



ITALY

# FACT-CHECKER LEGAL GUIDE

**Fact-Checkers Legal  
Support Initiative**



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# INTRODUCTION

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1. This Guide summarizes the legal regime in Italy relating to rights and obligations that are potentially relevant to fact-checkers. As explained below, these include defamation, privacy rights, the right to information, and copyright.

# DEFAMATION

## A. *Introduction*

2. Under Italian law, defamation is defined as the communication of statements that harm a person's reputation.<sup>1</sup> Defamation can give rise to both civil and criminal liability.

3. As explained below, criminal defamation can result in both criminal punishment (a fine or imprisonment)<sup>2</sup> and the payment of compensation for monetary and moral damage,<sup>3</sup> while civil liability can lead to the payment of compensation for monetary and moral damages.<sup>4</sup>

## B. *Criminal Defamation*

4. Criminal liability is regulated by the Italian Criminal Code. In addition, certain criminal offenses relating to defamation are included in special criminal legislation, such as laws and decrees.<sup>5</sup>

5. Specifically, defamation is a criminal offense under:

a. Article 595 of the Criminal Code; and

b. Law No. 47/1948 on Provisions on the Press, Defamation, Crimes Committed against the Profession and Criminal Procedure (the "Press Law").<sup>6</sup>

6. Under Article 595 of the Criminal Code, a person commits defamation when he or she makes a statement that damages a person's reputation.<sup>7</sup>

7. Under the Press Law, a person can also be found criminally liable for defamation if he or she defames another person through printed publications<sup>8</sup> by referring to a specific fact (*i.e.*, an identifiable and unrepeatable event).<sup>9</sup> While Article 595 of the Criminal Code covers all kinds of media (including online journals and other non-printed media), the Press Law is only applicable to offenses committed by means of printed publications, *i.e.* "newspapers, news agency publications and periodicals."<sup>10</sup>

8. Because the Press Law only applies to printed publications, more defamation cases are brought under the Criminal Code than under the Press Law.<sup>11</sup> However, in at least one recent case, the Court of Cassation, Italy's highest court of appeal, applied the Press Law to an online newspaper publication.<sup>12</sup>

### 1. Procedure

9. Prosecution for defamation requires a complaint by the person who is the subject of the allegedly defamatory statement (the "subject") against the person who made the statement (the "speaker"),<sup>13</sup> which must be brought before the public prosecutor, judicial police (for example, the Carabinieri), or a consular agent abroad within three months of the subject becoming aware of the statement in question.<sup>14</sup>

## 2. Elements of Criminal Defamation

10. Criminal defamation has three general elements that apply under both the Criminal Code and the Press Law:

a. *Offense against the reputation of others:* To be defamatory, the statement must be an “offense against the reputation of others.”<sup>15</sup> Such a statement can be about a subject’s character, talent, professional ability, physical characteristics or other personal qualities.<sup>16</sup> Reputation for purposes of criminal defamation refers to the opinion or esteem gained by individuals in the community where they live.<sup>17</sup>

b. *Absence of the subject:* To be defamatory, the statement in question must be made in the absence of the subject. Depending on the context, absence can mean (1) the physical absence of the subject when the statement is made or (2) that the statement is not directed at the subject. Direct communications with the subject (such as telephone calls, emails, text messages, writings or drawings made or sent to the subject) therefore do not amount to defamation.<sup>18</sup>

c. *Communication to other persons:* The statement in question must also be communicated to one or more persons other than the subject. This communication can be oral or in writing.<sup>19</sup>

11. Under the Press Law, criminal defamation has one additional element: the statement must be communicated through printed publications.<sup>20</sup>

## 3. Penalties for Criminal Defamation

### a) Criminal Code

12. The penalty for defamation under the Criminal Code is imprisonment for up to one year or a fine of up to €1,032.<sup>21</sup>

13. Under certain circumstances, potentially higher penalties apply:

a. *Defamation of a specific fact:* If the defamation refers to a specific fact, the penalty is imprisonment for up to two years or a fine of up to €2,065.<sup>22</sup> Courts have held that defamation is made “more credible” where “the expressions used evoke concrete actions with a clear negative value to the understanding of the recipient of the communication.”<sup>23</sup>

b. *Defamation through the press or other communications means:* The penalty for defamation can also be more severe if the crime is committed through a publication, including newspapers, periodicals, blogs, online journals, radio and television broadcasting, and social media. The penalty in such cases is imprisonment from six months to three years (as opposed to a maximum of one year under the general provision) or a fine of at least €516.<sup>24</sup>

c. *Defamation directed at a political, administrative or judicial body*: The penalty is more severe if the defamation is directed at a political, administrative or judicial body as compared to defamation committed against natural persons.<sup>25</sup> However, the law does not specify the penalty in such cases.

b) Press Law

14. Under Article 13 of the Press Law, a defamatory statement in a printed publication (newspapers, periodicals, and journals) that refers to a specific fact is punishable by imprisonment from one to six years or a minimum fine of €258.<sup>26</sup>

15. The Press Law also allows the subject to claim damages (as in all criminal proceedings in Italy) as well as additional monetary compensation for the reputational harm suffered in the same proceedings. The amount awarded depends on the harm caused, which is in turn determined by looking at the seriousness of the offense and the scope of distribution of the printed matter.<sup>27</sup>

4. Expanded Scope of Criminal Defamation

16. As discussed below, Italian courts have in certain cases expanded the scope of criminal defamation under the Criminal Code to (a) defamation by implication and (b) new technologies and online platforms including blogs and social media. These are discussed below.

a) Defamation by Implication

17. Courts have held that a statement need not expressly refer to the subject by name in order to be defamatory if sufficient information exists to identify the subject indirectly or by implication. In 2014, the Court of Cassation held that “it is sufficient that enough details are included so that the offended person can be identified by as few as two persons.”<sup>28</sup>

b) Defamation on Social Media

18. Courts have held that defamation via social media constitutes “aggravated defamation” under Article 595.3 of the Criminal Code (“defamation through public media”) because online posts have the potential to reach an indeterminate number of people and are therefore comparable to defamation through the press.<sup>29</sup>

19. In particular, the Court of Cassation has held that a defamatory post on Facebook amounted to communication with an indeterminate number of people registered on the social network, and therefore came within the ambit of “aggravated defamation” under the Criminal Code.<sup>30</sup>

5. Defenses to Criminal Defamation

20. There are two categories of defenses to criminal defamation. There are (a) defenses based on Article 21 of the Constitution, which protects freedom of expression and freedom of the press, and (b) the defenses (specific to criminal defamation) set out in the Criminal Code.

a) Defenses Based on Article 21 of the Constitution

21. Defenses to defamation can be founded on Article 21 of the Constitution (which, as explained above, protects the rights to freedom of expression and freedom of the press<sup>31</sup>) if the statement was made while exercising these constitutional rights. These rights include the right to inform and criticize or the right to satire, and the requirements for a defense differ depending on the specific right being exercised, as explained below.<sup>32</sup>

a. *Right to inform and criticize:* A statement made in the course of exercising the right to inform and criticize will be exempt from criminal liability where the following conditions are met:<sup>33</sup>

i. *Truth or “presumed truth:”* To be exempt from liability for defamation, the speaker is required to prove either that the statement is true or that it appeared to be true at the time the speaker made the statement.<sup>34</sup> If the speaker believed in good faith that the statement was true after he or she verified the reliability of the source(s) of information, the truthfulness of the statement is “presumed.”<sup>35</sup> The subject can rebut this presumption by demonstrating that the source or sources on which the speaker relied could not have been considered reliable at the time the information was accessed.<sup>36</sup>

ii. *Social importance and relevance:* The statement in question must address an issue of “social value,” *i.e.*, concern an issue of public interest.<sup>37</sup> Whether the statement addresses an issue of social value is determined on a case-by-case basis. For example, courts are likely to find that statements that exclusively concern a person’s private life do not have social value.<sup>38</sup>

iii. *Impartial and unbiased presentation:* The statement in question must present facts in a neutral manner, and the language used must not gratuitously offend another person’s reputation or violate “the minimum dignity to which any human being is entitled.”<sup>39</sup> This requirement does not preclude the use of terms which, although objectively offensive, do not have adequate equivalents.<sup>40</sup>

b. *Right to satire:* Article 21 of the Constitution, read together with Articles 9 and 33, protects the right to satire. Courts have defined satire as the mockery of characters, environments or morals using comedy, paradox, and exaggerations.<sup>41</sup> Since satire is a form of artistic expression, courts have held that the requirements for a defense based on this right may need to be less strict than those for a defense based on the right to inform and criticize.<sup>42</sup> However, satire is not a defense to defamation in all circumstances. In particular:

i. Only public figures can be subject to satire.<sup>43</sup>

ii. Gratuitous accusations aimed at discrediting the subject of the satire and exceeding a minimum threshold of respect are not permissible.<sup>44</sup> Similarly, mocking depictions of very personal and delicate circumstances may also exceed

the right to satire.<sup>45</sup> For example, publications where the subject is depicted in a vulgar, demeaning, and humiliating manner<sup>46</sup> may be considered defamatory and not as satire.

b) Defenses Based on the Criminal Code

22. The following defenses to criminal defamation are listed in the Criminal Code:

a. *Provocation*: Defamation is not punishable when it is a reaction in anger in response to an unjust act or a “provocation.”<sup>47</sup> The reaction to the provocation need not be instantaneous, but must take place while the state of anger lasts.<sup>48</sup>

b. *Limited exceptio veritatis*: The Criminal Code does not provide truth as a defense to defamation in general. However, where the statement alleges a specific fact, the speaker can be found innocent<sup>49</sup> under the following circumstances based on the truth of the statement:

i. Truth is a defense if the speaker and the subject mutually agree that a jury should decide on the truth of the statement.<sup>50</sup> Such an agreement has to be made before the judge convicts the speaker.

ii. Truth is a defense where the subject is a public official and the statement relates to the exercise of his or her functions.<sup>51</sup>

iii. Truth is a defense where the speaker’s statement led to criminal proceedings against the subject, and the subject then commenced a criminal action against the speaker for defamation.<sup>52</sup>

iv. Truth is a defense if the subject formally requests that the court’s judgment extend to ascertaining the truth of the statement.<sup>53</sup>

c. *Civil Defamation*

23. Defamation can give rise to civil (tortious) liability under Article 2043 of the Italian Civil Code. Civil claims must be brought within five years<sup>54</sup> of the date when the person who is the subject of the defamatory statement becomes aware of the statement.<sup>55</sup>

1. Elements of Civil Defamation

24. The elements of civil defamation are as follows:

a. *Harm to reputation*: The statement in question must cause harm to the subject’s reputation.<sup>56</sup>

b. *Intentional or negligent conduct*: The speaker must intentionally or negligently cause the harm to the subject’s reputation. Courts more frequently find civil defamation in cases where there is intention (as opposed to negligence) on the part of

the speaker.<sup>57</sup> In 2017, the Court of Cassation held that if the subject is regularly covered by the press or if the statement is of public interest, this element is not easily met.<sup>58</sup>

## 2. Compensation

25. A person can seek both monetary and moral damages in a civil defamation claim.

26. Article 2043 of the Italian Civil Code provides for monetary compensation for any intentional or negligent damage suffered.<sup>59</sup> Article 2056 also provides for moral damages.<sup>60</sup> Courts have interpreted moral damages as a broad category, including any unjust violation of a constitutionally protected right that cannot be economically quantified.<sup>61</sup>

27. The Court of Cassation has held that compensation for moral damages can only be awarded if the defamed person has been identified in the news.<sup>62</sup> They have also determined that moral damages cannot be presumed and the subject must prove the damage caused.<sup>63</sup> Courts have weighed various factors in deciding whether to award moral damages and in what amount. These include the dissemination of the statement, the degree of harm caused to the subject's reputation, and the subject's social status.<sup>64</sup> Courts have also considered how fast the news spread to assess the harm to a person's reputation.<sup>65</sup>

## 3. Defenses to Civil Defamation

28. The defenses to allegations of criminal defamation also apply to claims of civil defamation.<sup>66</sup>

29. One commonly used defense is that the statement in question is protected by freedom of expression under Article 21 of the Constitution.<sup>67</sup> For a defense to civil liability for defamation under Article 21 to be successful, the following elements must be fulfilled:

a. *Truthful statement:* The statement must be true or at least not provably false.<sup>68</sup> To invoke this defense, the speaker must prove the statement's verisimilitude. However, demonstrating verisimilitude is not an absolute defense. If the speaker proves that the statement is true, he or she may still be held liable for defamation, if the subject can demonstrate that the source of the speaker's statement was not reliable.<sup>69</sup>

b. *Statement made in public interest:* The statement must have been made in the public interest, meaning it must be of relevance for the public.<sup>70</sup>

c. *Unbiased and impartial statement:* The statement must be presented in an unbiased manner and should not aim at denigrating the subject's reputation.<sup>71</sup>

# PRIVACY

30. Under Italian law, privacy and data protection have become increasingly intertwined. Therefore, statutory provisions and case law regarding these two rights often overlap. In some cases, courts have treated data protection as part of the right to privacy. In others, they have approached data protection and privacy as two distinct concepts.<sup>72</sup> This section includes case law and statutory provisions on data protection, and discusses data protection as a facet of the right to privacy.

