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CRIMINAL LIABILITY OF THE DIRECTOR OF PRINTED AND ONLINE NEWSPAPER

Criminal defamation and liability of directors of printed and online newspapers: analysis and differences.

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The **news director** is the journalist (professional or contributor) who, before the law, **is in charge of the newspaper and of what is published in it**. Law n.127/1958, which modified Art.57 of the Italian Penal Code, established that the news director must control everything that is published in the newspaper in order to avoid committing crimes “through publication”.

By analysing this regulation, we can see that **Art.57 of the Italian Penal Code** talks about a real crime, which is characterised by the fact that **the news director (or vice director) omits control activities**: “the news director or vice director who omits control activities that are necessary to avoid committing crimes through publication, is punished if a crime is committed, with a penalty established for that crime and reduced no more than one third”, except for the liability of the author of the publication and for accomplice liability. The crime does not consist of general negligence, carelessness or malpractice.

As far as **criminal defamation** is concerned, the news director can be considered guilty of real defamation when it is proved that they acted to harm someone’s reputation. Instead, the news director is involved in the crime committed by the author of the publication if they knew about its harmful content and were aware of attacking someone’s reputation.

The possibility of equally attributing criminal liability to the director of a printed newspaper and an online newspaper has been discussed many times over the years.

In 2010, the Italian Court of Cassation introduced an important sentence for this matter (sentence n.35510/2010). In particular, the accused was the director of an online newspaper, in which a defamatory letter concerning a minister and their consultant had been published. Therefore, the application of Art.57 of the Italian Penal Code to that case was considered necessary. However, **the Italian Penal Code distinguishes between printing and the other media when talking about criminal defamation**, ex.art.595 of the Italian Penal Code, therefore the legislator decided to make a distinction between printing and “any other form of advertising”.

In the abovementioned sentence, the Supreme Court maintained that not all messages on the Internet are equal to printing, defining “messages on the Internet” as any content that is spread through the Internet, not only texts, but also videos. The Court states: “in order to talk about printing from a legal point of view, two conditions are necessary and it is obvious that the new medium does not have them: a) there is print and b) the product of printing is published and distributed among the audience”. Furthermore, the Italian Court of Cassation stated that the possibility of printing a web page does not imply that it is

equal to printing.

Therefore, the Italian Court of Cassation concluded that **the director of an online newspaper cannot be punished**, in accordance with Art.57 of the Italian Penal Code.
