

GISWatch
10th Edition

GLOBAL INFORMATION SOCIETY WATCH 2016

*Economic, social and cultural rights
and the internet*



ASSOCIATION FOR PROGRESSIVE COMMUNICATIONS (APC)
AND INTERNATIONAL DEVELOPMENT RESEARCH CENTRE (IDRC)

Global Information Society Watch

2016



Global Information Society Watch 2016

Economic, social and cultural rights and the internet

Coordinating committee

Anriette Esterhuysen (APC)

Valeria Betancourt (APC)

Flavia Fascendini (APC)

Karen Banks (APC)

Project coordinator

Roxana Bassi (APC)

Editor

Alan Finlay

Assistant editor, publication production

Lori Nordstrom (APC)

Proofreading

Valerie Dee

Lori Nordstrom

Graphic design

Monocromo

info@monocromo.com.uy

Phone: +598 2400 1685

Cover illustration

Matías Bervejillo

This work was carried out with the aid of a grant from the International Development Research Centre (IDRC), Ottawa, Canada, as part of the APC project “A rights based approach to internet policy and governance for the advancement of economic, social and cultural rights”.

More information at: <https://www.apc.org/en/projects/internet-rights-are-economic-social-cultural-rights>



APC would like to thank the Swedish International Development Cooperation Agency (Sida) for its support for Global Information Society Watch 2016.



Published by APC and IDRC

2016

Printed in USA

Creative Commons Attribution 4.0 International (CC BY 4.0)

<https://creativecommons.org/licenses/by/4.0/>

Some rights reserved.

Global Information Society Watch 2016 web and e-book

ISBN 978-92-95102-70-5

APC-201611-CIPP-R-EN-DIGITAL-260



KEYWORDS: all rights, migrants, youth

Eurovisioni

Giacomo Mazzone, Lea Melandri, Arturo Di Corinto and Roberto Masotti
www.eurovisioni.it/giswatch2016

Introduction

Italy is one of the countries that have adopted most of the charters and conventions related to economic, social and cultural rights (ESCRs). Despite this excellent track record, in the last years many of these good intentions have been put under stress by the impact of the general economic and political trends in Europe and by the success of populist parties and simplistic politics.

In a certain sense, the Italian case is the perfect example of how ESCRs can come under threat in a solid democracy, when economic and political crises knock at the door. This report gives an overview of recent socioeconomic developments in Italy, but suggests how a lack of resources and a weak and disorganised civil society are preventing the full potential of the internet from enabling ESCRs.

Policy and political background

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was signed by Italy on 18 January 1967, and ratified on 15 September 1978.¹ The so-called Optional Protocol to the ICESCR was adopted by Italy on 3 October 2014 through the promulgation of Law No. 152.²

Italy is also committed to respecting ESCRs through its adoption of European Union (EU) and Council of Europe (CoE) rules, some of which are even older and with a broader scope than the UN conventions.

For instance, in 1965 Italy ratified the CoE's European Social Charter of 1961,³ which anticipates most of the principles of the ICESCR, as well as the Additional Protocol to the European Social

Charter (approved in 1995 and ratified on 3 November 1997),⁴ which contains most of the principles included in the Optional Protocol to the ICESCR. The Revised European Social Charter of 1996 was ratified by the Italian parliament on 5 July 1999 through Law No. 30.⁵

A further layer of obligations for Italy derives from its membership in the EU and especially through the adoption of the European Charter of Fundamental Rights – which also includes a certain number of ESCRs – adopted in Nice on 7 December 2000. This Charter has since been included in the so-called Lisbon Treaty, which is the current base of the EU.⁶

Italy is also a prominent member of the International Labour Organization (ILO)⁷ and has ratified most of its conventions and agreements. Therefore, on paper, Italian legislation is up to date with the ratification of international treaties, and the country has adopted most existing global “best practices”. However, none of these – for the moment – makes specific reference to the internet.

