index & New Accompanying Report," August 1, 2016: <https://www.privacyinternational.org/node/912>

65 Italy urged to act as Internet surveillance systems are exported to Egypt, *Cild.eu*, January 23, 2017: <https://cild.eu/en/2017/01/23/italy-urged-to-act-internet-surveillance-system-exported-to-egypt/>

66 "Ministry of Economic Development's reply: Area Spa license to be revoked," *Cild.eu*, January 24, 2017, <https://cild.eu/en/2017/01/24/ministry-economic-developments-reply-area-spa-license-revoked/>

67 "Software spia, il ministero revoca la licenza di vendita in Egitto di Area Spa dopo le indagini della procura," *Il Fatto Quotidiano*, June 30, 2016, <http://bit.ly/2s8WfuY>