[IT] The Guidelines of Italian regulatory Authority (AGCOM) about “hate speech”.

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On 2 November 2016, with decision n. 424/16/CONS, the Italian Regulatory Authority for Telecommunication (Autorità per le garanzie nelle comunicazioni - AGCOM) approved a decision concerning “guidelines about the respect of human dignity and the principle of non-discrimination within news programmes, news outlets and entertainment programmes”. With this decision, AGCOM wants to issue interpretative criteria for the activity of broadcasting services monitoring, for which it has responsibility, and to interpret the application of articles 3, 32 paragraph 5 and 34 of the Italian Audiovisual and Radio Media Services Code (legislative decree no. 177/2005) on the main principles regulating audiovisual media services and the protection of minors in the broadcasting field. The decision represents the way Italy intends to adopt measures against “hate speech” as other States have (see, for example, IRIS 2016-615) and recommended by the European Commission (IRIS 2016-54).

The decision explains how the information reported by media services about events such as international terrorism and migration patterns, that fill the current news reports, if given in a false and misleading manner, could encourage instances of discrimination in violation of the rights of individuals and of human dignity. Moreover, AGCOM claims that what is reported by news outlets and entertainment programmes is often a matter of discussion on the Internet, especially on social media. This technology, if used in an abusive way, could promote “hate speech”, the particular kind of “hate crime” which consists of spreading opinions based on hateful reasons and that brings about a genuine breach of human rights.

In addition, AGCOM emphasises the issue of bullying and cyber-bullying and the guidelines of the competent Ministry of Education’s Commission. According to these guidelines, these violations are the result of prejudices about ethnic, religious, sexual, physical, or family diversity, especially in regard to cyberbullying.The guidelines also underline its exponentially harmful extent and how it is necessary, according to the studies carried out by the competent bodies, to adopt preventive strategies to address the spread of discrimination based on diversity.

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The decision also reiterates the role of the media in the education of minors and protection of minors from discrimination perpetrated by broadcasting: the first article of the decision consists of an inclusion of respect, from all the audiovisual and radio media providers, to ensure the highest application of the principles to protect users (Article 1 of decision n. 424/16/CONS).

AGCOM specifies that in news programmes, information has to respect the criteria of truth, concision, and objectivity, as well as the appropriateness of language and behaviour, avoiding giving space to discriminatory opinion based on hate, that could create an atmosphere of prejudice or that could interfere with the peaceful psychological and moral development of minors (Article 2 of decision n. 424/16/CONS).

With special regard to migration patterns, such events have to be shown in an objective and truthful manner, and also regarding the way in which images and news are spread, aiming to raise awareness about “hate speech”, fight against racism and discrimination by the media (Article 3 of decision n. 424/16/CONS).

Audiovisual and radio media services providers are asked to be careful, especially during live events, organising the order of speeches and choosing the guests avoiding the risk of violating the principles of human dignity and non-discrimination and other inviolable rights, and ensuring that the transmission employees make all the necessary actions to stop any situations that could degenerate or assume an offensive tone (Article 4 of decision n. 424/16/CONS).

Finally, the decision establishes that the guidelines have an interpretative value for the provisions of the Articles 3, 32 paragraph 5 and 34 of the Italian Media Services Code about the main principles regulating audiovisual media services and about the protection of minors in the broadcasting field: therefore the guidelines in addition act as criteria to verify the effective compliance by the providers of the principles of human dignity, non-discrimination and the protection of minors, are relevant, especially with regard to minors, for the monitoring activity, because they have to be used to interpret the conducts punished by the sanctions provided by Article 35 of the Code. This provision provides for a fine of between EUR 25,000 and 350,000 or, for serious cases, the suspension of the broadcasting authorisation for a period between three and 30 days (Article 5 of decision n. 424/16/CONS).

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Agcom decision n. 424/16/CONS, "guidelines about the respect of human dignity and the principle of non-discrimination within the news programmes, news outlets and entertainment programmes"

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