## A. *Constitutional Framework for Privacy*

31. While the Italian Constitution does not expressly refer to a right to privacy, it does contain “provisions addressing the collection and circulation of personal information.”<sup>73</sup> In particular:

a. Article 2 of the Constitution provides: “The Republic recognizes and guarantees the inviolable rights of the person, both as an individual and in the social formations where human personality is expressed. The Republic expects that the fundamental duties of political, economic and social solidarity be fulfilled.”<sup>74</sup> Courts have interpreted this Article as encompassing citizens’ rights to privacy as well as a right to honor, reputation, personality, and personal image.<sup>75</sup>

b. Article 13 of the Constitution provides in part: “Personal liberty is inviolable. No one may be detained, inspected, or searched nor otherwise subjected to any restriction of personal liberty except by order of the Judiciary stating a reason and only in such cases and in such manner as provided by the law.”<sup>76</sup>

c. Article 14 of the Constitution provides in part: “The home is inviolable. Personal domicile shall be inviolable. Home inspections, searches, or seizures shall not be admissible save in the cases and manners complying with measures to safeguard personal liberty.”<sup>77</sup>

d. Article 15 of the Constitution provides: “Freedom and confidentiality of correspondence and of every other form of communication is inviolable. Limitations may only be imposed by judicial decision stating the reasons and in accordance with the guarantees provided by the law.”<sup>78</sup>

## B. *Supra-National Regulation of Privacy*

32. There is a variety of supra-national instruments that regulate privacy rights in Italy. Because Italy is a member state of the European Union (EU), these include EU regulations and the EU Charter. The European Convention on Human Rights also applies.

## 1. GDPR

33. In 2016 the European Parliament issued the General Data Protection Regulation (“GDPR”) which regulates the processing<sup>79</sup> of personal data<sup>80</sup> relating to individuals in the EU.<sup>81</sup>

34. The GDPR requires member states to exempt journalistic activities from certain provisions of the regulation, such as the requirement of consent for processing data, when adopting the Regulation.<sup>82</sup> The purpose of this exemption is to reconcile the right to the protection of personal data with the right to freedom of expression and information.<sup>83</sup>

## 2. Other European Instruments

35. There are several other legal instruments at the supra-national level addressing privacy and data protection issues. These are briefly described below.

a. *ECHR*: Most prominently, Article 8 of the European Convention on Human Rights, which is binding in all EU member states, recognizes the right of individuals to respect for their private and family life, home, and correspondence.

b. *Strasbourg Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (1981)*: The Strasbourg Convention protects individuals “against abuses which may accompany the collection and processing of personal data.” It seeks to regulate the transnational flow of personal data.<sup>84</sup>

c. *EU Directive 2002/58/EC*: This Directive provides for protection of privacy in the electronic communications sector.<sup>85</sup>

d. *EU Charter*: The Charter of Fundamental Rights of the European Union (the “EU Charter”), which is legally binding on EU member states, recognizes the respect for private and family life, home, and communications (Article 7); the protection of personal data (Article 8); and freedom of expression and information (Article 11).

### c. *Domestic Privacy Legislation*

36. The Italian government adopted the GDPR regulation, which came into force in 2016, through Legislative Decree No. 108/2018 (the “Decree”).<sup>86</sup> This Decree and relevant provisions from the Civil Code, the Journalist’s Code, and the Criminal Code, are described below.

37. In addition to these domestic laws, the Italian Copyright Law also prohibits the display, reproduction, or commercial distribution of a person’s image without that person’s consent.<sup>87</sup>

#### 1. The Civil Code

38. The Civil Code contains provisions entitling individuals to restrict the circulation of certain information concerning themselves. Article 6 states that everyone has the right to the name assigned to them by law.<sup>88</sup> A person who is denied the right to use his or her name or who is harmed unduly by the use of his or her name by others can request courts to order such

use to cease. In addition, that person can also claim damages. A court may order that the judgment be published in one or more newspapers.<sup>89</sup>

39. Article 10 of the Civil Code protects the image of a person. A person can seek damages and also request that the abuse of the person's image cease in cases where his or her image is published or displayed without consent and the published image causes harm to his or her reputation. The provision also encompasses the publication of images of the parents, spouse or children, meaning that family members can also bring a claim.<sup>90</sup>

## 2. The Journalist's Code

40. The Journalist's Code<sup>91</sup> applies to any person who carries out "journalistic activities."<sup>92</sup> Italian Courts have broadly defined "journalistic activities" as "the gathering, commenting and elaboration of news or written pieces for the purpose of communicating."<sup>93</sup>

41. The Journalist's Code provides that a person carrying out journalistic activities can disclose certain personal information even if that information would otherwise be protected by privacy rights (for example, the right to not have personal data published without consent under the GDPR),<sup>94</sup> if the information is indispensable to prove the veracity of a fact or it is necessary to describe an issue.<sup>95</sup>

42. However, under the Journalist's Code, a person carrying out journalistic activities may still not: (i) publish names of minors when disclosing information about them; (ii) publish news or images that damage the dignity of the person; (iii) disclose information regarding a person who is ill without his or her consent; or (iv) publish a detailed description of a person's sexual behavior.<sup>96</sup>

43. In order to legally publish information of the types listed above, a journalist would need to obtain the consent of the person who is the subject of the disclosure.<sup>97</sup> If this information is disclosed without consent by someone who falls within the broad definition of a journalist under the Code, it can result in administrative, civil, or criminal sanctions.

44. A person who is the subject of such an unlawful disclosure can bring a claim of unlawful processing of data either in court or before the Data Protection Agency.<sup>98</sup>

a. *Administrative Sanctions:* In case of an unlawful disclosure, the Data Protection Agency has the authority to impose monetary sanctions.<sup>99</sup> The amount of the sanction will depend on the severity of the infringement and will be determined on a case-by-case basis.<sup>100</sup> Stricter sanctions apply, for instance, if the conditions relating to consent are violated.<sup>101</sup>

b. *Civil Liability:* Under the GDPR, any "person who has suffered material or non-material damage as a result of infringement" of the GDPR has the right to receive compensation from the person who processed the personal data by bringing a civil action in court.<sup>102</sup>

c. *Criminal Liability:* If, in addition to unlawfully disclosing data, a person intends to harm someone whose data he or she disclosed, the person who disclosed the data may be liable under criminal law. The punishment is imprisonment for one to three years.<sup>103</sup>

### 3. The Criminal Code

45. Infringement of privacy or data protection can also lead to liability under the Criminal Code.

a. *Publication of the identity of minors:* The Criminal Code punishes the publication of documents of a criminal procedure by up to 30 days of imprisonment or a fine of €51 to €258.<sup>104</sup> This sanction also applies if an individual publishes the identity of a minor involved in criminal proceedings.<sup>105</sup>

b. *Processing data through hidden cameras:* Article 615 bis of the Criminal Code prohibits obtaining news or images relating to a person's private life through the use of visual or sound recording tools in a person's home or property. The penalty is imprisonment from six months to four years.<sup>106</sup> This also applies to anyone who publicly discloses or disseminates such news or images.<sup>107</sup>

c. *Surreptitious recording:* Telephone conversations may be recorded "with the consent of only one party" if the person recording the conversation is an active part of that conversation.<sup>108</sup> It is unlawful to publish the recorded conversation without permission. The publication of such tapped phone conversation in order to damage the reputation of others is punishable by imprisonment for up to four years.<sup>109</sup> However, the Criminal Code states that there are no criminal sanctions if the broadcasting of the recording was done in the course of a journalist's professional duties.<sup>110</sup>

### D. *Additional Privacy Obligations*

46. In addition to the statutory provisions concerning the privacy rights discussed above, courts have set out additional obligations to ensure the protection of the right to privacy, especially the duty to update and the right to be forgotten.

#### 1. Duty to Update

47. Courts have held that individuals who have been the subject of news coverage have the right to request newspapers and news websites to update this news coverage with pertinent new information.

48. For example, in 2012, an Italian politician brought a claim before the Court of Cassation against a newspaper that had published a report on the politician's arrest for corruption in 1993; the report was still available in the newspaper's online archives. The politician alleged a violation of his right to privacy because the article had not been updated to state that he had ultimately been found innocent. The Court upheld the claim, stating that information must be displayed within its proper context and updated with new developments.<sup>111</sup> The Court stated:

“the transfer of the data to a historical archive is certainly permissible, however, for the lawfulness and correctness of the processing and dissemination of data via the Internet the information and data processed must be duly supplemented and updated.”<sup>112</sup>

## 2. Right to Be Forgotten

49. The right to be forgotten is not codified in Italian law, but courts and the Data Protection Agency have recognized the existence of this right.<sup>113</sup>

50. For example, the Court of Cassation recently described the right to be forgotten as the interest of each individual not to remain unlimitedly exposed to the further damage that the repeated disclosure of information licitly disclosed in the past would cause to his or her honor and reputation.<sup>114</sup>

51. At least one court has held that the mere passage of time grants a person the right to be forgotten in a case in which a person invoked the right to “forget” his criminal proceedings which were still ongoing. In 2016, the Court of Cassation ordered a local newspaper to delete from its website all coverage of a criminal prosecution that had been initiated in 2008. The claimant, the individual who had been prosecuted, requested the removal of the articles on the grounds that the articles were no longer of public interest due to the length of time that had passed since the prosecution. Although the criminal proceedings against the claimant were still pending, the claimant argued that the newspaper’s continuing coverage of the prosecution caused irreparable damage to his reputation.

52. The Court found the newspaper civilly liable for not deleting the relevant articles when the claimant requested that it do so. Additionally, it found that enough time had passed since the prosecution, during which time the newspaper’s website included coverage of it, for the public to be informed of the prosecution. The Court ordered the newspaper to delete all coverage of the prosecution from its website and it emphasized that the right to privacy prevailed over the right of information and freedom of press on the facts of this case.<sup>115</sup>

53. Courts have also used the right to be forgotten to forbid the republication of a news story after a substantial amount of time has passed. One court held that it is not lawful to disseminate again, after a substantial time, a news story that had been lawfully published in the past, and that a news story can only be republished if the facts previously published again become current, and a new interest in accessing such information arises.<sup>116</sup>

### *E. Defenses to Privacy Violations*

54. As explained above, Article 21 of the Constitution protects freedom of expression and freedom of the press,<sup>117</sup> and can provide a defense for privacy and data protection infringement claims.

55. There have been several cases addressing the “tension between privacy and freedom of the press.”<sup>118</sup> Courts rely on the concept of proportionality to assess the factual circumstances of the case and decide whether there is a public interest that justifies the infringement.<sup>119</sup>

When assessing proportionality, courts have held individuals liable for disclosing information that is not objectively true, provided there is no real public interest in publishing information and the information is not presented accurately.

