

# ITALY

	2009	2011
<b>INTERNET FREEDOM STATUS</b>	<b>n/a</b>	<b>Free</b>
<b>Obstacles to Access</b>	n/a	6
<b>Limits on Content</b>	n/a	8
<b>Violations of User Rights</b>	n/a	12
<b>Total</b>	<b>n/a</b>	<b>26</b>

**POPULATION:** 60.5 million  
**INTERNET PENETRATION:** 49 percent  
**WEB 2.0 APPLICATIONS BLOCKED:** No  
**SUBSTANTIAL POLITICAL CENSORSHIP:** No  
**BLOGGERS/ONLINE USERS ARRESTED:** No  
**PRESS FREEDOM STATUS:** Partly Free

## INTRODUCTION

Italy has a relatively high internet penetration rate, with about 50 percent of the population accessing the medium in 2009. Mobile-telephone usage is ubiquitous, and internet access via mobile phones has grown significantly in recent years. Italian authorities do not engage in political censorship of online speech, and no bloggers were imprisoned as of the end of 2010. However, in recent years the government has introduced several bills or decrees that could pose serious challenges to freedom of expression online, and a number of controversial judicial decisions have reinforced this trend. Freedom of expression advocates have raised concerns over efforts to make websites responsible for prescreening information, particularly videos, posted by their users, as well as attempts to impose onerous registration and other requirements on online communications. By the end of 2010, many of these worrisome proposals had been abandoned or put on hold.

The push to restrict internet freedom stems in part from the media ownership structure in Italy. Prime Minister Silvio Berlusconi owns, directly and indirectly, a large private media conglomerate, and his political position gives him significant influence over the appointment of state television officials. Such financial and editorial dominance of the broadcast media may give the country's leadership an incentive to restrict the free flow of information online, whether for political reasons or to influence the competition for viewers arising from online video. Nevertheless, as of the end of 2010, the diversity of views and degree of government criticism in online discussions was largely unrestricted and appeared to be greater than in the broadcast and print media.

A group of nuclear physicists created Italy's first computer network in 1980, with the intent of connecting all nuclear research institutes in the country. At the beginning, the internet was just one of several packet-switching networks that coexisted in Italy. The dominant telecommunications firm at the time, Telecom Italia, tried to impose its privately owned system, while various center-left governments, aware of the importance of interconnectivity, supported integration among the networks. Ultimately, the adaptability and simplicity of the internet prevailed. Access to the internet was available to private users after 1995, and the number of internet-service providers (ISPs) soared within a short period of time. Early obstacles to penetration included lack of familiarity with computers and with the English language, as well as the dominance of commercial television and the diversion of consumers' telecommunications spending to mobile telephony.

## OBSTACLES TO ACCESS

Since 1990, the Italian government has supported the internet as a catalyst for economic growth, increased tourism, reduced communication costs, and more efficient government operations. As of 2009, Italy had approximately 29 million internet users, for an internet penetration rate of almost 50 percent.<sup>1</sup> Although this rate is higher than the global average, it is lower than the overall penetration rate in Western Europe. The relatively low penetration rate is not due to infrastructural limitations as much as unfamiliarity with the internet among the older generations and a general affinity for mobile-phone devices rather than desktop computers.

The main point of internet access is the home, with approximately 18 million people using home connections at least once a month.<sup>2</sup> The workplace is the second most common access point, with approximately 6 million users, followed by schools and universities, with around 2 million users. Approximately 43 percent of internet users are female, but women make up 55 percent of "new users."<sup>3</sup> Cost is not a significant barrier to access. Currently, the price for a broadband connection ranges from €20 to €40 (US\$26 to US\$52) per month.<sup>4</sup>

ADSL broadband connections are available on 86 percent of Italy's territory.<sup>5</sup> However, the broadband subscription rate is only 20.5 percent, as not all internet

<sup>1</sup> International Telecommunication Union (ITU), "ICT Indicators 2009—Internet," available at <http://www.itu.int/ITU-D/icteye/Indicators/Indicators.aspx>, accessed March 2, 2011.

<sup>2</sup> Giancarlo Livraghi, ed., "Dati sull'internet in Italia" [Data on the Internet in Italy], as of December 24, 2010, <http://www.gandalf.it/dati/dati3.htm> (in Italian).

<sup>3</sup> Ibid.

<sup>4</sup> "Broadband—Italy," Socialtext, <https://www.socialtext.net/broadband/index.cgi?italy>, accessed March 4, 2011.

