



CONSIGLIO NAZIONALE FORENSE

PRESSO IL MINISTERO DELLA GIUSTIZIA

“SECURITY AND HATE SPEECH”

Personal Safety and Data Security:
Rights in the Age of Social Media

Under the auspices of the Italian Presidency of the G7

Country Paper Consiglio Nazionale Forense (Italy)

SUMMARY: 1. Security and protection of fundamental rights on the Internet - 2. The state of the art in Italy. – 3. The initiative of the Consiglio Nazionale Forense and the role of the Bar in the social medial era.

1. The protection of fundamental rights in the face of the risks of the manipulation of online information and the diffusion of hate speech and violence are key recurring issues in global political and legal debate.

The evolution of the Internet into an integrated system of services that influence and guide individuals, encouraging instant, intuitive communication with a wider reach than traditional mass media, has led to the need to identify effective rules that balance fundamental rights with the values of modern democratic states.

In this context, three key correlated technical-legal issues arise:

- the need to educate on legality and pursue illicit behaviour online directly, so as to strengthen a personal ethic of responsibility;

- the opportunity to implement notification and intervention systems for illicit content circulating on social media, allowing damaging material to be eradicated quickly, whilst guaranteeing a minimum right of controverting and the balancing of the interests in play;
- the importance of adopting a policy of international cooperation among all the interested parties, regarding both prevention, and the fight against the circulation of hate speech and violence on social media.

The Consiglio Nazionale Forense, as an independent institution representing the entire legal profession in Italy, strongly supports the crucial role that lawyers can play in the defence of individual interests and the administration of justice.

Lawyers can strengthen their own roles as drivers of international dialogue and as qualified interlocutors who can advocate for appropriate motions and protection to fight against threats to the dignity and fundamental rights of an individual, whilst respecting freedom of expression and opinion and the right to anonymity and privacy.

Lawyers, on the other hand, are not only active guardians of the fundamental rights of individuals regarding the circulation of information on the Internet, but are first and foremost a body with an educational and social responsibility.

The social function of education towards legality is a founding element in the creation and maintenance of responsible citizenship: it is therefore essential in the era of information communication technologies, to identify innovative instruments and methodologies to carry out training in skills related to the values of civil coexistence.

2. Italy is participating actively in this debate, acting as a promotor of important initiatives of a legislative, institutional, political, and cultural nature.

In July 2015 the Parliamentary Internet Rights and Duties Committee approved the “Declaration of Internet Rights”, which, in accordance with Art.13, no. 2 (“Internet Security”) does not allow any limitation to the freedom to express opinions on the Internet, but at the same time guarantees “The protection of the dignity of persons from abuses connected with such behaviour as incitement to hate, discrimination and violence”¹.

In June of this year, a set of provisions for the “protection of minors in the prevention and fight against the cyberbullying phenomenon” came into force.

The law broadly defines cyberbullying as "any form of pressure, aggression, harassment, blackmail, insult, denigration, defamation, identity theft, alteration, illicit acquisition, manipulation, illicit

¹ In addition, Article 10, no.3 (“Protection of Anonymity”) states that “In the event of violations of the dignity and fundamental rights of any person, as well as in other cases provided for by the law, the courts may require the identification the author of a communication with a reasoned order”.

treatment of personal data of minors, by electronic means, as well as diffusion of online content which has as its subject one or more members of the minor's family, the purpose of which is intentionally and predominantly that of isolating a minor or a group of minors by committing serious abuse, a malicious attack, or by ridiculing them”.

Regulatory intervention aims to counteract the phenomenon of cyberbullying in all its forms by combining preventive-educational actions with intervention tools and the fight against the circulation of information that is damaging to the dignity of children. A minor who is at least 14 years of age (or a person exercising parental authority) can ask the website manager to obscure, remove, or block any personal information posted on the website. If the service provider does not comply with the request within 48 hours, the individual concerned may apply to the Italian Data Protection Authority, who have the right to intervene within the subsequent 48 hours.

Regarding prevention and education, the Consiglio Nazionale Forense has adopted initiatives aimed at putting lawyers at the service of primary and secondary schools to teach lessons on citizenship and legality, thus contributing to the fight against phenomena such as bullying, cyberbullying and discrimination.

A further legislative initiative that is currently under discussion in the first Constitutional Affairs Committee, aims to “prevent the manipulation of information online, guarantee transparency on the Internet and promote media literacy”.

The bill aims to counteract the diffusion of false, exaggerated or tendentious news regarding facts and data which are clearly unfounded or untruthful, through social media and other sites that are not connected to online journalism. One provision is dedicated to the ability to ask for the removal from the Internet of defamatory content or information and personal data that has been processed in breach of the current legislation.

3. The initiative promoted by the Consiglio Nazionale Forense is part of this framework, opening up an international dialogue on these themes.

The discussion on “Security and Hate Speech. Personal Safety and Data Security: Rights in the Age of Social Media” on behalf of the representatives of the Bar Associations of the G7 countries aims to lay down a common path of work and reflection, oriented around 4 guiding principles:

- **International cooperation:** the need of not only national approach on the rights in the age of social media.
- **Protection of the interests at stake:** freedom of expression and information; privacy and personal data protection; honour and reputation; equality and non-discrimination; freedom of enterprise and intellectual property.
- **Policies for the prevention and fight against hate speech:** the effectiveness of data protection.

- **The role of the Bar Associations:** the protection of user's rights within the Internet rules system.

These principles, which are flexible and valid both in the national and international environment, could find their application and operative means only enhancing a permanent process of constructive dialogue.

The Italian Bar Council suggests to discuss with the representatives of the Bar Associations of the G7 countries the adoption of advisory, research and training activities, in order to encourage the promotion of adequate and coordinated strategies for user protection on the Internet and strengthening the strategic role of the lawyers in Internet governance.