The most important legislative achievement of the last years has been the new law on civil unions, approved by the parliament after years of discussion on 20 May 2016.⁸ Even if this law does not allow same-sex marriages or stepchild adoption (as is the case in other countries), it has been a hugely positive result in a country that is under the control of the Catholic Church. The victory was largely due to internet campaigns and street demonstrations.⁹

However, other rights have come under the spotlight too. For example, the Ministry of Health was forced to withdraw the advertising campaign for its

1 The full text of the Covenant has been published in Italian in the Official Gazette: www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=1977-12-07&atto.codiceRedazionale=077Uo881&elenco30giorni=false

2 www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2016;170

3 <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805ac10d>

4 <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168007a84e>

5 www.camera.it/parlam/leggi/99030l.htm

6 eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A12007L%2FTXT

7 www.ilo.org

8 Law No. 76, 20 May 2016, in force from 5 June 2016: www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2016-05-21&atto.codiceRedazionale=16G00082&elenco30giorni=true

9 Among the most vocal associations on this issue are LGBT-Radio and Associazione Genitori di omosessuali (Agedo), and also these websites: www.arcigay.it, www.parlarecivile.it, www.progettogayforum.altervista.org/chat, www.retedellaconoscenza.it, www.gaycenter.it, www.azionegaylesbica.it

National Plan on Fertility,¹⁰ facing accusations¹¹ that it was portraying women as having reproduction as their primary purpose,¹² neglecting all other aspects of the issue, notably social and economic ones. Two national demonstrations with opposing views took place in January 2016: one called Family Day, which supported the campaign, and the other called Sveglitalia, organised by a women's and lesbian, gay, bisexual, transgender and intersex (LGBTI) movement which was against the campaign.

Despite the good track records of the past, in the last year Italy has come under heavy criticism on many points concerning ESCRs at international fora, mainly because of the consequences of the prolonged economic crisis.¹³

According to data published in July 2016¹⁴ by the national Institute of Statistics (Istat), 6.1% of Italian families and 7.6% of the population are living in what is considered absolute poverty. This is the worst data since 2005 and shows a higher concentration of poverty among the families of the unemployed (19.8%), younger people (10.2% among those aged 18 to 34), non-nationals (32.1%), and people with lower educational levels and employment qualifications.

Another peculiarity of Italy within Europe – fruit of the welfare system of the past – is that retired people are less affected than in other countries, because the pension system is still providing them with enough resources.

These data show the growing divide within an ageing society, where the most exposed to the risk of losing their ESCRs are the young and foreign-born.

A ruling in May 2016 – largely reported by international media such as the BBC¹⁵ – on the case of a Ukrainian homeless person absolved by the Italian

Supreme Court for stealing food from a supermarket because “the right to survival prevails over property” is the tip of the iceberg that shows how ESCRs are beginning to be seen differently in the country.

Reform of the labour market

The current government has since its inception been under heavy pressure from the EU and the International Monetary Fund (IMF) because of the country's huge public debt (133.6% of GDP at the end of 2015)¹⁶ and because of the negative economic growth trend over the last years.

To please to the international financial watchdogs and to boost employment, the Renzi government has managed, after heavy disputes, to pass the so-called Jobs Act¹⁷ and a new Labour Code law through parliament. This reduces guarantees for fixed-term jobs and forces companies to grant stronger guarantees for short-term contracts. The law is aimed at adapting the labour market to the new reality of internet companies and of a digital economy, extending some guarantees that until now were reserved only for long-term contracts to short-term contracts.

Trade unions and a spontaneous movement of young people (who are collecting signatures for a referendum on the web)¹⁸ have opposed this law, accusing it of transforming permanent contracts into contracts where the employees are vulnerable.

Broadband internet as a resource for growth and new jobs

The main mantra of the current centre-left government in Italy, led by Prime Minister Matteo Renzi (who succeeded Silvio Berlusconi), is that the digital economy is the only way for Italian companies to relaunch growth and create new jobs. In this sense the government has tried to do its best to attract the big internet economy companies to invest in Italy. Until now this effort has not been crowned with any success and the only practical effect has been that Apple, Google and other internet giants have silently negotiated tax exemptions and reduced fines for tax evasion.