56. As the Court of Cassation has stated, the disclosure of information affecting the honor and reputation of a data subject is therefore only lawful when three conditions are met: the objective truth of the disclosed information; the public interest in knowing the facts (so called pertinence); and formal accuracy of the presentation.<sup>120</sup>

# RIGHT TO INFORMATION

## A. *Constitutional Framework for the Right to Information*

57. The Italian Constitution does not expressly protect the right to information. However, courts have identified constitutional grounds for the right to access public information. Among these grounds are “the general guarantee of those freedoms that provide a democratic connotation to the citizen/authority relationship, most notably the freedom of information, which is guaranteed under Article 21 of the Constitution but, more than that, by the entire Italian Constitution itself.”<sup>121</sup>

58. In addition, commentators have also argued that a right to information exists,<sup>122</sup> but on different grounds. They argue that such a right derives from the constitutional principle of legality,<sup>123</sup> the constitutional right to a well-functioning administration,<sup>124</sup> and “the principles of democracy, protection of personal rights and equality set under Articles 1, 2, and 3 of the Constitution.”<sup>125</sup>

59. The right to information is not absolute and can be limited by competing constitutional rights. For example, the right to the presumption of innocence (set out in Article 27 of the Italian Constitution) “has been used to limit the publication of information concerning individuals involved in allegedly criminal activities.”<sup>126</sup> EU law also provides that Member States should take appropriate measures to ensure that public authorities, when providing information to the media, do not refer to suspects or individuals who have been charged with a crime as being guilty of that crime.<sup>127</sup>

## B. *Legislative Framework for the Right to Information*

60. The right to access administrative documents is defined as the right of any individual to access or request a copy of public documents.<sup>128</sup>

61. Article 7 of Law No. 124 provides:

“‘without prejudice to the obligations of publication,’ freedom of information through the right of access to data and documents held by public authorities, also by electronic means, shall be granted ‘to anyone, regardless of ownership of a legally protected situation,’ except in cases of secrecy or prohibition of disclosure provided for by law and within the limits necessary for the protection of public and private interests...”<sup>129</sup>

62. In 2016, Italy passed the Freedom of Information Act (“FOIA”),<sup>130</sup> with the objective of guaranteeing a greater degree of transparency in Italian public institutions and encouraging more informed public debate.<sup>131</sup> The FOIA grants citizens the right to access and obtain copies of public administration documents.<sup>132</sup>

63. Under the FOIA, requests for information do not require reasons; an individual does not need to demonstrate a legitimate interest in the matter in order for the request to be

granted.<sup>133</sup> However, access to information can be denied if it is “necessary to avoid a material prejudice to the protection of certain public interests” listed in the Act. These include public safety, the prosecution of criminal offences, public order, and the financial and economic stability of the State.<sup>134</sup> Moreover, access can also be refused to avoid material prejudice to certain private interests. These include the protection of personal data and correspondence, the protection of the economic and business interests of a natural or legal person, and the protection of copyright and trade secrets.<sup>135</sup>

64. A FOIA request can be addressed to:

- a. the administrative body holding the requested data or documents;
- b. the “Office of Public Relations”;
- c. the “corruption and transparency public officer” (a public officer that oversees and enforces the FOIA and seeks to guarantee transparency amongst the state entities). In this case, the requested information should only be related to data or documents that are subject to mandatory publication under FOIA;<sup>136</sup> or
- d. another body indicated by the “administration.”<sup>137</sup>

65. The administrative body must render a reasoned decision within 30 days.<sup>138</sup> If access is refused or no decision is rendered within 30 days, the applicant can submit a request for review before the corruption and transparency public officer.<sup>139</sup> If the relevant body is a regional or local government, the applicant may also appeal to the competent ombudsman.<sup>140</sup>

### *c. Judicial Proceedings and Records*

66. Criminal hearings in Italy are public, and can be rendered null and void if the right of public access is violated.<sup>141</sup> However, in certain cases, the public can be excluded from the hearing, for example if the evidence presented may compromise the privacy of a witness in relation to facts unrelated to the accusation; if publicity may affect “public health”; to protect the security of the witness or the accused; or whenever the victim is a minor.<sup>142</sup>

67. According to Article 116 of the Code of Criminal Procedure, “any person interested in the procedure” may obtain copies of documents at their own expense during and after the proceedings. However, documents relating to a criminal investigation or identified as confidential by a judge cannot be published.<sup>143</sup> The punishment for publication of such documents is imprisonment of up to 30 days and fines ranging between €51 and €258.<sup>144</sup>

68. In the same context, Article 114(6 bis) of the Code of Criminal Procedure also forbids the publication without consent of the image of a defendant when he or she is deprived of personal freedom (for example, if handcuffed or subject to other means of restraint).<sup>145</sup>

69. According to Article 128 of the Code of Civil Procedure, hearings in civil proceedings are public. The judge can decide to hold the hearing behind closed doors for reasons of State security, public order, or morality.<sup>146</sup>

#### 1. Judicial Proceedings Involving Minors

70. The Italian Constitutional Court has held that minors involved in judicial proceedings have an interest in not having their name or image publicized. Courts must weigh this interest against the right of access to information. The Constitutional Court has stated that “the reporter’s activity must respect and find a balance between the right to inform and individual’s privacy... the protection of minors assumes a special set of norms regarding their privacy which supersedes the right to inform.”<sup>147</sup>

71. In 2014, the Court of Cassation found a journalist criminally liable for publishing the identity of a minor. In that case, the Court considered that the privacy rights of the minor prevailed over both freedom of press and the right to access information.<sup>148</sup>

## **COPYRIGHT**

72. This section gives an overview of the law on copyright. In Italy, copyright is regulated by Law No. 633 (the “Copyright Law”).<sup>149</sup> Some relevant provisions are also contained in the Civil Code.<sup>150</sup>

### A. *What Can Be Copyrighted?*

73. The Copyright Law protects “works of the mind having a creative character and belonging to literature, music, figurative arts, architecture, theatre or cinematography, whatever their mode or form of expression.”<sup>151</sup> Copyright is acquired “on the creation of a work that constitutes the particular expression of an intellectual effort.”<sup>152</sup>

74. The Copyright Law contains a non-exhaustive list of protected works, including written or oral literary works, dramatic and scientific works, musical works and compositions, photographs, computer programs, and databases (provided they are systematically or methodically arranged and can be individually accessed).<sup>153</sup> It also protects “collective works formed by the assembling of works, or part of works, and possessing the character of a self-contained creation” (e.g., newspapers and magazines)<sup>154</sup> and “works of a creative character derived from any such work” (e.g., translations, and adaptations).<sup>155</sup>

75. Copyright grants the author both economic rights and moral rights. The economic rights conferred by copyright include the right to distribute the work and the exclusive right “to the economic utilization of the work in any form or manner, whether original or derivative.”<sup>156</sup> The moral rights conferred by copyright provide the author “the right to claim authorship of his work and to object to any distortion, mutilation or any other modification of, and other derogatory action in relation to the work, which would be prejudicial to his honor or reputation.”<sup>157</sup> The author also has the right to withdraw his or her work from the market

“whenever serious moral reasons arise.”<sup>158</sup> “Serious moral reasons” can include ethical, intellectual, political, or religious reasons.<sup>159</sup>

76. Under the Copyright Law, the infringement of the economic and moral<sup>160</sup> rights conferred by copyright can result in civil or criminal liability. A person whose copyright is infringed can request:

- a. the destruction or removal of the material constituting the infringement (for example, illegally reproduced or disseminated copies of the copyrighted work would need to be destroyed);<sup>161</sup> or
- b. damages.<sup>162</sup>

77. The holder of the copyright can also request a restrictive injunction pursuant to the Rules of Civil Procedure.<sup>163</sup>

78. Any person who, *inter alia*, commercially distributes the work of another person or reveals the contents of such work before it is made public, may be criminally liable to a fine of €51 to €2,065.<sup>164</sup> If (1) the work is not intended for public disclosure, (2) the publisher usurped the authorship of the work, or (3) the work is deformed, mutilated or otherwise modified, and such acts constitute an offence against the honor or reputation of the author, the penalty is imprisonment of up to one year or a fine of no less than €516.<sup>165</sup> Reduced fines apply if the acts are committed through negligence (*i.e.*, if there was no intention to infringe upon copyright).<sup>166</sup>

79. A person who infringes upon copyright may also be liable for administrative fines equivalent to double the market price of the work, or, if the market price is hard to determine, €103 to €1,032.<sup>167</sup>

## B. *Who Holds the Copyright in a Work?*

80. In the absence of proof to the contrary, “a person who is shown, in the customary manner, as the author” shall be deemed the author of the work and shall hold the copyright in the work.<sup>168</sup> If the work has been created by the inseparable contributions of two or more persons, the copyright belongs to all authors jointly.<sup>169</sup> In the case of a collective work, the person who organizes and directs its creation shall be the author.<sup>170</sup> For magazines and newspapers, in the absence of agreement to the contrary, economic rights belong to the publisher; the individual contributors, however, have the right to utilize their own contributions separately.<sup>171</sup>

## C. *Limitations and Fair Use*

81. There is no general provision on “fair use” in the Copyright Law, but its Chapter V contains a list of exceptions and limitations to copyright.

82. In particular, Chapter V provides that “[a]rticles on current interest of an economic, political or religious character, published in magazines or newspapers, as well as articles broadcast or made available to the public” shall be freely reproduced or communicated to the public, provided the source is indicated.<sup>172</sup> In addition, reproduction or communication to the public of works “utilized during current events” is permitted for the purposes of reporting the current event to the extent justified by the informatory purpose (and as long as the source is indicated, “unless it turns out to be impossible” to indicate the source).<sup>173</sup> Moreover, the reproduction of information shall be lawful as long as it is not contrary to “fair practice in journalism” and provided the source is given.<sup>174</sup>

# END NOTES

<sup>1</sup> See Criminal Code, Art. 595.

<sup>2</sup> Criminal Code, Art. 595.

<sup>3</sup> “*Processo penale, riparazione del danno e attenuante*,” La legge per tutti, at [https://www.laleggepertutti.it/197001\\_processo-penale-riparazione-del-danno-e-attenuante](https://www.laleggepertutti.it/197001_processo-penale-riparazione-del-danno-e-attenuante) (“L’art. 62, nr. 6, cod. pen., prevede due distinte ipotesi: la riparazione totale del danno e il ravvedimento operoso. La prima è correlata al danno inteso in senso civilistico; l’altra, invece, al danno cosiddetto criminale, cioè alle conseguenze, diverse dal pregiudizio economicamente risarcibile, che ineriscono alla lesione del bene giuridico tutelato”) (“Article 62.2 of the Criminal Code includes two elements: the first is related to damage in the civil sense; the other, instead, to the so-called criminal damage, that is to say to the consequences, other than the economically compensable damage, which are inherent in the injury of the protected right”); see also Criminal Code, Art. 62.6.

<sup>4</sup> Civil Code, Arts. 2043 and 2069.

<sup>5</sup> B. Kooops, *Privacy-related crimes in Italian law*, 4 Tilburg Law School Research Paper 1, at p. 4 (2016).

<sup>6</sup> Press Law, dated 8 February 1948.

<sup>7</sup> Criminal Code, Art. 595 (“Chiunque, fuori dei casi indicati nell’articolo precedente, comunicando con più persone, offende l’altrui reputazione...”) (“Anyone who, outside of the cases indicated in the previous Article, communicates with more than one person, offends the reputation of others...”).

<sup>8</sup> The Press Law defines “print” as all typographic reproductions or reproductions obtained by mechanical or physical-chemical means, in any way intended for publication. See Press Law, Art. 1 (“Sono considerate stampe o stampati, ai fini di questa legge, tutte le riproduzioni tipografiche o comunque ottenute con mezzi meccanici o fisico-chimici, in qualsiasi modo destinate alla pubblicazione.”) (“For the purposes of this law, all typographic reproductions or reproductions obtained by mechanical or physical-chemical means, in any way intended for publication, are considered prints or printed matter”).

<sup>9</sup> Press Law, Art. 13 (“Nel caso di diffamazione commessa col mezzo della stampa, consistente nell’attribuzione di un fatto determinato, si applica la pena della reclusione da uno a sei anni e quella della multa non inferiore a lire 500.000.”) (“In the case of defamation committed by the press, consisting in the attribution of a specific fact, the penalty is imprisonment of from one to six years and a fine of not less than 500,000 lire.”).

<sup>10</sup> Press Law, Art. 1 (“Sono considerate stampe o stampati, ai fini di questa legge, tutte le riproduzioni tipografiche o comunque ottenute con mezzi meccanici o fisico chimici, in qualsiasi modo destinate alla pubblicazione.”) (“For the purposes of this law, all typographic reproductions or reproductions obtained by mechanical or physical chemical means, in any way intended for publication, are considered prints or printed.”); see also, Press Law, Art. 2 (“Ogni stampato deve indicare il luogo e l’anno della pubblicazione, nonché il nome e il domicilio dello stampatore e, se esiste, dell’ editore. I giornali, le pubblicazioni delle agenzie d’informazioni e I periodici di qualsiasi altro genere devono recare la indicazione: del luogo e della data della pubblicazione del nome e del domicilio dello stampatore; del nome del proprietario e del direttore o vice direttore responsabile ...”) (“Each publication shall indicate the place and year of publication, as well as the name and address of the printer and, if any, of the publisher. Newspapers, publications of information agencies and periodicals of any other kind shall indicate: the place and date of publication; the name and address of the printer; the name of the owner and the responsible manager or deputy manager ...”).

