



## Right to the truth, right to information and right to health: the point of view of the European jurist\*

Salvatore Bonfiglio

There is a right to the truth for the victims of violations of human rights and a right to the truth even in professional codes of ethics. Perhaps it is not a right in the strict sense, but certainly a principle of law, which must be implemented. In constitutional law we are used to speaking of a right to information as a right to inform and be informed.

In Italy the right to information is a constitutional right, which is manifested in various fields. First, the freedom to express thoughts through the press and any other means of communication (radio, television, theater, cinema). It is also implemented as a right of every citizen to have access to administrative documents. Furthermore, it appears as the right to a free education, both for teachers and for students. The *Freedom of expression and information* is a fundamental right recognized also by the Charter of Fundamental Rights of the European Union (Article 11). This right shall include freedom to hold opinions and to receive and impart information and ideas *without interference by public authority* and regardless of frontiers.

The Italian Constitution does not contain an express provision of the right to privacy, but the constitutional basis is

\* Intervento alla School of Law – Flinders University – Adelaide – Australia, nell’ambito del corso di *Constitutional Law* tenuto dalla Professoressa Elisabeth Handsley.



to be found, first, in general provisions such as Articles 2 of the Constitution, *The Republic recognizes and guarantees inviolable rights of man*, and, secondly, in a constitutional protection of fundamental freedom (such as Articles 13, *Personal liberty is inviolable*, 14, *The home is inviolable*, 15 *The freedom and secrecy of correspondence and of every other form of communication is inviolable*, and 21 *All have the right to express freely their own thoughts by word, in writing and by all other means of communication*. The *Protection of personal data* is a fundamental right recognized also by the Charter of Fundamental Rights of the European Union (Article 8)

The right to privacy is no longer seen as simply a "right to be left alone". The right to privacy is the protection of personal data, today more and more necessary in the information society.

In discussing the case suggested by Professor Elizabeth Handsley, I think that disclosing the true state of affairs about the grave situation of health of children held for a long period in immigration centers is an ethical obligation (right to the truth) and also the exercise of a right to information. This information is not violating the rights of privacy of children, because there is no trace in the newspapers of the names of the sick children. The news that children are sick reveals that there has been a violation of the right to health. This right is recognized in Italy as a fundamental human right, it must be guaranteed not only to citizens but also to foreigners. In Case No. 198/2000, the Italian Constitutional Court ruled that foreigners, even if "irregular", enjoys all fundamental human rights, starting from the right to health.

Health care is a fundamental right recognized also by the Charter of Fundamental Rights of the European Union (Article 35). Moreover, this Charter also recognizes the rights of the child (Article 24): «1. Children shall have the right to such protection and care as is necessary for their well-being [...] 2. In all actions relating to children, whether taken by public



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authorities or private institutions, the child's best interests must be a primary consideration».

The right to the truth is an ethical principle but also a legal principle. It is not a right to absolute truth, which is typical of totalitarian regimes. The right to truth is closely linked to the principle of access to justice for recognizing and guaranteeing human dignity.