10 www.salute.gov.it/imgs/C_17_pubblicazioni_2367_allegato.pdf

11 Among the most active websites, you can check: www.famigliearcobaleno.org, www.retedellaconoscenza.it, www.sportellomigrantilgbverona.blogspot.it, www.lacittafutura/dibattito/la-mappa-dell-intolleranza-nel-bel-paese.html, www.ambrosia.noblogs.org/post, www.womenews.net/fertility-day-larabbia-sui-social-network, www.uominiedonnecomunicazione.com/17/12284/buferera-sul-Fertiliti-Day

12 Ministry of Health Fertility Day website: www.fertilityday2016.it; an investigative report on the video campaign produced by the Ministry to promote the initiative: Lettera 43. (2016, 1 September). Fertility day : sito e game realizzati da un'agenzia di Milano. www.lettera43.it/cronaca/fertility-day-sito-e-game-realizzati-da-un-agenzia-di-milano_43675258667.htm (This campaign is no longer accessible online because it was withdrawn by the Ministry.)

13 Council of Europe. (2016). *Italy and the European Social Charter*. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805ac10d>

14 Istat. (2016). *Poverty in Italy*. www.istat.it/en/archive/189215

15 BBC. (2016, 3 May). Italian court rules food theft 'not a crime' if hungry. *BBC*. www.bbc.com/news/world-europe-36190557

16 Il Sole 24 Ore (2016, 10 February). La dinamica del rapporto debito/Pil in Europa: la corsa di Spagna, Portogallo e Grecia. www.infodata.ilssole24ore.com/2016/02/10/debito-pubblico-in-europa-italia-al-13320-del-pil-peggiore-la-francia-con-14938

17 www.gazzettaufficiale.it/eli/2015/06/24/15G00095/sq

18 Sciotto, A. (2016, 23 March). CGIL: arrivano i referendum contro il Jobs Act. *Libertà e Giustizia*. www.libertaegiustizia.it/2016/03/23/cgilarrivano-i-referendum-contro-il-jobs-act-tre-quesiti-sullicenziamenti-appalti-voucher

The main and most controversial obstacle to the growth of the digital economy is the low rate of penetration of broadband infrastructure in Italy. Because of the absence of a cable television industry and the lack of public investment in new-generation telecommunications networks, the country is – among European countries – one of those with the smallest coverage of broadband networks. According to an International Telecommunication Union (ITU) 2014 report,¹⁹ Italy ranked 40th on the list of the countries with the best fixed-line broadband, with only a 22.3% penetration. A little bit better is the penetration of mobile broadband, where Italy ranks 25th in the world, with a penetration of 68%. But this is a very meagre consolation when you consider that Singapore has a broadband penetration (fixed and mobile) of 135%, while Korea, Finland and Australia are near to 100%. In the 2015 ITU report, the situation had even worsened, with Italy sliding down to 44th place.²⁰

The main reason for this situation is that the national telecommunications companies lack capital, and have been badly affected by the economic downturn and by heavy competition on pricing. As a result, no new resources are available to finance heavy long-term investment in infrastructure. For years the government has tried to convince the private sector to invest, but finally, at the beginning of 2016, they gave up and decided to push the electricity company ENEL (still controlled by the state) to invest in this sector. But of course the results will take some time before they become visible, and in the meantime Italy risks sliding further down the world broadband ranking. In the meantime, the upgrading of public sector infrastructure, following an announcement by the government in 2013, has been stopped because of a lack of resources. Many projects, including those connecting schools to the internet, and public initiatives in the poor areas to fight the digital divide and to develop programming skills, have been discussed, but have never raised enough resources to be implemented properly.

The case of the migrants

Migrants and refugees have been arriving in Italy by boat from the northern shores of Africa since 2010 – mainly coming from areas of Libya that are out of

the control of the government and under the control of the so-called Islamic State (ISIS).

The phenomenon first started at the beginning of the “Arab Spring”, with a spontaneous mass migration by Tunisians and Libyans after the revolution. It did not take long for smugglers – profiting from the civil war in Libya and the weakened state structures in Tunisia – to begin trafficking human beings through the Sahara desert and boarding thousands of desperate people on small, unsafe boats to make the crossing to Italy.

Technically speaking, only a few of the thousands of migrants can be considered refugees (the few arriving from dictatorial regimes such as Eritrea or from Somalia, while Syrians usually pass through Turkey). Most of them are – according to EU rules – defined as economic migrants. Their mass arrival in Italy is putting increasing pressure on Italian infrastructure in the southern part of the country, a part that was already in a very precarious state because of the economic crisis and the continuous budget cuts in the public sector.