<sup>11</sup> S. Griffen, *Out of Balance: Defamation Law in the European Union - A comparative overview for journalists, civil society and policymakers*, 44 International Press Institute (IPI) (2015), at Chart A.

<sup>12</sup> Decision of the Italian Court of Cassation, Case No. 21022, dated 17 July 2015 (“La testata giornalistica telematica, in quanto assimilabile funzionalmente a quella tradizionale, rientra nel concetto ampio di stampa e soggiace alla normativa, di rango costituzione e di livello ordinario, che disciplina l’attività d’informazione professionale diretta al pubblico.”) (“Online newspapers can be functionally assimilated to the traditional printed newspapers, online newspapers are now part of the broad concept of the press and are subject to the regulations, of constitutional rank and ordinary level, that discipline the professional information activity directed to the public.”).

<sup>13</sup> Criminal Code, Art. 597 (“Il delitto previsto dall’articolo 595 è punibile a querela della persona offesa...”) (“The offense referred to in Article 595 is punishable on complaint by the injured party...”).

<sup>14</sup> Criminal Code, Art. 124 (“Salvo che la legge disponga altrimenti, il diritto di querela non può essere esercitato, decorsi tre mesi dal giorno della notizia del fatto che costituisce il reato...”) (“Unless the law provides otherwise, the right of complaint may not be exercised after three months from the day on which the fact constituting the offense is reported...”).

<sup>15</sup> Criminal Code, Art. 595 (“Chiunque, fuori dei casi indicati nell’articolo precedente, comunicando con più persone, offende l’altrui reputazione è punito con la reclusione fino a un anno o con la multa fino a milletrentadue euro...”) (“Anyone who, outside of the cases indicated in the previous Article, communicates with more than one person, offends the reputation of others is liable to imprisonment for up to one year or a fine of up to one thousand and thirty-two euros...”). See also D. Ravenna, *XVI legislature Diffamazione a mezzo della stampa o altro mezzo di diffusione*, 9 Servizio Studi del Senato 9, at p. 9 (2012) (“dall’offesa dell’altrui reputazione”) (“...by the offense of others’ reputations.”).

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- <sup>16</sup> G. Scorza, in C. Glasser, Jr. (ed.), *International Libel and Privacy Handbook: a global reference for journalists, publishers, webmasters, and lawyers*, §22.02 LexisNexis (2017).
- <sup>17</sup> See G. Scorza, in C. Glasser, Jr. (ed.), *International Libel and Privacy Handbook: a global reference for journalists, publishers, webmasters, and lawyers*, §22.02 LexisNexis (2017).
- <sup>18</sup> Servizi studi del Senato, *XVI legislature Diffamazione a mezzo della stampa o altro mezzo di diffusione*, October 2012, at p. 9, at <https://www.senato.it/service/PDF/PDFServer/BGT/00737380.pdf>.
- <sup>19</sup> See “La diffamazione a mezzo internet nei più recenti orientamenti giurisprudenziali,” Altalex, dated 5 July 2016, at [https://www.altalex.com/documents/news/2016/06/27/diffamazione-a-mezzo-internet-nei-piu-recenti-orientamenti-giurisprudenziali#\\_ftn15](https://www.altalex.com/documents/news/2016/06/27/diffamazione-a-mezzo-internet-nei-piu-recenti-orientamenti-giurisprudenziali#_ftn15) (“Er aversi il requisito della comunicazione con più persone occorre che l’agente renda partecipi dell’addebito diffamatorio almeno due persone [tra le quali non vanno ovviamente conteggiati il soggetto passivo, il soggetto attivo e gli eventuali concorrenti nel reato], le quali siano state in grado di percepire l’offesa e di comprenderne il significato.”) (“When the requirement to communicate with more than one person is met, the agent must involve at least two people in the defamatory charge [among whom, of course, the speaker and the subject must not be considered] who have been able to perceive the offense and understand its meaning.”).
- <sup>20</sup> See *above* at para. 8.
- <sup>21</sup> Criminal Code, Art. 595 (“Chiunque, fuori dei casi indicati nell’articolo precedente, comunicando con più persone, offende l’altrui reputazione, è punito con la reclusione fino a un anno o con la multa fino a euro 1.032...”) (“Anyone who, apart from the cases indicated in the previous Article, communicates with more than one person, offends the reputation of others, is liable to imprisonment for up to one year or a fine of up to 1,032 Euros...”).
- <sup>22</sup> Criminal Code, Art. 595.2 (“Se l’offesa consiste nell’attribuzione di un fatto determinato, la pena è della reclusione fino a due anni, ovvero della multa fino a euro 2.065”) (“If the offense consists in the attribution of a specific fact, the penalty is imprisonment of up to two years, or a fine of up to 2,065 Euros.”).
- <sup>23</sup> Decision of the Italian Court of Cassation, Case No. 213790, dated 12 May 1999 in G. Lattanzi and E. Lupo (eds.), *Codice Penale Rassegna di Giurisprudenza e di Dottrina* (2010), at p. 705 (“...è ‘sufficiente che l’episodio riferito venga specificato nelle sue linee essenziali, di modo che risulti maggiormente credibile e che le espressioni adoperate evocino allà comprensione del destinatario della comunicazione azioni concrete e dalla chiara valenza negative.”) (“...it is sufficient that the statement is specified in its essential lines, so that it is more credible and that the expressions used evoke to the understanding of the recipient of the communication concrete actions and with clear negative value.”).
- <sup>24</sup> Criminal Code, Art. 595.3 (“Se l’offesa è recata col mezzo della stampa o con qualsiasi altro mezzo di pubblicità, ovvero in atto pubblico, la pena è della reclusione da sei mesi a tre anni o della multa non inferiore a euro 516.”) (“If the offense is committed by the press or by any other means of publicity, or in a public act, the penalty is imprisonment from six months to three years or a fine of not less than 516 Euros.”).
- <sup>25</sup> Criminal Code, Art. 595.4 (“Se l’offesa è recata a un Corpo politico, amministrativo o giudiziario, o ad una sua rappresentanza o ad una autorità costituita in collegio, le pene sono aumentate.”) (“If the offense is committed to a political, administrative or judicial body, or to one of its representatives or to an authority constituted in college, the penalties will be more severe.”).
- <sup>26</sup> Press Law, Art. 13.
- <sup>27</sup> Press Law, Art. 12 (“Nel caso di diffamazione commessa col mezzo della stampa, la persona offesa può chiedere, oltre il risarcimento dei danni ai sensi dell’art. 185 del Codice penale [modificato per articolo 595 del C.P.], una somma a titolo di riparazione. La somma è determinata in relazione alla gravità dell’offesa ed alla diffusione dello stampato.”) (“In the case of defamation committed through the press, the injured party may request, in addition to compensation for damages under Article 185 of the Criminal Code [amended by Article 595 of the Criminal Code], a sum as compensation. The sum is determined in relation to the seriousness of the offense and the distribution of the printed matter.”). See Decision of the Italian Court of Cassation, Case No. 29640, dated 12 December 2012 (“In riferimento alla diffamazione a mezzo stampa, a norma dell’art. 12 della legge n. 47 del 1948 la persona offesa dal reato può richiedere, oltre al risarcimento dei danni ai sensi dell’art. 185 del cod. pen., comprensivo sia del danno patrimoniale che del danno non patrimoniale, una somma a titolo di riparazione che non rientra nel risarcimento del danno nè costituisce una duplicazione delle voci di danno risarcibile, ma integra una ipotesi eccezionale di pena pecuniaria privata prevista per legge, che come tale può aggiungersi al risarcimento del danno autonomamente liquidato in favore del danneggiato.”) (“In accordance with Article 12 of Law No. 47 of 1948, the person offended by the crime may request, in addition to compensation for damages pursuant to Article 185 of the Criminal Code, including both pecuniary and non-pecuniary damages, a sum by way of compensation that does not fall within the compensation for the damage nor constitutes a duplication of the items of compensable damage, but supplements an exceptional case of private pecuniary penalty provided for by law, which as such may be added to the compensation for the damage independently paid in favor of the injured party.”).
- <sup>28</sup> Decision of the Italian Court of Cassation, Case No. 16712, dated 16 April 2014, in E. Pulice and E. Ioriatti, *WP7: Civil Rights, Questionnaire’s Answers, Italy*, in M. Granger and O. Salat (eds.), *Case Study (II) on Freedom of Expression in the Context of the Media* (2016), at p. 13.
- <sup>29</sup> See Decision of the Italian Court of Cassation, Case No. 16712, dated 16 April 2014 in A. Caputo, *Privacy and Sociability. From the Angle of Criminal Law*, 73 Rev. Faculdade Direito Universidade Federal Minas Gerais 77, at p. 92 (2018) (“Pertanto è indubbio che offendere una persona scrivendo un post sulla sua bacheca di Facebook o in un altro social integra il reato di diffamazione aggravata, esattamente come se l’offesa. In pratica si è dato valore penale a condotte realizzate negli spazi di

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socialità virtuale” and “... dal 2014, la Cassazione ha compiuto un’opera interpretativa del tutto innovativa riconducendo le ipotesi di diffamazione a mezzo social network entro i confini della fattispecie generale della diffamazione aggravata perpetrata mediante l'utilizzo del mezzo di pubblicità e sancendo che la pubblicazione di una frase diffamatoria su di un profilo Facebook rende la stessa accessibile ad una moltitudine indeterminata di soggetti con la sola registrazione al social network e, anche per le notizie riservate solo agli amici dell’utente, ad una cerchia ampia di soggetti, con integrazione del dolo prescritto dall’art. 595 c.p.”). (“Therefore it is unquestionable that offending a person by writing a post on his Facebook wall or in another social media constitutes aggravated defamation .... In practice, criminal value has been given to conduct carried out in social media” and “... since 2014, the Court of Cassation has made a completely innovative interpretative work bringing the hypothesis of defamation through social media within the confines of the general case of aggravated defamation perpetrated through the use of the medium of advertising. It stated that the publication of a defamatory phrase on a Facebook profile makes it accessible to an indeterminate multitude of subjects with the only prerequisite being registration to the social media and, also for information reserved only for friends of the user, to a wide circle of subjects, with integration of the intent prescribed by Article 595 Italian Criminal Code.”)

<sup>30</sup> See Decision of the Italian Court of Cassation, Case No. 16712, dated 16 April 2014 in A. Caputo, *Privacy and Sociability. From the Angle of Criminal Law*, 73 Rev. Faculdade Direito Universidade Federal Minas Gerais 77, at p. 92 (2018).

<sup>31</sup> Italian Constitution, Art. 21 (“Tutti hanno diritto di manifestare liberamente il proprio pensiero con la parola, lo scritto e ogni altro mezzo di diffusione. La stampa non può essere soggetta ad autorizzazioni o censure. ...”) (“Anyone has the right to freely express their thoughts in speech, writing, or any other form of communication. The press may not be subjected to any authorization or censorship. ...”).

<sup>32</sup> B. Koops, *Privacy-related crimes in Italian law*, TILT Law & Technology Working Paper Series, version 1.0, dated November 2016, at p. 31, at <http://ssrn.com/abstract=2877668>; R. Meli, *La Diffamazione Telematica: Tutela Penale Della Persona Nel Cyberspazio*, 2017, at p. 31.

<sup>33</sup> G. Scorza, in C. Glasser, Jr. (ed.), *International Libel and Privacy Handbook: a global reference for journalists, publishers, webmasters, and lawyers*, 2016-2017 ed., 2017, §22.02, at p. [7d] (“[T]he Court of Cassation identified these criteria in order for a publication to be considered lawful, despite carrying a defamatory sting: the social utility of the information, its objective (or at least presumed truth); and a sober form in reporting the story.”) (citing Decision of the Italian Court of Cassation, Case No. 5259, dated 18 October 1984). See also I. Pulice, *WP7: Civil Rights, Questionnaire’s Answers, Italy*, in S. Granger (ed.), *Case Study (II) on Freedom of Expression in the Context of the Media*, 2016, at pp. 34-35.

<sup>34</sup> Decision of the Italian Court of Cassation, Case No. 15443, dated 20 June 2013, in F. De Stefano (ed.), *Il risarcimento del danno da diffamazione nella giurisprudenza civile di legittimità*, at p. 10, at [http://www.cortedicassazione.it/cassazione-resources/resources/cms/documents/SSM\\_tirocinanti\\_2018\\_-\\_DeStefano\\_-\\_materiale\\_per\\_relazione.pdf](http://www.cortedicassazione.it/cassazione-resources/resources/cms/documents/SSM_tirocinanti_2018_-_DeStefano_-_materiale_per_relazione.pdf).

