



FREEDOM OF EXPRESSION IN THE DIGITAL ECOSYSTEM: FROM THE ‘WILD WEB’ TO A EUROPEAN *LEX INFORMATICA*?

International Workshop

Monday, 16th May 2022
LUISS University, Rome

On Monday, the 16th of May 2022, **re:constitution**, a joint program of Forum Transregionale Studien, Democracy International and Stiftung Mercator, and **CESP** (Centro Studi sul Parlamento) – Department of Political Science, LUISS Guido Carli, in partnership with the University of Copenhagen, co-organize an international workshop on the theme “Freedom of Expression in the Digital Ecosystem: From the Wild Web to a European *Lex Informatica*?”.

The co-conveners welcome abstracts from both senior and early career scholars, legal practitioners, and experts of the field, to be presented at the workshop. Selected papers will receive dedicated feedback on their paper from a member of the Scientific Committee.

The workshop will consist of two sessions. Each of them will start from the presentation by a re:constitution Fellow of the relevant research project. A keynote speech will be delivered for each session, featuring two renowned experts and academics and later the floor will be open to the discussion of the selected papers. For the abstracts and short bio of the two Fellows, see below. For an overview of the research program, check online at: reconstitution.eu.

LUISS will cover one night accommodation nearby the University for all the selected papers givers, who remain responsible for securing their own travel arrangements. The workshop will be held on campus in Rome. The epidemiological situation will be frequently monitored in order to confirm the arrangement closer to the date of the workshop.

Research areas:

Constitutional Law, Public Law, Comparative Law, European Law, Political Science

Topic:

How can we combat the increasing threats to individual and collective security that take place on the web, without affecting freedom of expression? How can we strike a fair balance between freedom of enterprise and the rights of citizens and consumers in the digital ecosystem? How can we ensure political processes are not impacted by a totally unregulated online sphere? The problems that originate from these fundamental questions are among the main issues with which both the individual countries and the European Union are struggling with.

Since its beginning, the Internet has been seen as an anarchically free environment, mostly spontaneously regulated. In the U.S., both the case law of the Courts and the federal legislation confirmed a legal framework that prioritized liberty over responsibility. In Europe, a different set of principles took shape, mainly through the contribution of the judicial branches of the individual countries and the Council of Europe. As a consequence, in recent years, we have witnessed the framing of community standards and self-regulations by companies whose main



goal is to avoid a situation in which lack of rules renders them liable. These regulations have often proven ineffective, as they have endowed algorithms and private entities with the authority to manage dilemmatic conflicts that involve the balance between fundamental rights, human dignity, and freedom of speech in public arena.

This has led to a regulatory drive, especially in the area of free speech, elections and democracy. This necessity is even more stressed in a context in which the power of private digital services providers is increased by the oligopolistic dimensions of the market.

Nowadays, the speed at which technological innovation take place and the cross-border dimension of it calls for a European supranational regulatory approach: the goal of a 'lex informatica' emerges, to assist the citizens in the legal issues, much as the 'lex mercatoria' favored trade between the merchants in the past. The state of play of European common actions, aiming at fixing the main aspects of the virtual infrastructure, consists of a package of disciplines – or proposed disciplines – that wipe out overlapping, inefficient or simply conflicting regulations to ensure a level playing field framework. See, for example, the challenges being addressed by the proposed Digital Services Act and Digital Market Act regulations.

At large, dealing with the protection of fundamental rights in the digital environment requires a polycentric approach. The two sessions of the workshop will consequently focus on if and how to identify a harmonized approach with regards to:

a) the enjoyment of freedom of speech in a safe and secure digital ecosystem; and

b) the implementation of specific rules for the political processes, given that the self-regulatory approach may not be adequate when elections and democracy are at stake. The latter session will critically examine the role of the Venice Commission in delimiting the matter of e-democracy.

Within the general topic of the workshop, we are particularly interested in contributions that investigate:

- Self-regulation on the web, and in particular the Facebook Oversight Board;
- State duty to regulate the digital ecosystem;
- Specific country studies and State regulation (for instance, France and its law against information manipulation during electoral processes);
- Existing sector-specific legislation at the European level on certain aspects of Information Communication Technologies (ICTs), such as the Audiovisual Media Services Directive;
- Citizens – consumers – online users: new rights vs. traditional rights;
- Constitutional challenges/opportunities from AI, machine learning and algorithms;
- Surveillance capitalism and threats to democracy (data collection, data mining, profiling and marketization of users);
- Right to anonymity vs. democratic values;
- Covid-19 as an accelerator for changes in the digital ecosystem;
- Parliaments and technologies;
- E-democracy, e-voting, i-voting and blockchain technology;
- Venice Commission and Council of Europe approach.



Submission Process and Deadlines:

The co-conveners of the workshop invite contributors to submit an abstract in English (max. 500 words) to simondrugda@gmail.com and ycitino@luiss.it no later than **15 February 2022**. Selected authors will be notified by **28 February 2022**.

The submission of full papers (max. 15,000 words, including footnotes) is required by **26 April 2022**. The papers will be reviewed by a Scientific Committee and sent to the other speakers to be read in advance of the workshop. The co-conveners are planning to publish the revised versions in a special re:constitution Dossier. The proceedings of the workshop will, also, be anticipated in a special issue of LUISS SoG Working Papers. Both publications have an ISSN as well as a DOI number.

Co-conveners:

- Ylenia Maria Citino, LUISS Guido Carli Post-Doctoral Fellow, re:constitution Fellow 2021/2022. Website of the project: shorturl.at/nGUX3.
- Simon Drugda, PhD Candidate, University of Copenhagen, re:constitution Fellow 2021/2022. Website of the project: shorturl.at/himtD.

Scientific Committee: Raffaele Bifulco, Andrea Buratti, Daniele Gallo, Cristina Fasone, Nicola Lupo, Otto Pfersmann, Giovanni Piccirilli.

Organising committee: Marco Cecili, Ylenia Maria Citino, Michela Tresca.