[IT] Legislative proposal on fake news

IRIS 2017-5:1/27

Ernesto Apa & Marco Bassini
Portolano Cavallo & Bocconi University

The spreading of fake news on the Internet is a highly debated social and legal issue, and one that has also been debated in Italy, in particular during the recent constitutional referendum campaign. Accordingly, lawmakers and regulators are approaching this legal issue with a view to preventing patently false information from circulating via the Internet.

After the President of the Italian Competition Authority called for new rules on fake news, a legislative proposal was submitted by Senator Adele Gambaro on 7 February 2017 ("DDL Gambaro") in the Senate of the Republic.

The bill aims at introducing specific provisions criminalising different conduct relating to the circulation of fake news. First of all, the DDL Gambaro provides for the adoption of Article 656-bis of the Criminal Code. According to this provision, whoever publishes or circulates via the Internet fake news or exaggerated or biased information on manifestly ill-founded or false facts and circumstances shall be punished by a fine of up to EUR 5,000. Where the same conduct constitutes defamation, the aggrieved person may ask for the damages he/she actually suffered and seek additional pecuniary compensation.

Additionally, the DDL Gambaro introduces another criminal offence, namely Article 265-bis of the Criminal Code. According to this article, whoever circulates or communicates, including via the Internet, false, exaggerated or biased rumours or news likely to cause public alarm or threaten public interests in any way, or which may have a misleading impact on the public opinion, shall be punished by a fine of up to EUR 5,000.

Further conduct that the DDL Gambaro wishes to criminalise is contained in the new Article 256-ter of the Criminal Code. Under this provision, whoever carries out, including via the Internet, a hate speech campaign against certain individuals or against the democratic process shall be punished by at least two years' imprisonment and a fine of up to EUR 10,000.

Finally, the proposal also concerns the ISPs' obligations in respect of the activities and content posted by users. Pursuant to Article 7, ISPs must regularly monitor content, paying particular attention to any content that generates a substantial degree of interest among users, in order to assess the reliability and truthfulness of this content. In the event of an ISP determining that certain content does not

© European Audiovisual Observatory (Council of Europe) 2026

meet this requirement, it must promptly remove the content in question; if the ISP fails to do so, it may be punished in accordance with Article 656-bis of the said Criminal Code.

Senato della Repubblica, disegno di legge n. 2688, 7 febbraio 2017

http://www.senato.it/service/PDF/PDFServer/BGT/01006504.pdf

Senate of the Republic, bill no. 2688, 7 February 2017

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026