<sup>5</sup> Ibid.

subscribers opt for higher speeds.<sup>6</sup> Meanwhile, fiber-optic cables are not well developed. In September 2010, the deputy minister for communications announced that Italian telecommunications operators had reached an agreement on the technical model for a transition from the existing copper-wire network to a fiber-optic network. Earlier in the year, telecommunications operators Fastweb, Wind, and Vodafone Italia had announced plans to jointly invest €2.5 billion (US\$3.3 billion) over a five-year period to connect 15 of Italy's largest cities using fiber-optic cable, and cover an additional 10 million people. Telecom Italia has announced its own plan to invest €9 billion (US\$11.8 billion) in infrastructure, and aims to offer 100 Mbps broadband access to 50 percent of the Italian population by 2018.<sup>7</sup>

In terms of mobile-phone penetration, Italy leads Organization for Economic Cooperation and Development (OECD) countries with a rate of 151 percent.<sup>8</sup> The majority of these subscriptions are prepaid. Telecom Italia Mobile (TIM), Vodafone, Wind, and 3 Italia are the major carriers, and all of them operate third-generation (3G) networks. Access to mobile internet has been increasing in recent years, and as of December 2009, some 9 percent of internet users reported accessing the internet through their mobile phones.<sup>9</sup> The social-networking site Facebook, the Twitter microblogging service, and international blog-hosting sites are freely available. The popularity of videoconferencing through applications like Skype is on the rise.

In 2005, the Italian government issued the Pisanu decree, requiring businesses to obtain a license from the police in order to offer WiFi access to customers. The decree also required that users produce identification documents to access WiFi in public places, and that operators preserve a record of internet use. These measures were instituted for security reasons in the wake of terrorist bombings in London that year, and were renewed annually over the next several years. They are widely viewed as having stunted the spread of WiFi in Italy, as many businesses chose not to offer such services given the added nuisance and cost involved in complying with the decree. In November 2010, however, the government announced that it would abolish the decree and remove restrictions on public access to WiFi starting in January 2011. The government passed a decree to formalize the announcement in December 2010, but this required parliamentary approval within two months or the

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<sup>6</sup> Google Public Data, "Broadband Penetration Rate: Italy," updated February 10, 2011, [http://www.google.com/publicdata?ds=f5nrd26mp6q4m&ctype=l&strail=false&nselm=h&met\\_y=broadband\\_penetration&scale\\_y=lin&ind\\_y=false&rdim=country\\_group&idim=eu\\_country:IT&tstart=1025481600000&tunit=M&tlen=90&hl=en&dl=en](http://www.google.com/publicdata?ds=f5nrd26mp6q4m&ctype=l&strail=false&nselm=h&met_y=broadband_penetration&scale_y=lin&ind_y=false&rdim=country_group&idim=eu_country:IT&tstart=1025481600000&tunit=M&tlen=90&hl=en&dl=en).

<sup>7</sup> Giada Zampano, "Italy Operators Reach Broadband Deal," *Wall Street Journal*, September 19, 2010, <http://online.wsj.com/article/SB10001424052748703470904575499432808468868.html>.

<sup>8</sup> Organization for Economic Cooperation and Development (OECD), "OECD Key ITC Indicators—Mobile subscribers in total / per 100 inhabitants for OECD, 2007," updated September 21, 2009, available at <http://www.oecd.org/sti/ICTIndicators>.

<sup>9</sup> "ITALIA: accesso a Internet per luoghi e device (Dicembre 2009)" [Italy: Access to the Internet by Location and Device (December 2009)], Key4biz, March 4, 2010, [http://www.key4biz.it/Figure\\_e\\_Tabelle/2010/03/Internet\\_Device\\_Web\\_Contenti\\_Smartphone\\_Accesso\\_Utenti\\_Luoghi\\_Dicembre\\_Italia.html](http://www.key4biz.it/Figure_e_Tabelle/2010/03/Internet_Device_Web_Contenti_Smartphone_Accesso_Utenti_Luoghi_Dicembre_Italia.html) (in Italian).

previous requirements would remain in force. While many politicians welcomed the change, others were skeptical about whether the announcement would be followed by concrete action.<sup>10</sup>

Access to the internet for private users is offered by 13 different internet-service providers (ISPs). Telecom Italia has the largest share of the market, followed by Vodafone, Fastweb, and Tiscali.<sup>11</sup> Telecom Italia owns the physical network, but it is required by European Union (EU) legislation to provide fair access to competitors.<sup>12</sup>

The main regulatory body for telecommunications is the Authority for Communications Security (AGCOM), an independent agency that is accountable to Parliament. Its responsibilities include providing access to networks, protecting intellectual-property rights, regulating advertising, and overseeing public broadcasting. AGCOM's president is appointed by the majority party in Parliament and commissioners have been known to come under pressure from the government to take certain actions regarding television broadcasts.<sup>13</sup> The other important player in the field of communications is the Italian Data Protection Authority (DPA). Set up in 1997, the DPA has a staff of more than 100 people, and four of its main members are elected by Parliament for seven-year terms. The DPA is tasked with supervising compliance by both governmental and nongovernmental entities with data protection laws, and "banning or blocking processing operations that are liable to cause serious harm to individuals."<sup>14</sup> It is generally viewed as professional and fair in carrying out its duties.

## LIMITS ON CONTENT

The Italian authorities engage in some blocking of internet sites, though to date there have been no known restrictions on politically oriented content, and Italians have access to the websites of a wide range of domestic and international news sources and human rights groups. Since 2006, online gambling has been permitted only via state-licensed websites, and ISPs are required to block access to international or unlicensed gambling sites identified on a blacklist compiled by the Autonomous Administration of State Monopolies (AAMS).

