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FREEDOM OF THE PRESS

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Italy

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Freedoms of speech and of the press are constitutionally guaranteed and generally respected in practice, despite ongoing concerns regarding concentration of media ownership. The 2004 Gasparri Law on broadcasting has been heavily criticized for provisions that had enabled former prime minister Silvio Berlusconi to maintain control of the private media market, largely through his ownership of the Mediaset Group, though Berlusconi's resignation from the premiership in November 2011 curtailed his parallel influence over state media. In February 2011, the Constitutional Court struck down a law that effectively guaranteed Berlusconi immunity from prosecution by allowing the prime minister to postpone any trial for up to 18 months. The ruling paved the way for a number of court cases against him to proceed, including a tax fraud case involving Mediaset. The former prime minister was sentenced to four years in prison over the case in October 2012, but the decision was under appeal at the end of the year.

In October 2011, the lower house of Parliament resumed discussion of a bill that would limit the media's use of information from law enforcement agencies' wiretaps and force websites to publish corrections automatically. The legislation prescribes heavy fines and up to 30 days in jail for journalists who publish content from official wiretap recordings before the implicated suspect goes to trial. The bill was seen primarily as an effort to keep embarrassing information about politicians out of the news, and it was opposed by all of the major newspapers in Italy. Critics of the measure mounted a demonstration against it in October 2011, and the Italian site of the online encyclopedia Wikipedia temporarily hid all its pages by way of protest. The bill remained on hold at the end of 2012.

Although the internet is generally unrestricted, the government regulates certain websites, especially those offering gambling or child pornography. An antiterrorism law passed after the 2005 bombings in London requires internet cafés to obtain a government license, allows internet surveillance, and obliges internet café users to show photographic identification. Italy's media regulator, AGCOM, was in the process in 2011 of reviewing a proposal that would give it more power to block and remove websites determined to have violated copyright laws. The plan was criticized for infringing on the freedom to receive and provide information, and critics also raised the possibility that internet operators would practice preventive self-censorship. The regulatory body proposed the adoption of a modified version at the end of 2012.

Defamation is a criminal offense in Italy, punishable by fines and imprisonment. In June 2012, journalist Orfeo Donatini and his former director at the Bolzano newspaper *Alto Adige*, Tiziano Marson, were sentenced to four months in prison and a fine of €15,000 (\$19,200) for defamation. The journalist wrote in 2008 that a member of the provincial council had participated in a neo-Nazi summit and had been investigated for possible ties to neo-Nazi groups. The information came from a confidential police report. The council member's decision to lodge a criminal complaint was heavily criticized by the National Federation of the Italian Press (FNSI) for its potential chilling effect on the media. Separately, in September 2012, a court upheld a 14-month prison sentence for Alessandro Sallusti, former editor of the right-wing paper *Liberio*, who had originally been convicted in 2011 for allowing the publication of a pseudonymously written comment that called for the death of the doctor, the parents, and the judge involved in authorizing an abortion procedure for a 13-year-old girl. The court's decision, which came shortly after a representative of Berlusconi's party admitted to writing the comment, prompted the country's president and justice minister to issue a joint statement pledging bring Italian libel laws into line with decisions by the European Court of Human Rights. In November 2012, the Italian Senate rejected a legal amendment that would have allowed journalists convicted of defamation to be imprisoned for up to a year, while their editors would have faced fines of up to €50,000 (\$64,000). Civil libel cases against journalists are also common in Italy.

The right to access information is not included in the constitution, and Italy does not have a freedom of information law, relying instead on a patchwork of provisions scattered across different statutes. Implementation of these provisions is problematic, and journalists often have to wait several years to obtain the requested documents. In

2013 SCORES

PRESS STATUS

Partly
Free

PRESS FREEDOM SCORE

33

LEGAL ENVIRONMENT

12

POLITICAL ENVIRONMENT

11

ECONOMIC ENVIRONMENT

10

2012, an online initiative called FOIA.it campaigned for the adoption of a comprehensive law on freedom of information.