<sup>35</sup> Ministry of Foreign Affairs and International Cooperation, *ITALY’S REMARKS Platform on Safety of Journalists - Council of Europe*, dated 20 June 2017, at p. 4. See also Decision of the Italian Court of Cassation, Case No. 231002 3, dated 19 May 2004 (“è onere del giornalista riferire fatti oggettivamente veri ogni più oculata diligenza e accortezza nella scelta delle fonti informative; esplicando ogni più attento esame in ordine all’attendibilità di quelle che, di volta in volta, vengono sottomesse alla sua attenzione, operando ogni più penetrante esame e controllo sulle notizie che, dalle stesse, vengono propalate. Il tutto nel rispetto delle norme di correttezza che disciplinano la professione giornalistica.”) (“it is the duty of the journalist to report objectively true facts, he or she must be diligent and cautious when selecting the sources of the information. He or she has to make an even more careful examination with regards to the source’s credibility”); Decision of the Tribunale di Roma, dated 13 January 2009 (“Considerato che a tal fine è necessario che l’agente l’abbia esaminato, controllato e verificato in termini di adeguata serietà professionale la notizia in rapporto all’affidabilità della relativa fonte di informazione, e che sia rimasto vittima di un errore involontario...”)(“it is necessary that the journalist has examined, checked and verified the information in terms of adequate professional reliability in relation to the credibility of the relevant source of information, and that he has been the victim of an unintentional error.”); Decision of the Italian Court of Cassation, Case No. 15443, dated 20 June 2013, in F. De Stefano (ed.), *Il risarcimento del danno da diffamazione nella giurisprudenza civile di legittimità*, at p. 10, at [http://www.cortedicassazione.it/cassazione-resources/resources/cms/documents/SSM\\_tirocinanti\\_2018\\_-\\_DeStefano\\_-\\_materiale\\_per\\_relazione.pdf](http://www.cortedicassazione.it/cassazione-resources/resources/cms/documents/SSM_tirocinanti_2018_-_DeStefano_-_materiale_per_relazione.pdf).

<sup>36</sup> Decision of the Italian Court of Cassation, Case No. 15443, dated 20 June 2013, in F. De Stefano (ed.), *Il risarcimento del danno da diffamazione nella giurisprudenza civile di legittimità*, at p. 10, at [http://www.cortedicassazione.it/cassazione-resources/resources/cms/documents/SSM\\_tirocinanti\\_2018\\_-\\_DeStefano\\_-\\_materiale\\_per\\_relazione.pdf](http://www.cortedicassazione.it/cassazione-resources/resources/cms/documents/SSM_tirocinanti_2018_-_DeStefano_-_materiale_per_relazione.pdf).

<sup>37</sup> Ministry of Foreign Affairs and International Cooperation, *ITALY’S REMARKS Platform on Safety of Journalists - Council of Europe*, dated 20 June 2017, at p. 4.

<sup>38</sup> N. Salvi, *Il requisito della verità della notizia nel giornalismo d’inchiesta*, 2016, at p. 39, available at [https://tesi.luiss.it/17039/1/111823\\_SALVI\\_NICOLO%20MARIA.pdf](https://tesi.luiss.it/17039/1/111823_SALVI_NICOLO%20MARIA.pdf).

<sup>39</sup> Decision of the Italian Court of Cassation, Case No. 26999, dated 7 December 2005; “La diffamazione a mezzo internet nei più recenti orientamenti giurisprudenziali,” Altalex, dated 5 July 2016, at [https://www.altalex.com/documents/news/2016/06/27/diffamazione-a-mezzo-internet-nei-piu-recenti-orientamenti-giurisprudenziali#\\_ftn42](https://www.altalex.com/documents/news/2016/06/27/diffamazione-a-mezzo-internet-nei-piu-recenti-orientamenti-giurisprudenziali#_ftn42); Ministry of Foreign Affairs and International Cooperation, *ITALY’S REMARKS Platform on Safety of Journalists - Council of Europe*, dated 20 June 2017, at p. 4.

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<sup>40</sup> Decision of the Italian Court of Cassation, , Case No. 31669, dated 14 April 2015, in Lex 24 & Repertorio 24; “*La diffamazione a mezzo internet nei più recenti orientamenti giurisprudenziali*,” Altalex, dated 5 July 2016, at [https://www.altalex.com/documents/news/2016/06/27/diffamazione-a-mezzo-internet-nei-piu-recenti-orientamenti-giurisprudenziali#\\_ftn42](https://www.altalex.com/documents/news/2016/06/27/diffamazione-a-mezzo-internet-nei-piu-recenti-orientamenti-giurisprudenziali#_ftn42).

<sup>41</sup> Decision of the Italian Court of Cassation, Case No. 5499, dated 10 March 2014 (“la satira è configurabile come diritto soggettivo di rilevanza costituzionale; come tale rientra nell’ambito di applicazione dell’art. 21 Cost. che tutela la libertà dei messaggi del pensiero. Il diritto di satira ha un fondamento complesso individuabile nella sua natura di creazione dello spirito, nella sua dimensione relazionale, ossia di messaggio sociale, nella sua funzione di controllo esercitato con l’ironia ed il sarcasmo nei confronti dei poteri di qualunque natura.”) (“Satire can be deemed a subjective right of constitutional importance; as such it falls within the scope of application of Article 21 of the Constitution, which protects the freedom of expression. The right to satire has a complex foundation that can be identified as a social message that comes across through irony and sarcasm”); See also, R. Meli, *La Diffamazione Telematica: Tutela Penale Della Persona Nel Cyberspazio*, 2017, at p. 37.

<sup>42</sup> Decision of the Italian Court of Cassation, Case No. 13563, dated 22 December 1998 (“[la satira] un’espressione artistica non soggetta agli schemi razionali della verifica critica, il cui linguaggio essenzialmente simbolico è svincolato da forme convenzionali [talchè] non sia possibile applicarle il consueto metro della correttezza; in ogni caso, tuttavia, trattandosi pur sempre di una manifestazione del pensiero, la satira non può superare il rispetto dei valori fondamentali”) (“[satire] an artistic expression not subject to the rational schemes of critical verification, whose essentially symbolic language is free from conventional forms [so that] it is not possible to apply the usual standard of correctness to it; in any case, however, since it is still a manifestation of thought, satire cannot exceed respect for fundamental values”).

<sup>43</sup> Decision of the Italian Court of Cassation, dated 13 February 1992, in S. Peron, *Il Diritto Di Satira Nella Giurisprudenza Delle Nostre Corti*, at <http://www.odg.mi.it/node/30078> (“Da quanto sopra detto, discende che, i criteri cui commisurare la liceità della satira, sono soprattutto rappresentati dalla notorietà del personaggio e dalla ‘coerenza casuale tra la dimensione pubblica dello stesso e contenuto satirico del messaggio propropalato.’”) (“From what has been said above, it follows that the criteria to measure the lawfulness of satire, are mainly represented by the notoriety of the character and the ‘random consistency between the public dimension of the same and the satirical content of the message propagated.’”).

<sup>44</sup> R. Meli, *La Diffamazione Telematica: Tutela Penale Della Persona Nel Cyberspazio*, 2017, at p. 37.

<sup>45</sup> R. Meli, *La Diffamazione Telematica: Tutela Penale Della Persona Nel Cyberspazio*, 2017, at p. 37.

<sup>46</sup> Decision of the Italian Court of Cassation, Case No. 19178, dated 11 September 2014 (“[la satira sfugge al limite della correttezza e della continenza delle espressioni o delle immagini utilizzate, rappresentando comunque mezzi espressivi] quando comporta l’impiego di espressioni gratuite, volgari, umilianti o dileggianti, non necessarie all’esercizio del diritto”) (“[satire escapes the limits of correctness and continence of the expressions or images used, representing in any case means of expression] when it involves the use of gratuitous, vulgar, humiliating or mocking expressions, not necessary for the exercise of the right”).

<sup>47</sup> Criminal Code, Art. 599.2 (“Non è punibile chi ha commesso alcuno dei fatti preveduti dall’articolo 595 nello stato d’ira determinato da un fatto ingiusto altrui, e subito dopo di esso.”) (“Anyone who has committed any of the acts provided for in Article 595 in the state of wrath caused by an unjust act of another person, and immediately afterwards, shall not be punished.”).

<sup>48</sup> “*La diffamazione a mezzo internet nei più recenti orientamenti giurisprudenziali*,” Altalex, dated 5 July 2016, at [https://www.altalex.com/documents/news/2016/06/27/diffamazione-a-mezzo-internet-nei-piu-recenti-orientamenti-giurisprudenziali#\\_ftn42](https://www.altalex.com/documents/news/2016/06/27/diffamazione-a-mezzo-internet-nei-piu-recenti-orientamenti-giurisprudenziali#_ftn42); See also R. Meli, *La Diffamazione Telematica: Tutela Penale Della Persona Nel Cyberspazio*, 2017, at p. 42.

<sup>49</sup> Criminal Code (Codice Penale), Art. 596 (“Il colpevole del delitto previsto dall’articolo precedente non è ammesso a provare, a sua discolpa, la verità o la notorietà del fatto attribuito alla persona offesa...”) (“The person guilty of the offense referred to in the preceding Article shall not be entitled to prove, on his own account, the truth or the reputation of the act attributed to the injured party...”).

<sup>50</sup> Criminal Code (Codice Penale), Art. 596.2 (“Tuttavia, quando l’offesa consiste nell’attribuzione di un fatto determinato, la persona offesa e l’offensore possono, d’accordo [597 2], prima che sia pronunciata sentenza irrevocabile, deferire ad un giurì d’onore il giudizio sulla verità del fatto medesimo.”) (“however, when the offense consists in the attribution of a specific fact, the offended person and the offender may, before an irrevocable sentence is pronounced, mutually agree to refer the judgment on the truth of the fact itself to a jury of honour.”).

<sup>51</sup> Criminal Code (Codice Penale), Art. 596.3 (“...se la persona offesa è un pubblico ufficiale ed il fatto ad esso attribuito si riferisce all’esercizio delle sue funzioni”) (“...if the offended party is a public official and the statement relates to the exercise of his functions.”).

<sup>52</sup> Criminal Code (Codice Penale), Art. 596.3 (“...se per il fatto attribuito alla persona offesa è tuttora aperto o si inizia contro di essa un procedimento penale.”) (“...if criminal proceedings are still open or were commenced against the injured party on account of the act attributed to him.”).

<sup>53</sup> Criminal Code (Codice Penale), Art. 596.3 (“...se il querelante domanda formalmente che il giudizio si estenda ad accertare la verità o la falsità del fatto ad esso attribuito.”) (“...if the plaintiff formally requests that the judgment extend to ascertain the truth or falsity of the fact attributed to it”).

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<sup>54</sup> Civil Code, Art. 2947 (“Il diritto al risarcimento del danno derivante da fatto illecito si prescrive in cinque anni dal giorno in cui il fatto si è verificato”).

<sup>55</sup> Decision of the Italian Court of Cassation, Case No. 20609, dated 7 October 2011 (“il seguente principio ‘l’art. 2947, coordinato con gli artt. 2059 e 2935 c.c., va interpretato nel senso che il termine di prescrizione del diritto al risarcimento del danno morale da diffamazione (commessa, nell’ipotesi, a mezzo di corrispondenza epistolare) inizia a decorrere non dal momento in cui l’agente compie il fatto illecito, ma dal momento in cui la parte lesa ne viene a conoscenza.”) (“Article 2947, read together with Articles 2059 and 2935 of the Italian Civil Code, must be interpreted as meaning that the limitation period for the right to compensation for moral damage caused by defamation begins to run once the person becomes aware of the defamatory statement.”).

<sup>56</sup> See Decision of the Italian Court of Cassation, Case No. 7026, dated 2001; Decision of the Italian Court of Cassation, Case No. 12431, dated 2001; Decision of the Italian Court of Cassation, Case No. 2037, dated 2000; ‘Diffamazione Mezzo Stampa: Tutto Quello Che Devi Sapere’, Diffamazione.it, at <https://www.diffamazioni.it/diffamazione-a-mezzo-stampa-tutto-quello-che-devi-sapere/#sottotitolo12>.