<sup>10</sup> Philip Willan, "Italy to Remove Public WiFi Restrictions," *Network World*, November 5, 2010, <http://www.networkworld.com/news/2010/110510-italy-to-remove-public-wi-fi.html>; Luca Annunziata, "Addio Pisanu, o arrivederci? (update 2)" [Farewell Pisanu, or See You Soon? (update 2)], *Punto Informatico*, December 22, 2010, <http://punto-informatico.it/3061069/PI/News/addio-pisanu-arrivederci-update-2.aspx> (in Italian).

<sup>11</sup> Telecom Italia, "Domestic Market," updated August 9, 2010, [http://www.telecomitalia.com/tit/en/corporate/investors/business\\_areas\\_competitive\\_scenario/domestic\\_market.html](http://www.telecomitalia.com/tit/en/corporate/investors/business_areas_competitive_scenario/domestic_market.html).

<sup>12</sup> Lorenzo Pupillo, *Duct and Pole Sharing: An Operator's Perspective* (Rome: Telecom Italia, April 10, 2008), slide 14, <http://www.oecd.org/dataoecd/35/61/40460866.pdf>.

<sup>13</sup> Michael Day, "Silvio Berlusconi caught out trying to stifle media," *The Independent*, March 18, 2010, <http://www.independent.co.uk/news/world/europe/berlusconi-caught-out-trying-to-stifle-media-1923147.html>.

<sup>14</sup> Data Protection Authority, "The Italian Data Protection Authority: Who We Are," November 17, 2009, <http://www.garanteprivacy.it/garante/doc.jsp?ID=1669109>.

The list of banned sites is available on the AAMS website and updated regularly.<sup>15</sup> A similar blacklist system is in place for websites containing child pornography. A law passed in February 2006 (Law No. 6) called for the establishment of a National Center for the Fight against Child Pornography on the Internet within the Postal and Communications Police Service. Based on its own research and on complaints from citizens, the center maintains a list of sites deemed inappropriate and forwards it to ISPs for blocking.<sup>16</sup> As with the AAMS list, the child pornography blacklist is publicly available, though some child advocates have raised concerns that this encourages visits to the sites by users with circumvention tools. ISPs also offer subscribers “family internet” packages that block access to adult pornography and sites with violent content, in exchange for a small premium.

In addition to blocking entire websites, Italian authorities have issued formal requests for the removal of specific content. Overall, Italy ranked sixth in a list of countries published by Google based on the number of official requests for content removal. It issued 69 requests between January 2010 and June 2010, resulting in the removal of 1,655 items (or 97 percent of those requested), the vast majority of which had been posted on YouTube. The Google list did not explain the justifications for the requests,<sup>17</sup> though presumably they would have included child pornography and copyright infringement.

More worrying to free expression advocates have been judicial decisions that potentially extend registration requirements to blogs, or that appear to hold websites liable for content posted by users. Government attempts to introduce legislation that would require websites to engage in prepublication censorship have also raised concerns. In the face of public criticism, however, self-censorship requirements for ISPs and content providers had not been enacted as of the end of 2010.

The registration issue stems from a 1948 law against the “clandestine press.” Drawing on that law, a regulation issued in 2001<sup>18</sup> holds that anyone who wants to provide a news service, including on the internet, must be a “registered” journalist in the Communication Workers’ Registry (ROC), with membership in the national journalists’ association. The rules have generally not been applied to bloggers, and in practice millions of blogs are published in Italy without repercussions. However, in September 2008, a judge in Sicily found local author Carlo Ruta guilty of publishing a “clandestine newspaper” in the form of a blog, which in this case contained detailed research on connections between politicians and organized crime. Ruta was fined €250 and forced to take down his blog, though he replaced

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<sup>15</sup> The blacklist is available (in Italian) at <http://www.aams.gov.it/site.php?id=2484>.

<sup>16</sup> State Police, “Centro nazionale per il contrasto alla pedopornografia sulla rete” [National Center for the Fight against Child Pornography on the Internet], March 10, 2010, <http://www.poliziadistato.it/articolo/view/10232/> (in Italian).

<sup>17</sup> Google, “Transparency Report: Government Requests,” <http://www.google.com/transparencereport/governmentrequests/>; Ed Felten, “Google Publishes Data on Government Data and Takedown Requests,” *Freedom to Tinker* (blog), April 20, 2010, <http://www.freedom-to-tinker.com/blog/felten/google-publishes-data-government-data-and-takedown-requests>.