The official number of migrants arriving in 2015 was 153,842, which was 9% less than in 2014, according to the Ministry of Interior, but the impact of this migration on public perception has – on the contrary – increased enormously: more than an 80% rise in coverage in the printed media, and more than 250% in the electronic media over the previous year.²¹ This disconnect between reality and perception has created a sense of alarm among the population and split the country in two: those ready to respect international treaties and to provide assistance and hospitality to the newcomers (supported by the Catholic Church and directly by Pope Francis), and those who – fomented by populist parties, some of them openly racist such as Northern League, and the newly born party Fratelli d'Italia, created by right-wing dissidents from Berlusconi's party – are organising protests against migrants, and disrupting welcoming plans.

The paradox is that this debate is totally disconnected from statistics. In 2015, for the first time in nearly a century, the total Italian population decreased (according to Istat)²² by 130,061 people. The average age of Italian citizens is now 45 and there is an increase in Italian migration to other EU countries. The only vital part of the

19 Broadband Commission for Digital Development. (2014). *The State of Broadband 2014: Broadband for All*. ITU and UNESCO. www.broadbandcommission.org/documents/reports/bb-annualreport2014.pdf

20 Broadband Commission for Digital Development. (2015). *The State of Broadband 2015: Broadband as a Foundation for Sustainable Development*. ITU and UNESCO. www.broadbandcommission.org/Documents/reports/bb-annualreport2015.pdf

21 Polchi, V. (2016, 7 January). Flussi migratori, 12 mesi di sbarchi in Italia. *La Repubblica*. www.repubblica.it/solidarieta/immigrazione/2016/01/07/news/flussi_migratori_12_mesi_di_sbarchi_in_europa-130787694

22 Istat. (2015, 15 June). National demographic balance. www.istat.it/en/archive/162261

demographics is the number of foreigners, which continues to grow (currently standing at five million, or 8.3% of the population) and contributes 15% to the annual childbirth total, double the rate of Italian natives.

Conclusion

All these debates have had an impact on discussions in the Italian parliament, where a discussion on the digital divide, and the “right” to internet access, took place in 2015. This debate resulted in the Charter on Internet Rights which was approved by parliament in November 2015.²³ The right of each citizen to an internet connection is recognised as one of the new rights of the Italian citizen in the digital age. But the charter – after having been approved and even presented to the Internet Governance Forum in 2015 in Brazil²⁴ – still has to be turned into concrete legislation.

The original idea of the charter, unanimously approved by the lower house of the Italian parliament, was to reach consensus on some basic principles that could be used to develop the equivalent of the Brazilian Marco Civil da Internet (Civil Rights Framework for the Internet) law.²⁵ The new Italian charter includes 14 articles, and in its Article 1 states: “[Regarding the internet, citizens] are guaranteed the fundamental rights recognised to each individual by the Universal Declaration of Human Rights, by the European Union Charter of Fundamental Rights, by the national constitution and by the relevant international declarations.”

The main points of the charter, among others, are: the right of every citizen to access the internet, but without specifying the quality of the access (Article 2); the right to access knowledge (Article 3); net neutrality (Article 4); and that private data belongs to each citizen (Articles 5 and 6). The debate now in Italian civil society is how to get the government to create appropriate legislation that reflects the charter.

Articles 2 and 13 of the charter are particularly relevant to this report. Article 2 on the Right to Internet Access recognises that “[a]ny person shall have the same right to access the Internet on equal terms, using appropriate and up-to-date

technologies that remove all economic and social barriers” and calls on the government to promote “public interventions to overcome all forms of digital divide – based on cultural, infrastructural or economic factors – particularly as regards accessibility by persons with disabilities.”

Article 13 on the Right to Education urges public institutions to promote educational activities through digital means and for digital citizenship, and claims the rights of citizens to be properly informed so that they can be empowered in their daily life and in their contribution to society.

Action steps

In the process of fully realising ESCRs in Italy there are some important milestones ahead. The first one will be the next country review of its commitments to the International Covenant on Civil and Political Rights (ICCPR) at the UN, which is expected in the spring 2017 session, from 6 to 29 March.²⁶ The main achievement that the government will be able to show there will be the law on same-sex civil unions, which will now have to be implemented through detailed regulations and procedures. The next CoE European Social Charter review for Italy is scheduled for 2019. In view of that deadline, the Italian government will, in 2017, have to reply to many questions about the last decisions taken in the review. The CoE is already monitoring Italy on five chapters and is receiving new complaints (including one very recent one from psychoanalysts).²⁷ The new Jobs Act could increase the number of complaints received by the CoE.