<sup>57</sup> Decision of the Italian Court of Cassation, Case No. 25420, dated 10 October 2017 (“In tema di responsabilità civile per diffamazione, è necessario e sufficiente che ricorra il cd. Dolo generico, anche nelle forme del dolo eventuale, cioè la consapevolezza di offendere l’onore e la reputazione altrui, la quale si può desumere dalla intrinseca consistenza diffamatoria delle espressioni usate.”). (“To find someone civilly liable it is necessary to prove intentional harm. This also includes situations where even if the subject’s reputation was not harmed, the Speaker was aware of the harm that he or she could have caused and intentionally wanted to harm the subject’s reputation.”).

<sup>58</sup> Decision of the Italian Court of Cassation, Case No. 5005, dated 28 February 2017. See also Order of the Italian Court of Cassation, Order No. 10925, dated 5 May 2017 (“In tema di risarcimento dei danni da diffamazione a mezzo stampa, il limite della cd. pertinenza, richiesto ai fini dell’operatività della scriminante del diritto di cronaca, non risulta violato quando le persone coinvolte godano di una diffusa notorietà, sia pure limitata all’ambito locale, atteso che la scriminante non impone che si tratti di persone pubbliche in chiave necessariamente nazionale, mentre la congiunta rilevanza, almeno astrattamente, penale dell’episodio conferisce allo stesso un interesse pubblico oggettivamente apprezzabile, che giustifica la proiezione non solo locale della notizia.”). (“In terms of compensation for damage caused by defamation in the press, the limit of the so-called pertinence, required for the purposes of the operation of the exemption of the right to report, is not violated when the people involved enjoy widespread notoriety, albeit limited to the local area, given that the does not require that they be public persons in a necessarily national key, while the joint, at least abstractly, criminal relevance of the episode confers on the same a objectively appreciable public interest, which justifies the projection not only of the local news.”).

<sup>59</sup> Italian Civil Code, Art. 2043 (“Risarcimento per fatto illecito. Qualunque fatto doloso o colposo, che cagiona ad altri un danno ingiusto, obbliga colui che ha commesso il fatto a risarcire il danno.”) (“Compensation for wrongful act. Any intentional or culpable act that causes unjust damage to others shall oblige the person who committed the act to compensate for the damage.”).

<sup>60</sup> Italian Civil Code, Art. 2056 (“Il danno non patrimoniale deve essere risarcito solo nei casi determinati dalla legge.”) (“Non-economic damage may be compensated only in cases determined by law.”).

<sup>61</sup> Decision of the Italian Court of Cassation, Case No. 20205, dated 19 October 2005.

<sup>62</sup> Decision of the Italian Court of Cassation, Case No. 16543, dated 9 September 2012.

<sup>63</sup> Decision of the Italian Court of Cassation, Case No. 7471, dated 18 November 2014 (“Il danno non patrimoniale, anche quando sia determinato dalla lesione di diritti inviolabili della persona, non è in reipsa, ma costituisce un danno conseguenza, che deve essere allegato e provato da chi ne domandi il risarcimento.”).

<sup>64</sup> Order of the Italian Court of Cassation, Order No. 13153, dated 25 May 2017.

<sup>65</sup> “Il risarcimento danni da diffamazione tramite mass-media: analisi e riflessioni sui criteri orientativi proposti dell’Osservatorio sulla Giustizia Civile di Milano” (Filodiritto.com), at <https://www.filodiritto.com/articoli/2018/11/il-risarcimento-danni-da-diffamazione-tramite-mass-media-analisi-e-riflessioni-sui-criteri-orientativi-proposti.html>.

<sup>66</sup> See above at paras. 21-23.

<sup>67</sup> See above at para. 22.

<sup>68</sup> Courts have stated that the statement need not necessarily be true. See G. Scorza, in C. Glasser, Jr. (ed.), *International Libel and Privacy Handbook: a global reference for journalists, publishers, webmasters, and lawyers*, §22.02 LexisNexis (2017).

<sup>69</sup> Decision of the Italian Court of Cassation, Case No. 9458, dated 18 April 2013 (“Ne consegue che al giornalista, convenuto nel giudizio di risarcimento del danno da diffamazione, per andare esente da responsabilità basta dimostrare non la verità storica dei fatti narrati, ma anche soltanto la loro verosimiglianza; fornita tale prova, è onere di chi afferma di essere stato diffamato dimostrare che la fonte da cui il giornalista ha tratto la notizia, al momento in cui questa venne diffusa, non poteva ritenersi attendibile.”) (“In order to be exempt from liability, it is sufficient for the journalist, who has been summoned in the trial for compensation for defamation damage, to prove not only the historical truth of the facts narrated, but also their plausibility; provided this proof, it is the responsibility of those who claim to have been defamed to prove that the source from which the journalist drew the news, at the time it was disseminated, could not be considered reliable.”).

<sup>70</sup> G. Scorza, in C. Glasser, Jr. (ed.), *International Libel and Privacy Handbook: a global reference for journalists, publishers, webmasters, and lawyers*, §22.02 LexisNexis (2017).

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<sup>71</sup> Decision of the Italian Court of Cassation, Case No. 5229, dated 18 October 1984 in G. Scorza, in C. Glasser, Jr. (ed.), *International Libel and Privacy Handbook: a global reference for journalists, publishers, webmasters, and lawyers*, §22.02 LexisNexis (2017).

<sup>72</sup> See M. Brkan, *The Court of Justice of the EU, privacy and data protection: Judge-made law as a leitmotif in fundamental rights protection*, in M. Brkan and E. Psychogiopoulou (eds.), *Courts, Privacy and Data Protection in the Digital Environment*, 2017, at p. 31.

<sup>73</sup> C. Di Cocco and G. Sartor, *Courts, Privacy and Data Protection in Italy: Implied constitutional rights*, in M. Brkan and E. Psychogiopoulou (eds.), *Courts, Privacy and Data Protection in the Digital Environment*, 2017, at p. 138.

<sup>74</sup> Italian Constitution, Art. 2: “La Repubblica riconosce e garantisce i diritti inviolabili dell’uomo, sia come singolo, sia nelle formazioni sociali ove si svolge la sua personalità, e richiede l’adempimento dei doveri inderogabili di solidarietà politica, economica e sociale.”

<sup>75</sup> The Constitutional Court interpreted the right to privacy as an inviolable constitutional right set out in Article 2 of the Italian Constitution which acknowledges to all citizens equal social dignity, a right to protect privacy and a right to honor, reputation, personality and personal image. See Decision of Italian Constitutional Court, Case No. 38, dated 12 April 1973 (“Investita della questione di legittimità costituzionale degli artt.161, 96, 97, 156, 168 L.n.633 1941, art.10 c.c., art.700 c.p.c. [articoli che riguardano il diritto alla riservatezza], la Corte colloca il diritto in esame tra quelli inviolabili dell’uomo garantiti costituzionalmente. Afferma la Corte :Non contrastano [artt.161, 96, 97, 156, 168 L.n.633 1941, art.10 c.c., art.700 c.p.c] con le norme costituzionali ed anzi mirano a tutelare e a realizzare i fini dell’art. 2 affermati anche negli artt. 3, secondo comma, e 13, primo comma, che riconoscono e garantiscono i diritti inviolabili dell’uomo, fra i quali rientra quello del proprio decoro, del proprio onore, della propria rispettabilità, riservatezza, intimità e reputazione, sanciti espressamente negli artt. 8 e 10 della Convenzione europea sui diritti dell’uomo ...”). In this judgement, the Court analyzed the constitutional legitimacy of Articles 161, 96, 97, 156, 168 of Law No. 633 1941, Article 10 of the Italian Civil Code and Article 700 of the Italian Criminal Code (Articles that relate to the right to privacy. The Court interpreted these Articles as provisions that encompass and protect the right to privacy—an inviolable right set out in the Italian Constitution. The Court stated: “[Articles 161, 96, 97, 156, 168 of Law no. 633 1941, Article 10 of the Italian Civil Code and Article 700 of the Italian Criminal Code] do not conflict with the provisions of the Constitution and, on the contrary, aim at protecting and achieving the purposes of Article 2 [of the Constitution] which recognizes and guarantees the inviolable rights of men, including the right to decorum, honor, respectability, confidentiality, intimacy and reputation, which are expressly laid down in Articles 8 and 10 of the European Convention on Human Rights. ...”); see also G. Scorza, in C. Glasser (ed.), *International Libel and Privacy Handbook: a global reference for journalists, publishers, webmasters, and lawyers*, 2016-2017 ed., at §22.02 [15][c]; F. Cardaci and S. Olivetti, *Il Diritto Alla Riservatezza in Italia*, at [http://www.jus.unitn.it/Cardozo/Obiter\\_dictum/Card1.htm](http://www.jus.unitn.it/Cardozo/Obiter_dictum/Card1.htm).

<sup>76</sup> Italian Constitution, Art. 13: “La libertà personale è inviolabile. Non è ammessa forma alcuna di detenzione, di ispezione o perquisizione personale, né qualsiasi altra restrizione della libertà personale, se non per atto motivato dell’autorità giudiziaria e nei soli casi e modi previsti dalla legge.”

<sup>77</sup> Italian Constitution, Art. 14: “Il domicilio è inviolabile. Non vi si possono eseguire ispezioni o perquisizioni o sequestri, se non nei casi e modi stabiliti dalla legge secondo le garanzie prescritte per la tutela della libertà personale.”

<sup>78</sup> Italian Constitution, Art. 15: “La libertà e la segretezza della corrispondenza e di ogni altra forma di comunicazione sono inviolabili. La loro limitazione può avvenire soltanto per atto motivato dell’autorità giudiziaria le garanzie stabilite dalla legge.”

<sup>79</sup> Processing data under the GDPR has been defined as: “any operation or set of operations performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.” See GDPR, Art. 4(2).

<sup>80</sup> Personal Data under the GDPR refers to “information relating to an identified or identifiable natural person (‘data subject’); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.” See GDPR, Rec. 26 and Art. 4(1).

<sup>81</sup> See “What does the General Data Protection Regulation (European Commission) govern?,” at [https://ec.europa.eu/info/law/law-topic/data-protection/reform/what-does-general-data-protection-regulation-gdpr-govern\\_en#\\_ftn1](https://ec.europa.eu/info/law/law-topic/data-protection/reform/what-does-general-data-protection-regulation-gdpr-govern_en#_ftn1).

<sup>82</sup> GDPR, Art. 6 (“Processing shall be lawful only if and to the extent that at least one of the following applies: (a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes. ...”).

<sup>83</sup> GDPR, Rec. 153 (“Member States law should reconcile the rules governing freedom of expression and information, including journalistic, academic, artistic and or literary expression with the right to the protection of personal data pursuant to this Regulation. The processing of personal data solely for journalistic purposes, or for the purposes of academic, artistic or literary expression should be subject to derogations or exemptions from certain provisions of this Regulation if necessary to reconcile the right to the protection of personal data with the right to freedom of expression and information, as enshrined in Article 11 of the Charter. ...”). See also GDPR, Art. 85.

<sup>84</sup> See Details of Treaty No. 108, at <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/108>.

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<sup>85</sup> F. De Biasi, A. Mantovani and E. Reggiani, *Data Protection in Italy: overview*, dated 1 March 2018, at [https://uk.practicallaw.thomsonreuters.com/9-502-4794?transitionType=Default&contextData=\(sc.Default\)](https://uk.practicallaw.thomsonreuters.com/9-502-4794?transitionType=Default&contextData=(sc.Default)).

<sup>86</sup> See Legislative Decree No. 101/2018; See also Italian Privacy Code amended by Legislative Decree No. 101/2018 (Decreto Legislativo 30 Giugno 2003 n. 196), at <https://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/9042678>.

<sup>87</sup> Italian Copyright Law, Art. 96. Italian copyright law is discussed in more detail in Section V below.

<sup>88</sup> Civil Code, Art. 6 (“Ogni persona ha diritto al nome che le è per legge attribuito. Nel nome si comprendono il prenome e il cognome. Non sono ammessi cambiamenti, aggiunte o rettifiche al nome, se non nei casi e con le formalità dalla legge indicati.”) (“Everyone has the right to the name assigned to them by law. The name includes first and last names. No changes, additions or corrections to the first name are allowed, except in the cases and with the formalities specified by law.”)

<sup>89</sup> Civil Code, Art. 7 (“La persona, alla quale si contesti il diritto all'uso del proprio nome o che possa risentire pregiudizio dall'uso che altri indebitamente ne faccia, può chiedere giudizialmente la cessazione del fatto lesivo, salvo il risarcimento dei danni. L'autorità giudiziaria può ordinare che la sentenza sia pubblicata in uno o più giornali.”) (“A person who is denied the right to use his or her name or who is likely to be harmed by the use of his or her name by others unduly, may seek to have the harmful act brought to an end, without prejudice to compensation for damages. The court may order that the judgment be published in one or more newspapers.”).