<sup>18</sup> Law No. 62, March 7, 2001, “Nuove norme sull’editoria e sui prodotti editoriali” [New Rules on Publishing and Publishing Products], available at [http://www.interlex.it/testi/101\\_62.htm](http://www.interlex.it/testi/101_62.htm).

it with a message linking visitors to his new website.<sup>19</sup> While the law is rarely applied in this way, many people who create websites on a range of issues, including scholarly research on foreign policy, collaborate with registered journalists to protect themselves from potential legal action.<sup>20</sup>

The apparent push to hold ISPs and websites responsible for user-posted content has been manifested in several separate incidents in recent years. Perhaps the most prominent case in this regard involved a 2006 video that was uploaded to Google Video, a video-sharing site operated by Google before it acquired YouTube. The video clip showed a mentally disabled child being bullied by his classmates. Although it remained online for two months and became quite popular, Google administrators removed it shortly after they were notified. Nevertheless, the city of Milan and the advocacy group Vivi Down sued four top Google executives for defamation and violation of the privacy protection law. In Italy, executives may be held legally responsible for a company's actions, and the privacy law prohibits the use of someone else's personal information to do them harm or make a profit. In February 2010, a judge found that the video was obviously posted without the victim's permission, and that Google was profiting from the resulting site traffic through online advertisements. The court sentenced three of the four executives to suspended six-month jail sentences, and acquitted them on the defamation charges. Freedom of expression advocates criticized the ruling, arguing that it effectively required websites to carry out prepublication screening of videos, a costly exercise that would open the door to abuse.<sup>21</sup> However, given that Italy has a civil-law rather than a common-law system, and that inconsistent judicial interpretations are not unusual, it remains unclear whether the Google decision will set a significant precedent.<sup>22</sup>

Also in early 2010, the government signaled its intention to extend television broadcasting regulations to websites that host videos.<sup>23</sup> The new rules, known as the Romani decree, were first proposed in January 2010. The initial draft required all websites showing videos—including blogs, online news outlets, and video-sharing websites—to first obtain a license from the government, and subjected them to fines of up to €150,000 in the event of copyright infringement.<sup>24</sup> This would effectively require websites to monitor all uploaded

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<sup>19</sup> John Ozimek, "How an Italian Judge Made the Internet Illegal," *Register*, September 26, 2008, [http://www.theregister.co.uk/2008/09/26/italian\\_law\\_kills\\_blog/](http://www.theregister.co.uk/2008/09/26/italian_law_kills_blog/).

<sup>20</sup> Interview with Luca Bolognini, president of the Italian Institute for Privacy, June 22, 2010.

<sup>21</sup> Reporters Without Borders, "Google Conviction Could Lead to Prior Control over Videos Posted Online, Says RSF," International Freedom of Expression eXchange (IFEX), February 25, 2010,

[http://www.ifex.org/italy/2010/02/25/google\\_conviction/](http://www.ifex.org/italy/2010/02/25/google_conviction/); Elisabetta Povoledo, "Italian Judge Cites Profit as Justifying a Google Conviction," *New York Times*, April 12, 2010, <http://www.nytimes.com/2010/04/13/business/global/13google.html>.

<sup>22</sup> Manlio Cammarata, "Google–Vivi Down, una sentenza da cancellare" [Google–Vivi Down, A Sentence To Be Deleted], InterLex, April 14, 2010, <http://www.interlex.it/675/google2.htm> (in Italian).

<sup>23</sup> Stacy Meichtry and Giada Zampano, "Italy Set to Extend TV Rules to Web Videos," *Wall Street Journal*, February 3, 2010, <http://online.wsj.com/article/SB10001424052748703338504575041401049214106.html>.

<sup>24</sup> Reporters Without Borders, "Proposed Decree Would Require Websites Showing Videos to Obtain License," IFEX, January 21, 2010, [http://www.ifex.org/italy/2010/01/21/video\\_licence/](http://www.ifex.org/italy/2010/01/21/video_licence/).



content, coming in some cases from millions of users. Following a public outcry, the decree was amended to exclude blogs, video-sharing sites, and online news publications. However, websites providing video content or live streaming for profit, such as internet-protocol television (IPTV) services, would be covered.<sup>25</sup> They would be required to register with AGCOM and face a ceiling on advertisement. An early draft included some AGCOM oversight of content as well, and while this provision was later withdrawn by the government, some observers remained convinced that attempts to impose content censorship would come up again in the future. The revised decree passed at the end of March 2010.

Some critics have suggested that the Romani decree was motivated by Berlusconi's financial and political interest in maintaining the popularity of television versus online video.<sup>26</sup> In another apparent manifestation of this interest, Berlusconi's Mediaset conglomerate had sued Google's YouTube in July 2008 over user-posted clips from Mediaset-owned shows.<sup>27</sup> YouTube has a policy of promptly removing copyright-infringing content as soon as it is notified, but in December 2009 a Rome court ruled against the video-sharing site, holding it responsible for the violations of copyright.<sup>28</sup>

Even in the absence of legal requirements, ISPs tend to exercise some informal self-censorship, declining to host content that may prove controversial or that could create friction with powerful entities or individuals. Online writers also exercise caution to avoid libel suits by public officials, whose litigation—even when unsuccessful—often takes a significant financial toll on defendants in the traditional media. The Italian government does not proactively manipulate news websites. However, coverage in traditional media does affect what is published on news websites, giving the outlets controlled by the prime minister an indirect influence over online reporting.

Blogging has become popular in Italy, though television remains by far the leading medium for obtaining news. Most policymakers, popular journalists, and figures in the entertainment industry have their own blogs, as do many ordinary citizens. Social-networking sites, especially Facebook and Twitter, have emerged as crucial tools for

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<sup>25</sup> Guido Scorza, "Decreto Romani, meglio ma non bene" [Romani Decree, Better But Not Good], *Punto Informatico*, March 2, 2010, <http://punto-informatico.it/2823280/PI/Commenti/decreto-romani-meglio-ma-non-bene.aspx> (in Italian).

