

It is a pleasure to be here, talking with Guido Alpa, professor of private law at La Sapienza University of Rome, and lawyer.

Professor Alpa, Lawyers Day 2015 is devoted to freedom of speech and freedom of expression. As an Italian lawyer, what's the meaning of this particular freedom in our country?

Let me say , first of all, that I was honoured to have been offered by the Italian Bar Council – the public Institution representing about 160.000 Italian lawyers – the opportunity to speak about the theme chosen this year to promote the rule of law and the lawyer's role in upholding legal principles for citizens..

As we know these words should be understood according to a meaning that is wider than the literal one because they encompass the way of expressing ideas, feelings, sensations, criticism and include the freedom of thought and belief, freedom to print or publish and - in contemporary times - also freedom to access the web and to use it.

As an Italian lawyer, this day has a special significance, because freedom of expression, as we understand it today, was codified by our Constitution in 1947. Indeed its Art 21, which came into force on January the 1<sup>st</sup> 1948 , even before the Declaration of the United Nations, provides

*All persons have the right to express freely their ideas by word, in writing and by all other means of communication. The press may not be subjected to authorization or censorship.*

This is a right granted to all persons, not only to citizens, because Italy wants to be a free country also hosting those who for political reasons , or for other causes of discrimination, are prosecuted , arrested, oppressed in they place.

This text was a real achievement for our Country, which had been oppressed by Fascism, and this Article 21 embodies the triumph of our reconquered freedom and of the resurrected democracy in Italy . Many times the Italian Bar Council has remembered the lawyers who fought against Fascism and were beaten, arrested, put into jail, or sent to exile because they expressed their ideas against the dictatorship or, as advocates, pleaded the cause of those who were charged as being dangerous subversives.

So history teaches us that every freedom must be conquered. I have to ask now: can the world nowadays take freedom of expression for granted, or is it still something people have to fight for?

It is sad to say that in many countries still now citizens are deprived of this essential freedom and lawyers are persecuted in many countries for speaking out about human rights or the rule of law, for pleading on behalf of those who fight

against limitation of this freedom or write in their briefs and in newspapers , or do public interviews trying to uphold those values.

I shall never forget the picture of the people expressing their joy in the streets during the demonstrations for the “Tunisian Spring” , where they were led by a lawyer: a woman in her lawyer’s gown waving the national flag.

What role does Europe play, in defending this essential freedom?

Freedom of expression, freedom of speech, freedom of thought and opinion , freedom of print and publication are the pillars of democracy, and as assumed by the Council of the European Union, constitute essential foundations for <rule of law, peace, stability, sustainable inclusive development>. This is true for all countries, not only for those in the Western world in which these beliefs were developed.

This is the reason why the UN Universal Declaration of Human Rights (Art.19) says: <Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers>.

And, as lawyers, we should learn, teach and profess the principles also included in so many other texts concerning liberties: starting from the European Convention on Human Rights signed in Rome on 1950 (art.10) and from the European Charter of Fundamental Rights, signed in Nice on 2000 which came into force in December 2009.

Principles are always clearly written, but they often stir up issues when applied to reality. Is there any relevant case-law from the European Court that can be analyzed, concerning the freedom of speech and expression?

As lawyers we know either that the written text is mute without the additions of the interpreter. So we should also recollect the most relevant cases which applied the two Charters, besides of course the cases decided by each Constitutional Court, or the Courts which apply constitutional rules, which, I ‘d like to say, in all Europe share the same values and attitudes. This because freedom of expression is not an absolute right and should be balanced with other fundamental rights, such as reputation, honour, privacy, data bases protection

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But Lawyers Day 2015 focuses our attention on the role of lawyers, lawyers’ own freedom of speech, for instance in speaking about cases in which they are involved, or in being involved generally in civil society. Confidentiality between

clients and their lawyers, the lawyers' professional secrecy (lawyers' privilege) , the freedom of communication between the client and his or her lawyers are fundamental values and principles for the legal profession assuring a serious , independent defence.

XXXXXX (cases)

Technology and web communications have given new meaning to freedom of expression. Every citizen is granted the right to write and publish on the Internet, potentially sharing everything with the world. Are there any legal boundaries to it?

I would put an emphasis on the new technologies for expressing opinions beliefs and criticism or satire in the web: access to the web is a means of creating a democratic environment , a bridge between people and countries, the tool through which everyone may exchange feelings, beliefs, opinions with others, denounce any infringement of freedoms, and also create communities of interest and pressure groups ; of course, the web should not be considered a wild territory and a "constitution for the web" is needed to balance all the rights and interests involved by this situation.

Many thanks and best wishes to all of you