

The Street-Photographer Rights in Italy

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More info at <http://andrea.monti.photography/archives/1705>

Q. Does taking people's photography in public spaces infringes sec. 615 bis of the criminal code?

A. NO. Under the Corte di cassazione ruling n. 47165/2010 outdoor there is no reasonable privacy expectation, as there is no reasonable privacy expectation in case of *tacit – while non equivocal – withdrawal of this right, as happens in the case of a person that, while using a private space, locates himself in a position that renders him visible to a plurality of individuals.*

Q. Does taking people's photography in public spaces infringes the Legislative Decree 196/03 (a.k.a. data protection act, privacy act)?

A. Not necessarily and it is not always a criminal offense (this is why you must always ask: which **CRIMINAL** offense am I supposed to commit?). In a statement released back in 2008 the Data Protection Authority said that *As a general principle, images depicting people in public space can be published without the consent of the portrayed person as long as it does not damage his dignity ... but the photographer must disclose his identity and his activity and restrain from using "tricks" and undue pressure to achieve his goals. ...*

Q. What can I be asked for by a law enforcement officer that question my photographer activity?

A. Expect to be asked for:

- your ID,
- for your permit-to-stay (if you come from outside the Schengen-Agreement EU Countries)
- about the motive that drives you,
- to provide access to your shots,
- to delete "unappropriate" pictures

Q. Do they have this power?

A. Unless you commits a criminal offense, nobody can question your behaviour. If a law enforcement officer challenges you, ask him exactly which criminal law you are supposed to be infringing ("**Mi scusi: quale reato starei commettendo?**")

Q. Am I obliged to give the law enforcement officer my camera or delete pictures upon his request?

A. Absolutely no. Only a public prosecutor - or a police **OFFICER** and not a simple agent - can seize the camera or the memory card. **NOBODY** but the Court can order the pictures to be deleted.

Q. What if he threatens to arrest me?

A. Again, unless you are committing a criminal offense you cannot be arrested and taking pictures in good faith it isn't.

Q. What if he takes me to the police station?

A. Ask for diplomatic officer to be summoned and for an interpreter, don't try to handle the situation on your own, don't sign anything unless you're sure that what is written is what actually happened. You have the right to have your statements duly noted. If they ask you to delete the pictures ask for the public prosecutor to be summoned.

Q. What I have the right to ask if I'm taken into the police station?

A. You have the right to ask:

- Come si chiama l'agente che mi ha fermato? (What's the name of the agent that arrested me?)
- L'agente che mi ha fermato è ufficiale di polizia giudiziaria? (Have I been arrested by an officer with the legal power to do what he did or by an "agente di polizia giudiziaria"?)
- Sono in stato di arresto? (Am I under arrest?)
- Per quali fatti? (For having done what, exactly?)
- Per quale reato? (For which criminal offense?)
- Voglio essere interrogato dal magistrato di turno (I want to be questioned by the public prosecutor currently on duty)

Q. Do I have the right to have a copy of what I signed in the police station?

A. Yes you do. And this is the main evidence in case your rights have been infringed so be sure to secure a copy and that, again, what is written is actually what you meant.