For the moment these two processes are not the subject of public debate in the country, whether in traditional media or on the internet. But probably once the deadlines approach, a public debate will open on the net, especially if NGOs and civil society organisations push for it.

The same principle applies to public debate ahead of Italy’s next Universal Periodic Review follow-up reporting at the Human Rights Council, expected in November 2017.²⁸ Many points

23 Full text in Italian: www.camera.it/application/xmanager/projects/leg17/commissione_internet/dichiarazione_dei_diritti_internet_pubblicata.pdf and draft translation into English: https://www.intgovforum.org/cms/wks2015/uploads/proposal_background_paper/dichiarazione_dei_diritti_internet_inglese2.pdf

24 igf2015.intgovforum.org/event/4bzE/italian-chamber-of-deputies-internet-bill-of-rights

25 www.planalto.gov.br/CCIVIL_03/_Ato2011-2014/2014/Lei/L12965.htm

26 According to the calendar of the next CCPR monitoring sessions, available at: tbinternet.ohchr.org/_layouts/TreatyBodyExternal/MasterCalendar.aspx?Type=Session&Lang=En

27 To consult the most recent complaint against Italy, see: www.coe.int/en/web/turin-european-social-charter/home/-/asset_publisher/Vugk5bodLMWq/content/new-complaint-registered-concerning-italy?inheritRedirect=false&redirect=http%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fturin-european-social-charter%2Fhome%3Fp_id%3D101_INSTANCE_Vugk5bodLMWq%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_count%3D4

28 <https://www.upr-info.org/en/review/Italy>

concerning ESCRs have been already raised,²⁹ from the treatment of migrants to discrimination against Roma people.

There is a huge debate among NGOs and activist organisations in Italy on two aspects of these processes: how to make the Italian public aware of the fact that Italy is one of the major violators of the principles in the Social Charter and, on the other hand, how to bring the voice of the activists that are vocal on the internet to the fora where these reviews are taking place (i.e. the UN, CoE). This

second problem is the most heated in the debate, because only registered organisations with special status are currently allowed to make remarks and raise questions on or objections to the country's reports. Spontaneous social or internet rights movements are not allowed to do so, unless they collaborate with existing, recognised associations and organisations.

Finally, there is a need for civil society activists to advocate rigorously for the Charter on Internet Rights to be turned into law.

29 See the UPR Database of Recommendations at: www.upr-info.org/database/index.php?limit=0&f_SUR=83&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges =RecoOnly

Economic, social and cultural rights and the internet

The 45 country reports gathered here illustrate the link between the internet and economic, social and cultural rights (ESCRs). Some of the topics will be familiar to information and communications technology for development (ICT4D) activists: the right to health, education and culture; the socioeconomic empowerment of women using the internet; the inclusion of rural and indigenous communities in the information society; and the use of ICT to combat the marginalisation of local languages. Others deal with relatively new areas of exploration, such as using 3D printing technology to preserve cultural heritage, creating participatory community networks to capture an “inventory of things” that enables socioeconomic rights, crowdfunding rights, or the negative impact of algorithms on calculating social benefits. Workers’ rights receive some attention, as does the use of the internet during natural disasters.

Ten thematic reports frame the country reports. These deal both with overarching concerns when it comes to ESCRs and the internet – such as institutional frameworks and policy considerations – as well as more specific issues that impact on our rights: the legal justification for online education resources, the plight of migrant domestic workers, the use of digital databases to protect traditional knowledge from biopiracy, digital archiving, and the impact of multilateral trade deals on the international human rights framework.

The reports highlight the institutional and country-level possibilities and challenges that civil society faces in using the internet to enable ESCRs. They also suggest that in a number of instances, individuals, groups and communities are using the internet to enact their socioeconomic and cultural rights in the face of disinterest, inaction or censure by the state.

GLOBAL INFORMATION SOCIETY WATCH

2016 Report

www.GISWatch.org



IDRC | CRDI

International Development Research Centre
Centre de recherches pour le développement international