<sup>90</sup> Civil Code, Art. 10 (“Qualora l'immagine di una persona o dei genitori, del coniuge o dei figli sia stata esposta o pubblicata fuori dei casi in cui l'esposizione o la pubblicazione è dalla legge consentita, ovvero con pregiudizio al decoro o alla reputazione della persona stessa o dei detti congiunti, l'autorità giudiziaria, su richiesta dell'interessato, può disporre che cessi l'abuso, salvo il risarcimento dei danni.”) (“Where the image of a person or of his or her parents, spouse or children has been displayed or published outside the cases where such display or publication is permitted by law, or where the decorum or reputation of the person or his or her relatives is damaged, the judicial authorities may, at the request of the person concerned, order that the abuse cease, without prejudice to damages.”).

<sup>91</sup> See Journalist Code amended by Legislative Decree No. 101/2018, at <https://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/9067692>.

<sup>92</sup> The provision is broad and applies to “anyone ... who, even occasionally, carries out journalistic activities.” See Law No. 69, dated 3 February 1963 (Legge 3 Febbraio 1963 n. 69), Art. 1; Journalist Code amended by Legislative Decree No. 101/2018, Art. 13 (“Le presenti norme si applicano ai giornalisti professionisti, pubblicisti e praticanti e a chiunque altro, anche occasionalmente, eserciti attività pubblicistica”) (“These rules apply to professional journalists, publicists and practitioners and to anyone else who, even occasionally, carries out journalistic activities”).

<sup>93</sup> Decision of the Italian Court of Cassation, Case No. 5926, dated 5 March 2008 (“Costituisce attività giornalistica - intesa come prestazione di lavoro intellettuale volta alla raccolta, al commento e alla elaborazione di notizie destinate a formare oggetto di comunicazione attraverso gli organi di informazione.”) (“It constitutes journalistic activity if any intellectual work aimed at the collection, commentary and processing of news is intended to be the subject of communication through the media.”).

<sup>94</sup> See Journalist Code amended by Legislative Decree No. 101/2018, para. 4 of the Preamble and Art. 1.2.

<sup>95</sup> Journalist Code amended by Legislative Decree No. 101/2018, Art. 6.1.

<sup>96</sup> Journalist Code amended by Legislative Decree No. 101/2018, Arts. 3-11.

<sup>97</sup> Journalist Code amended by Legislative Decree No. 101/2018, Preamble (“rispetto delle disposizioni contenute nelle regole deontologiche costituisce condizione essenziale per la liceità e correttezza del trattamento dei dati personali e il mancato rispetto delle stesse comporta l'applicazione della sanzione di cui all'art. 83, paragrafo 5 del Regolamento.”) (“Compliance with the provisions contained in the rules of conduct is an essential condition for the lawfulness and correctness of the processing of personal data and failure to comply with them will result in the application of the sanction under Article 83, paragraph 5 of the Regulation.”).

<sup>98</sup> The Data Protection Agency was created in 1996 with the first data protection legislation that was enacted in Italy. The Data Protection Agency oversees and enforces the laws on privacy. The Legislative Decree 101/18 confirmed that the Data Protection Agency is the competent authority to enforce the new amended laws on data protection that incorporate the GDPR. See “*La Aurorita*,” Garante Privacy, at <https://www.garanteprivacy.it/web/guest/home/autorita>.

<sup>99</sup> The GDPR provides some guidance as to the potential amount of the monetary sanction, which can be up to €20 million or 4% of the company's total worldwide annual turnover. See Decree 101/2018, Art. 15 (incorporating the rules of the GDPR). See also GDPR, Art. 83; Revised Italian Data Protection Code, Art. 166.

<sup>100</sup> “GDPR, sanzioni e responsabilità: tutto ciò che c'è da sapere,” Agenda Digitale, at <https://www.agendadigitale.eu/sicurezza/privacy/gdpr-sanzioni-e-responsabilita-tutto-cio-che-ce-da-sapere>.

<sup>101</sup> “GDPR, sanzioni e responsabilità: tutto ciò che c'è da sapere,” Agenda Digitale, at <https://www.agendadigitale.eu/sicurezza/privacy/gdpr-sanzioni-e-responsabilita-tutto-cio-che-ce-da-sapere>.

<sup>102</sup> See GDPR, Art. 82; Civil Code, Art. 2043 (“Qualunque fatto doloso o colposo che cagiona ad altri un danno ingiusto, obbliga colui che ha commesso il fatto a risarcire il danno.”) (“Any intentional or negligent act that causes unjust damage to others shall oblige the person who committed the act to compensate for the damage.”). See above at paras. 24 *et seqq.*

<sup>103</sup> Italian Privacy Code amended by Legislative Decree No. 101/2018 (Decreto Legislativo 30 Giugno 2003 n. 196), Art. 167.

<sup>104</sup> Criminal Code Art. 684 (“Chiunque pubblica, in tutto o in parte, anche per riassunto o a guisa d'informazione, atti o documenti di un procedimento penale, di cui sia vietata per legge la pubblicazione è punito con l'arresto fino a trenta giorni o

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con l'ammenda da euro 51 a euro 258") ("Anyone who publishes, in whole or in part, even in summary or in the form of information, acts or documents of criminal proceedings, the publication of which is prohibited by law, is liable to imprisonment for up to thirty days or to a fine of between 51 and 258 Euros.").

<sup>105</sup> Privacy Code amended by Legislative Decree No. 101/2018 (Decreto Legislativo 30 Giugno 2003 n. 196), Art. 50.

<sup>106</sup> Criminal Code, Article 615 bis, at para. 1 ("Chiunque, mediante l'uso di strumenti di ripresa visiva o sonora, si procura indebitamente notizie o immagini attinenti alla vita privata svolgentesi nei luoghi indicati nell'articolo 614, è punito con la reclusione da sei mesi a quattro anni.") ("Whoever, through the use of visual or audio recording instruments, unduly obtains news or images relating to private life in the places indicated in Article 614, shall be punished by imprisonment for a period of between six months and four years. ..."); G. Scorza in C. Glasser, Jr. (ed.), *International Libel and Privacy Handbook: a global reference for journalists, publishers, webmasters, and lawyers*, 2016-2017 ed., 2017, at §22.02 [16].

<sup>107</sup> Criminal Code, Art. 615 bis, at para. 2 ("Alla stessa pena soggiace, salvo che il fatto costituisca più grave reato, chi rivela o diffonde, mediante qualsiasi mezzo di informazione al pubblico, le notizie o le immagini ottenute nei modi indicati nella prima parte di questo articolo.") ("The same penalty shall apply, unless the act constitutes a more serious offence, to anyone who reveals or spreads, by any means of information to the public, the news or images obtained in the manner indicated in the first part of this Article."); Criminal Code, Art. 615 bis, at para. 3 ("I delitti sono punibili a querela della persona offesa; tuttavia si procede d'ufficio e la pena è della reclusione da uno a cinque anni se il fatto è commesso da un pubblico ufficiale o da un incaricato di un pubblico servizio, con abuso dei poteri o con violazione dei doveri inerenti alla funzione o servizio, o da chi esercita anche abusivamente la professione di investigatore privato.") ("The penalty is imprisonment from one to five years if the act is committed by a public official or a person in charge of a public service, with abuse of the powers or with violation of duties related to the function or service, or by those who also abusively practice as private investigator.").

<sup>108</sup> Decision of the Court of Cassation, dated 8 April 1994 in G. Scorza in C. Glasser, Jr. (ed.), *International Libel and Privacy Handbook: a global reference for journalists, publishers, webmasters, and lawyers*, 2016-2017 ed., 2017, at §22.02 [16].

<sup>109</sup> Criminal Code, Art. 617.7, at para. 1 ("Chiunque, al fine di recare danno all'altrui reputazione o immagine, diffonde con qualsiasi mezzo riprese audio o video, compiute fraudolentemente, di incontri privati o registrazioni, pur esse fraudolente, di conversazioni, anche telefoniche o telematiche, svolte in sua presenza o con la sua partecipazione, e' punito con la reclusione fino a quattro anni.") ("Anyone who, in order to damage the reputation or image of others, broadcasts by any means audio or video recordings, made fraudulently, of private meetings or recordings, also fraudulently, of conversations, including telephone or telematic, carried out in his presence or with his participation, is liable to imprisonment for up to four years.").

<sup>110</sup> Criminal Code, Art. 617.7, at para. 2 ("La punibilita' e' esclusa se la diffusione delle riprese o delle registrazioni deriva in via diretta ed immediata dalla loro utilizzazione in un procedimento amministrativo o giudiziario o per l'esercizio del diritto di difesa o del diritto di cronaca.") ("Punishment is excluded if the distribution of the footage or recordings derives directly and immediately from their use in an administrative or judicial procedure or for the exercise of the right of defense or the right to report.").

<sup>111</sup> Decision of the Italian Court of Cassation, Case No. 5525/2012, dated 5 April 2012, at <https://www.rejus.eu/db/cases/italy-court-cassation-3rd-civil-section-5-april-2012-55252012>.

<sup>112</sup> Decision of the Italian Court of Cassation, Case No. 5525 dated 5 April 2012, ("se il passaggio dei dati all'archivio storico è senz'altro ammissibile, ai fini della liceità e correttezza del relativo trattamento e della relativa diffusione a mezzo della rete internet è indefettibilmente necessario che l'informazione e il dato trattato risultino debitamente integrati e aggiornati."); See also Di Cocco and G. Sartor, *Courts, Privacy and Data Protection in Italy: Implied constitutional rights*, in M. Brkan and E. Psychogiopoulou (eds.), *Courts, Privacy and Data Protection in the Digital Environment*, 2017, at p. 153.

<sup>113</sup> M. Biasiotti and S. Faro, *The Italian perspective of the right to oblivion*, 30 Int'l Rev. of L., Computers & Tech. 5 (2016).

<sup>114</sup> Decision of the Italian Court of Cassation, Case No. 3679, dated 9 April 1998, in C. Di Cocco and G. Sartor (eds.), *Courts, Privacy and Data Protection in Italy: Implied constitutional rights*, in M. Brkan and E. Psychogiopoulou (eds.), *Courts, Privacy and Data Protection in the Digital Environment*, 2017, at p. 150 et seq.

<sup>115</sup> Decision of the Court of Cassation, Judgment No. 13161, dated 24 June, 2016; See also Decision of the Court of Cassation, Judgment No. 6916 dated 20 March 2018 ("la facile accessibilità e consultabilità dell'articolo giornalistico, superiore a quelle dei quotidiani cartacei, tenuto conto dell'ampia diffusione locale del giornale on line, consentiva di ritenere che dalla data di pubblicazione fino a quella della diffida stragiudiziale fosse trascorso sufficiente tempo perché le notizie divulgate potessero avere soddisfatto gli interessi pubblici sottesi al diritto di cronaca giornalistica.") ("the easy accessibility of the journalistic article, which, in view of the widespread local distribution of the online newspaper, was higher than that of the printed newspapers, made it possible to believe that sufficient time had elapsed from the date of publication until the date of the extrajudicial warning for the news disclosed to have satisfied the public interests underlying the right of journalistic reporting.")

<sup>116</sup> Decision of the Italian Court of Cassation, Case No. 3679, dated 9 April 1998, at para. 4 ("non è lecito divulgare nuovamente, dopo un consistente lasso di tempo, una notizia che in passato era stata legittimamente pubblicata [salvo che per eventi sopravvenuti il fatto precedente ritorni di attualità e rinasca un nuovo interesse pubblico all'informazione]"). See also M. Biasiotti and S. Faro, *The Italian perspective of the right to oblivion*, 30 Int'l Rev. of L., Comps. & Tech. 5 (2016).

<sup>117</sup> See above at para. 22.

<sup>118</sup> C. Di Cocco and G. Sartor, *Courts, Privacy and Data Protection in Italy: Implied constitutional rights*, in M. Brkan and E. Psychogiopoulou (eds.), *Courts, Privacy and Data Protection in the Digital Environment*, 2017, at p. 150.

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<sup>119</sup> See Decision of the Italian Court of Cassation, Case No. 5525/2012, dated 5 April 2012, at <https://www.rejus.eu/db/cases/italy-court-cassation-3rd-civil-section-5-april-2012-55252012>.