<sup>26</sup> Jeff Israely, "Berlusconi vs. Google: Will Italy Censor YouTube?" *Time*, January 22, 2010, <http://www.time.com/time/world/article/0,8599,1955569,00.html>.

<sup>27</sup> Chiara Remondini, "Mediaset Sues Google, YouTube, Seeking EU500 Million (Update2)," *Bloomberg*, July 30, 2008, <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aYyj.ATOyYDs>.

<sup>28</sup> By contrast, a Spanish court, which also ruled on the case because the plaintiff was a Spanish subsidiary of Mediaset, rejected the demand for compensation, arguing that YouTube was only an "intermediary" and thus not responsible for the content. Moreover, the judge stated that specific takedown requests must be presented for each clip lest YouTube be forced to exercise prepublication content control. See Gaia Bottà, "YouTube, il Grande Fratello va asportato" [YouTube, Big Brother Should Be Removed], *Punto Informatico*, December 16, 2009, [http://punto-informatico.it/2773039\\_2/PI/News/youtube-grande-fratello-va-asportato.aspx](http://punto-informatico.it/2773039_2/PI/News/youtube-grande-fratello-va-asportato.aspx) (in Italian); Mauro Vecchio, "YouTube, Mediaset incornata" [YouTube, Mediaset Goring], *Punto Informatico*, September 23, 2010, <http://punto-informatico.it/2996681/PI/News/youtube-mediaset-incornata.aspx> (in Italian); Ryan Lawler, "YouTube Loses Copyright Case in Italian Court," *GigaOM*, December 17, 2009, <http://gigaom.com/video/youtube-loses-copyright-case-in-italian-court/>.

organizing protests and other mass gatherings, such as concerts, parties, or political rallies. As of the end of 2010, Italy had about 17 million Facebook users. In December 2009, a “No Berlusconi Day” protest calling for the prime minister’s resignation was organized by bloggers and publicized almost entirely over the internet and social-networking sites. It drew roughly 100,000 people.<sup>29</sup> In December 2010, students used the internet to organize a protest against a bill that substantially modified the structure of Italy’s university system. Despite a large turnout, however, the bill was ultimately approved.<sup>30</sup> Separately, the surveillance potential of social-networking sites was highlighted in March 2010, when Facebook usage by a wanted organized crime suspect enabled police to locate and arrest him.<sup>31</sup>

Given the polarization and heated discourse in Italian politics, some content on social-networking platforms has been aggressive enough to potentially incite violence. In 2009, fan pages for imprisoned Mafia bosses emerged, as did a Facebook group called “Let’s Kill Berlusconi.”<sup>32</sup> The original creators of the group, which quickly grew to tens of thousands of followers, maintained that it was not to be taken at “face value,” but was rather a provocation for those who were “fed up” with the premier.<sup>33</sup> In another case, a group was created in support of Massimo Tartaglia, a mentally ill man who struck Berlusconi with a statuette in December 2009, causing injuries to his teeth and nose; the Facebook fan page for Tartaglia gained nearly 100,000 followers in under 48 hours. Meanwhile, several other groups arose with the aim of defending the prime minister. The two “factions” went on denouncing each other on the web for some time. In response, Italian officials contacted Facebook, which ultimately decided to remove the groups.

## VIOLATIONS OF USER RIGHTS

Freedoms of speech and the press are constitutionally guaranteed and generally respected despite ongoing concerns regarding concentration of media ownership, particularly Berlusconi’s control over both public and private media assets.<sup>34</sup> The constitution also

<sup>29</sup> “Bloggers Organize ‘No Berlusconi Day’ Protest,” France 24, December 5, 2009, <http://www.france24.com/en/20091205-bloggers-silvio-no-berlusconi-day-protest-italy-prime-minister-corruption>; Bernardo Parrella, “Italy: Online Activism Fires Up ‘No Berlusconi Day,’” Global Voices, November 17, 2009, <http://globalvoicesonline.org/2009/11/17/italy-online-activism-fires-up-no-berlusconi-day/>. The movement’s website can be found at <http://www.noberlusconiday.org/>.

<sup>30</sup> “Italian Students Demonstrate Against Education Reforms,” British Broadcasting Corporation (BBC), December 22, 2010, <http://www.bbc.co.uk/news/world-europe-12058434>.

<sup>31</sup> Ann Wise, “Mafia Boss Betrayed by Facebook,” American Broadcasting Company (ABC), March 17, 2010, <http://abcnews.go.com/International/facebook-finds-mafia-boss/story?id=10124958&page=1>.

<sup>32</sup> Eric Sylvers, “Facebook to Monitor Berlusconi Content,” *New York Times*, December 15, 2009, <http://www.nytimes.com/2009/12/16/technology/internet/16iht-face.html>.

<sup>33</sup> “Probe Into ‘Kill Berlusconi’ Call,” BBC, October 22, 2009, <http://news.bbc.co.uk/2/hi/europe/8320333.stm>.