A 2010 report released by the Vienna-based International Press Institute noted a number of other legal impediments to press freedom, including the lack of a proper law to deal with conflicts of interest, particularly between media ownership and holding political office, as well as licensing procedures for journalists that can lead to official influence and limit opportunities for foreign-born and freelance reporters. Journalists do not need a license to practice in general, but they do need one to work as a full-time professional with one of the major media outlets. Getting the license from the journalists' association Ordine dei Giornalisti (ODG) is a lengthy and costly procedure. Working conditions have become difficult in recent years; those with a full-time contract constitute only 19 percent of the workforce, and there is a significant pay gap between salaried and freelance journalists.

In a push for greater regulatory transparency, the lower house of Parliament, the Chamber of Deputies, delayed a vote on the membership of AGCOM in May 2012. The president of the chamber, Gianfranco Fini, along with UN Special Rapporteur on Freedom of Expression Frank La Rue, called for a merit-based process for selecting AGCOM members, as opposed to the existing system of political deal-making. The regulator has been severely criticized in the past for favoring Berlusconi's media empire and other politically connected conglomerates. However, the newly appointed head, who was finally chosen in June, had been an aide to Prime Minister Mario Monti, while the other board members were nominated by parliamentary parties. The selection procedure was denounced by Open Media Coalition, an Italian press freedom group, which had initiated a lawsuit over the process.

The appointment procedure for the state broadcaster RAI—under which Parliament has direct control over the selection of most directors and some key staff positions, and political parties share out appointment privileges in a system known as *lottizzazione*, or dividing the spoils—has resulted in significant political control over the organization since the 1980s. When Berlusconi was prime minister, political interference was a key issue of concern, with instances in which RAI journalists seen as critical of the government were removed from their positions, and RAI channels were barred from airing political discussions prior to elections. In 2012, as with AGCOM, there were proposals to reform the appointment procedure for RAI. The plans called for removing the Ministry of Economy as the majority public-service broadcasting shareholder and for the creation of a council to appoint RAI board members. However, in July, the old procedure was used to appoint Anna Maria Tarantola, former deputy director general at the Bank of Italy, as president, and Luigi Gubitosi, a Bank of America executive, as general manager of RAI.

Journalists occasionally face physical threats or attacks from organized crime networks and other political or social groups. Several journalists live under police protection due to their writing on organized crime, including Roberto Saviano, who wrote the best-selling 2006 book *Gomorra* about the Neapolitan mafia, or Camorra. In 2012, an advocacy campaign called "My Name Is Giovanni Tizian" was launched. The initiative is named after a journalist and novelist whose life is threatened by the Calabrian mafia, or 'Ndrangheta; it supports investigative journalism and the fight against corruption.

There are several newspapers and news magazines, most of them with regional bases. Newspapers are primarily run by political parties or owned by large media groups, but they continue to provide a range of political opinions, including those that are critical of the government. Direct and indirect subsidies for print media outlets, which had been high even by European standards, were significantly cut by the new government that took power in late 2011. Newspaper owners claimed that the announced cutback from €170 million (\$220 million) to €56 million (\$72 million) could lead to the eventual closure of up to 100 titles. While the print sector is more diverse in both ownership and content, most Italians receive news and information through the broadcast media. RAI, which consists of three analogue, 13 digital, and seven satellite channels, also fell victim to the austerity efforts of the Monti government and had to push through significant cutbacks and layoffs in 2012.

Italy suffers from an unusually high concentration of media ownership for its region. Berlusconi's departure from office late in 2011 helped to reduce this concentration in de facto terms in 2012; when in power, he had indirect control over up to 90 percent of the country's broadcast media through the state-owned outlets and his own private media holdings. Berlusconi still controls a significant stake in the private media, as he is the main shareholder of Mediaset, which owns several television channels; the country's largest magazine publisher, Mondadori; and Publitalia, Italy's largest advertising company. Publitalia controls 65 percent of the television advertising market, giving Berlusconi's channels an advantage in attracting ads. In addition, one of the country's major nationwide daily newspapers, *Il Giornale*, is owned by Berlusconi's brother. Nevertheless, these outlets suffered considerable losses after Berlusconi left office. Mediaset's profits were down 85 percent in the first quarter of 2012 compared with the previous year.

Approximately 58 percent of the population accessed the internet regularly in 2012. Blogs and social media have played a growing role in political debates and news dissemination. In May 2012, prominent blogger and comedian Beppe Grillo's 5 Star Movement won the mayoral elections in the town of Parma and a number of other smaller towns, running on an anticorruption platform that was disseminated largely through social-media tools like Facebook and Twitter.

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