

13
Sep 2016

▲ Lvl. 2

Resolved

Italy

Alert created on: 27 May 2016

Draft Bill to Tighten Criminal Penalties for Defamation

SOURCE OF THREAT ▶ State

CATEGORY ⓘ ▶ Other acts having chilling effects on media freedom

PARTNER: EFJ/IFJ, AEJ, Index, IPI

A committee of the Italian Senate voted unanimously on 3 May 2016, a draft amendment to the Penal Code which will increase the criminal penalties for those accused of defamation against members of the political class, the judiciary or public administration. The draft law will soon be submitted to the Senate for adoption. Specifically, the text envisages raising the maximum sentence from 6 to 9 years in prison, if the defamation concerns a politician, a judge or a public servant. The bill was denounced by the Italian Order of Journalists, the Italian Federation of Journalists Organisations and the NGO Ossigeno per l'Informazione, which recall that another draft bill, introduced in 2012 proposed outright decriminalisation of defamation. In 2013, the OSCE Representative on Freedom of the Media, Dunja Mijatović, addressed a letter to the then Italian Foreign Minister Emma Bonino, to remind her of the case-law of the European Court of Human Rights, which considers that prison sentences for defamation are a disproportionate sanction and a threat to democracy.

The organisations submitting this alert hold firmly to the principle, which has been established in rulings by the European Court of Human Rights, that those who hold high public office should not enjoy additional protections in law but instead should be prepared to accept a higher level of criticism than others.

RESOLVED

13 Sep 2016: On 8 June 2016, the plenary of the Senate has decided to remove from the Bill the provision which would have increased prison terms from six to nine years in case of defamation of elected officials and judges - given the risk of chilling effect on media freedom. On 13 September 2016, the partner organisations of the Platform declared this case to be "resolved", concluding it was no longer an active threat to media freedom.

ADDITIONAL INFORMATION



- ➔ Press release by NGO Ossigeno per l'Informazione: "Defamation. Senate proposes even more jail for italian journalists"
- ➔ Press release of the College of Journalists (in Italian)
- ➔ News published on the Journalists' Union FNSI website (in Italian)
- ➔ Draft bill voted by the Italian Senate Committee (website of Italian Senate)
- ➔ Report published on the Mapping Media Freedom Platform: "Italy: Proposed law plans to increase penal sanctions for libel "
- ➔ Statement from EFJ/IFJ: "Italy: draft bill to tighten criminal penalties for defamation "

STATE REPLIES



21 Jun 2016 | Reply from the Italian Ministry of Foreign Affairs

- ➔ Letter from the Permanent Representation of Italy to the Council of Europe

FOLLOW-UPS



OSCE 27 May 2016 | Defamation penalty in Italy needs to be considered for its effect on free expression, OSCE media representative says

- ➔ Statement by the OSCE Representative on Freedom of the Media

RELEVANT COE INSTRUMENTS



27 May 2016 | Venice Commission Opinion on the Legislation on Defamation of Italy (December 2013)

- ➔ Venice Commission 715/2013 Opinion

DISCLAIMER

This section presents a non-exhaustive selection of CoE instruments and ECHR case-law. This information is not a legal assessment of the alert and should not be treated or used as such.