<sup>34</sup> Karin Karlekar, ed., “Italy,” in *Freedom of the Press 2010* (New York: Freedom House, 2010), <http://www.freedomhouse.org/template.cfm?page=251&year=2010>.



contains provisions protecting confidentiality of correspondence,<sup>35</sup> and Italy is a signatory to the European Convention on Human Rights and relevant international treaties. In recent years, the executive branch has been accused of trying to extend the control it wields over the television sector to the internet. This is partly because key individuals in the current government are very familiar with broadcast media, but surprisingly unfamiliar with the internet, including the prime minister and Vice Minister for Communications Paolo Romani.<sup>36</sup> Initial drafts of legislation introduced in recent years with the aim of regulating new media have drawn too heavily on the parallel with television, generating provisions that are inappropriate for the more interactive medium of the internet. For example, the draft version of the Romani decree, described above, would have crippled a range of websites with its heavy restrictions on video content.<sup>37</sup> However, after strong opposition by internet NGOs, users, and private business associations, the government amended the decree before final approval.

Defamation remains a criminal offense in Italy, punishable by prison terms ranging from six months to three years,<sup>38</sup> and a minimum fine of €516 (US\$670).<sup>39</sup> In the case of libel through the press, television, or other public means, there is no prescribed maximum fine.<sup>40</sup> Though these provisions are rarely applied, civil libel suits against journalists are a common occurrence, including by public officials. In 2009, the prime minister sued multiple domestic and international media companies, accusing them of defaming him through their coverage of his private life.<sup>41</sup> Although 8 out of 10 defamation cases are reportedly decided in favor of the journalists, the financial burden of lengthy legal

<sup>35</sup> An English copy of the constitution is available at [http://www.senato.it/documenti/repository/istituzione/costituzione\\_inglese.pdf](http://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf). See especially Articles 15 and 21.

<sup>36</sup> The prime minister's mispronunciation of Google's name during a press conference was seen as a sign of unfamiliarity with the basics of the internet. See "Berlusconi inciampa su Google; E chiama 'Gogol' il motore di ricerca" [Berlusconi Trips Over Google; The Search Engine Is Called 'Gogol'], *Il Corriere della Sera*, May 20, 2010, [http://www.corriere.it/politica/10\\_maggio\\_19/berlusconi-google-gogol\\_db608a2c-6346-11df-8b63-00144f02aabe.shtml](http://www.corriere.it/politica/10_maggio_19/berlusconi-google-gogol_db608a2c-6346-11df-8b63-00144f02aabe.shtml) (in Italian). Romani is a former freelance journalist with a background that is heavily skewed toward broadcasting and television.

<sup>37</sup> Giorgio Pontico, "In Italia Internet arranca" [In Italy Internet Limp], *Punto Informatico*, April 1, 2010, <http://punto-informatico.it/2846003/PI/News/italia-internet-arranca.aspx> (in Italian).

<sup>38</sup> Dana Kennedy, "Knox's Parents Are Just the Latest to Run Afoul of Italy's Libel Laws," AOL News, February 16, 2011, <http://www.aolnews.com/2011/02/16/amanda-knoxs-parents-are-just-the-latest-to-run-afoul-of-italy/>.

<sup>39</sup> Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, *Libel and Insult Laws: A Matrix on Where We Stand and What We Would Like to Achieve* (Vienna: OSCE, 2005), 79, <http://www.osce.org/fom/41958>.

<sup>40</sup> *Ibid.*

<sup>41</sup> Javier Espinoza, "Berlusconi's Libel Lawsuits," *Forbes*, August 28, 2009, <http://www.forbes.com/2009/08/28/berlusconi-legal-action-markets-equities-libel.html>; "Tg1, Minzolini attacca la manifestazione: 'Libertà di stampa in pericolo? Assurdo'" [Tg1, Minzolini Attacks the Event: 'Freedom of the Press in Danger? Absurd'], *La Repubblica*, October 3, 2009, <http://www.repubblica.it/2009/10/sezioni/politica/liberta-stampa-2/minzolini-editoriale/minzolini-editoriale.html> (in Italian). See also, for example, "Fini querela il Giornale: delirio diffamatorio. Ma il quotidiano conferma il nuovo affondo" [Fini il Giornale Complaint: Defamatory Delirium. But the Daily Confirms the New Thrust], *Il Sole 24 Ore*, August 13, 2010, <http://www.ilssole24ore.com/art/notizie/2010-08-13/fini-querela-giornale-casa-114119.shtml> (in Italian); Paolo Bracalini, "Grillo e Di Pietro contro le querele. Degli altri" [Grillo and Di Pietro Against Lawsuits. Of Others], *Il Giornale*, August 13, 2009, [http://www.ilgiornale.it/interni/grillo\\_e\\_di\\_pietro\\_contro\\_querele\\_degli\\_altri/13-08-2009/articolo-id=373848-page=0-comments=1](http://www.ilgiornale.it/interni/grillo_e_di_pietro_contro_querele_degli_altri/13-08-2009/articolo-id=373848-page=0-comments=1) (in Italian).