<sup>120</sup> Decision of the Italian Court of Cassation, Case No. 3679, dated 9 April 1998 (“la divulgazione di notizie che arrecano pregiudizio all’onore e alla reputazione deve, in base al diritto di cronaca, considerarsi lecita quando ricorrono tre condizioni: ‘la verità oggettiva della notizia pubblicata; l’interesse pubblico alla conoscenza del fatto (c.d. pertinenza); la correttezza formale dell’esposizione.”).

<sup>121</sup> Decision of the Council of State, Case No. 19 dated 1999 in P. Algeri, *L’accesso agli atti amministrativi*, at <http://www.ildirittoamministrativo.it/archivio/allegati/L%20accesso%20agli%20atti%20amministrativi,%20a%20cura%20di%20PIETRO%20ALGIERI.pdf> (“questa qualificazione [diritto di accesso] è dettata dall’esigenze di individuare un fondamento costituzionale al diritto di accesso [art. 21, 24, 97 Cost.], e riconoscere, inoltre, dignità sostanziale alla posizione del richiedente.”) (“This qualification [right of access] is dictated by the need to identify a constitutional basis for the right of access [Articles 21, 24, 97 of the Constitution], and also to recognize the substantial dignity of the applicant’s position.”). See also D.-U. Galetta, *The Italian Freedom of Information Act 2016: Why Transparency-on-Request Is a Better Solution*, 8 Italian J. Pub. L. 268, at p. 271 et seq. (2016).

<sup>122</sup> See P. Algeri, *L’accesso agli atti amministrativi*, at <http://www.ildirittoamministrativo.it/archivio/allegati/L%20accesso%20agli%20atti%20amministrativi,%20a%20cura%20di%20PIETRO%20ALGIERI.pdf>; D.-U. Galetta, *The Italian Freedom of Information Act 2016: Why Transparency-on-Request Is a Better Solution*, 8 Italian J. Pub. L. 268, at p. 271 et seq. (2016). See D. Vaiano, *L’evoluzione del diritto di accesso ai documenti amministrativi*, Ambiente diritti, at <http://www.ambientediritto.it/home/dottrina/!%E2%80%99evoluzione-del-diritto-di-accesso-ai-documenti-amministrativi> (“Con l’attualissimo decreto legislativo n.97 del 2016 si è intervenuti nuovamente sul principio di trasparenza e sul diritto di accesso. La prima novità importante è l’indicazione ulteriore circa lo scopo della trasparenza come accessibilità totale, poiché non si tratta solo di favorire forme diffuse di controllo, ma anche di tutelare i diritti fondamentali, ossia quei diritti sanciti nell’articolo 1 II co. D.lgs. n.33 del 2013, vale a dire le libertà individuali e collettive, i diritti civili, politici e sociali che integrano il diritto ad una buona amministrazione.”) (“With the very current legislative decree No. 97 of 2016, the principle of transparency and the right of access were once again taken into account. The first important innovation is the further indication about the purpose of transparency as total accessibility, since it is not only a matter of encouraging widespread forms of control, but also of protecting fundamental rights, i.e. those rights enshrined in Article 1 II of Legislative Decree No. 33 of 2013, i.e. individual and collective freedoms, civil, political and social rights that supplement the right to good administration.”); D.-U. Galetta, *Transparency and Access to Public Sector Information in Italy: A Proper Revolution*, 6 Italian J. Pub. L. 212, at p. 216 et seq. (2014).

<sup>123</sup> See for example, Italian Constitution, Art. 113 (“Contro gli atti della pubblica amministrazione e’ sempre ammessa la tutela giurisdizionale dei diritti e degli interessi legittimi dinanzi agli organi di giurisdizione ordinaria o amministrativa. ...”) (“The judicial safeguarding of rights and legitimate interests before the bodies of ordinary or administrative justice is always permitted against acts of the public administration. ...”).

<sup>124</sup> For example, see Constitution, Art. 97 (“Le pubbliche amministrazioni, in coerenza con l’ordinamento dell’Unione europea, assicurano l’equilibrio dei bilanci e la sostenibilità del debito pubblico. ...”) (“Public offices are organised according to the provisions of law, so as to ensure the efficiency and impartiality of administration. ...”).

<sup>125</sup> D.-U. Galetta, *The Italian Freedom of Information Act 2016: Why Transparency-on-Request Is a Better Solution*, 8 Italian J. Pub. L. 268, at p. 271 (2016).

<sup>126</sup> C. Di Cocco and G. Sartor, *Courts, Privacy and Data Protection in Italy: Implied constitutional rights*, in M. Brkan and E. Psychogiopoulou (eds.), *Courts, Privacy and Data Protection in the Digital Environment*, 2017, at p. 139.

<sup>127</sup> Directive (EU) 2016/343, at Rec. 19.

<sup>128</sup> See Act No. 15 (Legge 11 Febbraio 2005 n. 15), dated 11 February 2005, Art. 22, at Section 1(a) (“per ‘diritto di accesso’, il diritto degli interessati di prendere visione e di estrarre copia di documenti amministrativi”) (“right of access means the right of interested parties to inspect and take copies of administrative documents”).

<sup>129</sup> Act No. 124 (Legge 7 Agosto 2015 n. 124), dated 7 August 2015, Art. 7, at Section 1(h) (“fermi restando gli obblighi di pubblicazione riconoscimento della libertà di informazione attraverso il diritto di accesso, anche per via telematica, di chiunque, indipendentemente dalla titolarità di situazioni giuridicamente rilevanti, ai dati e ai documenti detenuti dalle P.A., salvi i casi di segreto o di divieto di divulgazione previsti dall’ordinamento e nel rispetto dei limiti relativi alla tutela di interessi pubblici e privati, al fine di favorire forme diffuse di controllo sul perseguimento delle funzioni istituzionali e sull’utilizzo delle risorse pubbliche ...”). See also D.-U. Galetta, *The Italian Freedom of Information Act 2016: Why Transparency-on-Request Is a Better Solution*, 8 Italian J. Pub. L. 268, at p. 278 (2016).

<sup>130</sup> Legislative Decree No. 97 (Decreto Legislativo 25 Maggio 2016 n. 97), dated 25 May 2016.

<sup>131</sup> See Ministero per la Pubblica Amministrazione, at “FOIA,” <http://www.funzionepubblica.gov.it/foia-7>.

<sup>132</sup> The FOIA came into force in December 2016. See A. Longo, *Ecco il testo del decreto Foia, la trasparenza della PA parte da dicembre*, La Repubblica, dated 19 May 2016, at [https://www.repubblica.it/tecnologia/sicurezza/2016/05/19/news/ecco\\_il\\_testo\\_del\\_decreto\\_foia\\_la\\_trasparenza\\_della\\_pa\\_arte\\_da\\_dicembre-140128514](https://www.repubblica.it/tecnologia/sicurezza/2016/05/19/news/ecco_il_testo_del_decreto_foia_la_trasparenza_della_pa_arte_da_dicembre-140128514).

<sup>133</sup> See FOIA, Art. 6, at Section 1(3) (“L’esercizio del diritto di cui ai commi 1 e 2 non e’ sottoposto ad alcuna limitazione quanto alla legittimazione soggettiva del richiedente. L’istanza di accesso civico identifica i dati, le informazioni o i documenti richiesti e

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non richiede motivazione. ...”) (“The exercise of the right referred to in paragraphs 1 and 2 is not subject to any limitation as to the legitimate interest of the applicant. The request for civic access should identify the data, information or documents requested and does not require reasons. ...”). See also D.-U. Galetta, *The Italian Freedom of Information Act 2016: Why Transparency-on-Request Is a Better Solution*, 8 Italian J. Pub. L. 268, at p. 281 (2016).

<sup>134</sup> FOIA, Art. 6, at Section 2(1).

<sup>135</sup> FOIA, Art. 6, at Section 2(2).

<sup>136</sup> Data requested under the FOIA can be subject to either mandatory publishing or publishing based on the discretion of the administrative body. See FOIA, Art. 6, at Section 1(3)(d).

<sup>137</sup> FOIA, Art. 6, at Section 1(3).

<sup>138</sup> FOIA, Art. 6, at Section 1(6).

<sup>139</sup> FOIA, Art. 6, at Section 1(7).

<sup>140</sup> FOIA, Art. 6, at Section 1(8).

<sup>141</sup> Code of Criminal Procedure, Art. 471.

<sup>142</sup> Code of Criminal Procedure, Art. 472.

<sup>143</sup> Code of Criminal Procedure, Arts. 114.1 and 329.

<sup>144</sup> See Criminal Code (Codice Penale), Art. 684 (“Chiunque pubblica, in tutto o in parte, anche per riassunto o a guisa d'informazione, atti o documenti di un procedimento penale, di cui sia vietata per legge la pubblicazione è punito con l'arresto fino a trenta giorni o con l'ammenda da euro 51 a euro 258.”).

<sup>145</sup> Code of Criminal Procedure, Art. 114.6 bis (“E' vietata la pubblicazione dell'immagine di persona privata della libertà personale ripresa mentre la stessa si trova sottoposta all'uso di manette ai polsi ovvero ad altro mezzo di coercizione fisica, salvo che la persona vi consenta.”).

<sup>146</sup> Code of Civil Procedure, Art. 128.

<sup>147</sup> Decision of the Italian Constitutional Court, No. 16, dated 10 December 1981 (“attività giornalistica deve conciliarsi con il rispetto della personalità sia pubblica che privata del singolo e degli enti nell'esercizio delle loro funzioni. Ora, se il diritto di attingere notizie, pubblicarle e sottoporle al vaglio della critica deve essere conforme alla verità sostanziale dei fatti e l'attività giornalistica deve conciliarsi con il rispetto della personalità, non è contestabile che la tutela dei minori postula una particolare disciplina proprio per quanto attiene alla personalità, che risente, nella sua evoluzione, dei più diversi fattori biologici, psicologici, familiari e sociali, i quali incidono in modo definitivo sulla sua formazione.”).

<sup>148</sup> Decision of the Italian Court of Cassation, Case No. 7504, dated 18 February 2014.

<sup>149</sup> See Law No. 633 – Protection of copyright and other rights related to the exercise thereof.

<sup>150</sup> See Civil Code, Arts. 2575-2583.

<sup>151</sup> Copyright Law, Art. 1.

<sup>152</sup> Copyright Law, Art. 6.

<sup>153</sup> Copyright Law, Art. 2.

<sup>154</sup> Copyright Law, Art. 3.

<sup>155</sup> Copyright Law, Art. 4.

<sup>156</sup> Copyright Law, Art. 12.

<sup>157</sup> Copyright Law, Art. 20.

<sup>158</sup> Copyright Law, Art. 142.

<sup>159</sup> See SIAE Website, at “Right of Repetance,” <https://www.siae.it/en/diritto-dautore/moral-rights/right-of-repentance>.

<sup>160</sup> The regime governing moral rights differs slightly from that governing economic rights. See Copyright Law, Arts. 168 *et seq.*

<sup>161</sup> See Copyright Law, Art. 159.

<sup>162</sup> Copyright Law, Art. 158.

<sup>163</sup> Copyright Law, Art. 163.

<sup>164</sup> Copyright Law, Art. 171.

<sup>165</sup> Copyright Law, Art. 171.

<sup>166</sup> Copyright Law, Art. 172.

<sup>167</sup> Copyright Law, Art. 174 bis.

<sup>168</sup> Copyright Law, Art. 8.

<sup>169</sup> Copyright Law, Art. 10.

<sup>170</sup> Copyright Law, Art. 7.

<sup>171</sup> Copyright Law, Art. 38. Section II contains further special rules for magazines and newspapers.

<sup>172</sup> Copyright Law, Art. 65, at Section 1.

<sup>173</sup> Copyright Law, Art. 65, at Section 2.

<sup>174</sup> Copyright Law, Art. 101 (“La riproduzione di informazioni e notizie è lecita purché non sia effettuata con l'impiego di atti contrari agli usi onesti in materia giornalistica e purché se ne citi la fonte.”) (“Reproduction of information and news is permitted provided that it is not made contrary to fair practice in journalism and provided that the source is cited.”). The Article also identifies two unlawful acts, namely (1) the reproduction of information bulletins from “press or information agencies” before sixteen hours have elapsed from the distribution or before their publication in a newspaper authorized by

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such agency, and (2) the systematic reproduction of published or broadcast information or news for profit by newspapers or other periodicals or by broadcasting organizations. See Copyright Law, Art. 101, at para. 2.

# Fact-Checkers Legal Support Initiative

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