proceedings produces a chilling effect. Libel suits against bloggers and other online writers remain relatively rare. However, in May 2006, blogger Roberto Mancini was convicted of defamation and instructed to pay a fine of €13,500 (US\$17,500). Using the pseudonym General Sukhov, Mancini had apparently posted several articles on his blog that criticized local figures. Reporters Without Borders claimed that Mancini was punished not only for using “bad language” in his posts, but also for comments posted on the blog by his readers.<sup>42</sup>

In early 2010, a draft law commonly known as the wiretap bill was introduced in Parliament by Justice Minister Angelino Alfano. The bill’s proponents said it aimed to address concerns over the right to privacy and the problem of news media regularly publicizing wiretap information that is leaked to them. However, several provisions appeared to threaten media freedom and the right of the public to access independent information. Though it primarily applied to traditional media, aspects of the proposal would also affect online media. For example, accredited journalists who recorded or filmed an individual without his or her permission would face fines of up to €10,000 (US\$13,000) and as many as 30 days in jail, and other individuals who violated the rule, potentially including citizen journalists and bloggers, could be fined up to €464,700 (US\$602,600) and spend as much as four years in prison. Another provision would restrict the publication of documents related to court proceedings or police investigations prior to the beginning of a trial. The release of leaked wiretap information would lead to heavy financial penalties for publishers and jail for journalists. The bill would also oblige websites, like print publications, to issue corrections within 48 hours of receiving notice of an error, or risk a fine of up to €25,000 (US\$32,000). That provision would apply to any “information websites,” in addition to online news outlets.<sup>43</sup> The legislation’s treatment of online platforms, including blogs, in a similar manner to print media could result in a requirement that they legally register as newspapers do.<sup>44</sup>

In June 2010, the bill was adopted by the Chamber of Deputies and the Senate, which made amendments and returned it to the lower chamber. Both the Organization for Security and Cooperation in Europe’s representative on freedom of the media and the UN special rapporteur on freedom of expression called on Italy to drop the wiretap bill or revise it to bring it in line with international standards.<sup>45</sup> In the wake of such international criticism

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<sup>42</sup> Reporters Without Borders, “A Blogger Unfairly Convicted of Defamation,” news release, June 20, 2006, <http://en.rsf.org/italy-a-blogger-unfairly-convicted-of-20-06-2006.18068.html>.

<sup>43</sup> Arianna Ciccone, “Italy: Liability Risk for Bloggers?” Global Voices Advocacy, July 27, 2010, <http://advocacy.globalvoicesonline.org/2010/07/27/italy-a-bill-to-censor-the-internet/>.

<sup>44</sup> Barbara Trionfi and Anthony Mills, *Press Freedom in Italy: Between Political Influence & Conflicts of Interest* (Vienna: International Press Institute, 2010), [http://www.freemedia.at/fileadmin/media/Documents/IPI\\_mission\\_reports/Italy\\_Mission\\_Report\\_2010\\_FINAL.pdf](http://www.freemedia.at/fileadmin/media/Documents/IPI_mission_reports/Italy_Mission_Report_2010_FINAL.pdf).

<sup>45</sup> OSCE Representative on Freedom of the Media, “OSCE Media Freedom Representative Urges Italy to Amend Bill on Electronic Surveillance,” news release, June 15, 2010, <http://www.osce.org/fom/69428>.

as well as advocacy by local groups, the bill had reportedly been put on hold as of November 2010.<sup>46</sup>

Monitoring of personal communications is permissible only if a judicial warrant has been issued, and widespread technical surveillance is not a concern in Italy. Nevertheless, the country's authorities are known for engaging in a large number of wiretaps.<sup>47</sup> According to 2006 figures from the German think-tank the Max Planck Institute, Italy leads the world in terms of wiretaps, with 76 intercepts per 100,000 people.<sup>48</sup> By other official estimates, roughly 100,000 wiretaps are carried out each year.<sup>49</sup> Wiretapping is generally restricted to cases involving ongoing legal proceedings, except for terrorism investigations. In such instances, since 2001, "pre-emptive wiretapping" may occur even if no formal prosecutorial investigation has been initiated. More lenient procedures are also in place for Mafia-related investigations.<sup>50</sup>

In March 2008, Parliament approved a law (No. 48 of 2008) that ratified the Council of Europe's Convention on Cybercrime, which established how long internet-related communication data should be retained.<sup>51</sup> This matter was further refined with the inclusion in the Italian legislative system of the 2006 EU Data Retention Directive.<sup>52</sup> Under the current legal framework, ISPs must keep users' traffic records—though not the content of communications—for 12 months. This includes broadband internet data, internet telephony, internet use via mobile phone, and e-mail activity.<sup>53</sup> The records can only be disclosed in response to a request from a public prosecutor (a judge) or a defendant's lawyer, and, like their counterparts elsewhere in Europe, Italy's law enforcement agencies may ask ISPs to make such information readily available so that they can respond to the needs of criminal investigations. Given the technical burden of this directive, most ISPs now

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<sup>46</sup> Trionfi and Mills, *Press Freedom in Italy*.

<sup>47</sup> Although it is difficult to determine the real number of people affected by wiretaps (estimates range from 25,000 to over 130,000), many individuals who are caught up in wiretaps have no incriminating connection to the main target of the eavesdropping. The current law stipulates that such peripheral communications cannot be transcribed and any recordings should be destroyed right away, though this is not always carried out in practice. Thus it may happen that some exchanges are recorded and leaked to the media. This is the problem that the proposed bill on electronic surveillance was meant to address. See for example Cristina Bassi, "Intercettazioni, quante sono e quanto costano" [Interceptions, How Many and How Much They Cost], Sky TG24, June 13, 2010, [http://tg24.sky.it/tg24/cronaca/2010/06/12/intercettazioni\\_quante\\_sono\\_e\\_quanto\\_costano.html](http://tg24.sky.it/tg24/cronaca/2010/06/12/intercettazioni_quante_sono_e_quanto_costano.html) (in Italian).

<sup>48</sup> Duncan Kennedy, "Italian bill to limit wiretaps draws fire," BBC, June 11, 2010, <http://www.bbc.co.uk/news/10279312>.

<sup>49</sup> Trionfi and Mills, *Press Freedom in Italy*, 19.

<sup>50</sup> Privacy International, "Italy: Privacy Profile," in *European Privacy and Human Rights 2010* (London: Privacy International, 2010), <https://www.privacyinternational.org/article/italy-privacy-profile>.

<sup>51</sup> For a useful timetable of the required retention periods, see Gloria Marcoccio, "Convention on cybercrime: novità per la conservazione dei dati" [Convention on Cybercrime: News on Data Retention], InterLex, April 10, 2008, <http://www.interlex.it/675/marcoccio7.htm> (in Italian). See also Andrea Monti, "Data Retention in Italy. The State of the Art," *Digital Thought* (blog), May 30, 2008, <http://blog.andreamonti.eu/?p=74>.

<sup>52</sup> Legislative Decree No. 109, May 30, 2008.

<sup>53</sup> Privacy International, "Italy: Privacy Profile," in *European Privacy and Human Rights 2010* (London: Privacy International, 2010), <https://www.privacyinternational.org/article/italy-privacy-profile>.

use a third-party service that offers the necessary security guarantees for encryption and data storage.

There have been no reports of extrajudicial intimidation or physical violence in response to online activity, though individuals directly exposing the activities of organized crime in some parts of the country may be at risk of reprisals. Defacement of websites for political reasons does occur, but it is rare. More serious cyberattacks—particularly against banks, government institutions, and business websites—are a problem in Italy, as in other EU member states. Moreover, Italy ranks high on the list of countries identified as points of origin for cybercrimes. The law enforcement agency with primary responsibility for cybercrimes is the Postal and Communications Police Service. Police officers are primarily concerned with cybercrime in the form of child pornography, cyberbullying, and various forms of fraud.<sup>54</sup> A special branch within the service, the National Center for Infrastructure Protection, is tasked with the protection of the country's critical infrastructure.<sup>55</sup>

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<sup>54</sup> Figures on cybercrime are difficult to assess, as the main providers of data are computer security companies such as Symantec or government entities like the postal police, as opposed to “third-party” sources. Nevertheless, Italy's rates appear to be slightly above the world average. See Tiziana Moriconi, “Crimini online, i dati italiani” [Online Crime, the Italian Data], *Daily Wired*, November 23, 2010, <http://daily.wired.it/news/internet/hacking-accordo-tra-symantec-e-polizia-postale.html> (in Italian); Alessandra Talarico, “Cybercrime. Italia vittima e carnefice: è il paese che più abbocca al phishing e tra i più attivi negli attacchi web based” [Cybercrime. Italy Victim and Victimizer: It Is the Country That Takes the Bait in Phishing and Is Among the Most Active in Web-Based Attacks], *Key4Biz*, April 22, 2010, [http://www.key4biz.it/News/2010/04/22/e-Security/cybercrime\\_botnet\\_spam\\_ebanking\\_social\\_network\\_spyware\\_adware\\_phishing.html](http://www.key4biz.it/News/2010/04/22/e-Security/cybercrime_botnet_spam_ebanking_social_network_spyware_adware_phishing.html) (in Italian). For a recognition of the professionalism of Italy's postal police, see Alessandra Talarico, “Lotta al cybercrime: avrà sede a Roma nuova task force Usa-Europa. Utilizzerà le tecnologie di Poste Italiane” [Fighting Cybercrime: A New U.S.-European Task Force Will Be Based in Rome. Will Use the Technologies of the Italian Post], *Key4Biz*, June 30, 2009, [http://www.key4biz.it/News/2009/06/30/eSecurity/cybercrime\\_sicurezza\\_reti\\_European\\_Electronic\\_Crime\\_Task\\_Force\\_US\\_Secret\\_Service\\_Massimo\\_Sarmi.html](http://www.key4biz.it/News/2009/06/30/eSecurity/cybercrime_sicurezza_reti_European_Electronic_Crime_Task_Force_US_Secret_Service_Massimo_Sarmi.html) (in Italian).

<sup>55</sup> Critical infrastructure includes telecommunications networks, energy and water distribution systems, banking networks, and transportation and emergency services.