**Court of Rome, 12 December 2019 – CasaPound v. Facebook**

**Case Summary and Outcome**

The case in question concerns the removal of the account page of the far-right party CasaPound together with the pages of representatives and supporters of the association without providing any notice and explain the reasons at the basis of this decision. CasaPound sought a preliminary injunction against the social network requesting a judicial order of reactivation of the account page in question. The Court of Rome underlined the role of Facebook in the implementation of constitutional principles such as that of pluralism of political parties since users excluded by Facebook would also be effectively limited from the Italian political debate. Therefore, the Court of Rome upheld the applicant’s requests and ordered Facebook to immediately reactivate the CasaPound page and personal profile of the administrator of this page.

**Facts**

On 9 September 2019, Facebook Ireland (‘the respondent’ or ‘Facebook’) deactivated the account page of the far-right party CasaPound (‘the applicant’ or ‘CasaPound’) together with the pages of representatives and supporters of the association without providing any notice and explain the reasons at the basis of this decision.

The day after, CasaPound submitted a notice to Facebook to immediately reactivate its account page. In particular, CasaPound, on the one hand, highlighted that there was not a violation of Facebook’s Terms of Services (‘ToS’) and, on the other hand, underlined the prejudice resulting from the social network’s conduct. Nevertheless, Facebook argued not to have received the notice from CasaPound. From another point of view, Facebook also claimed to have legitimately adopted the measure of disabling the page in question and its administrator because they would have disclosed content of incitement to hatred and violence in violation of the ToS and Community Standards prohibiting these expressions.

Therefore, the applicant sought a preliminary injunction asking, *inter alia*, to order Facebook to immediately reactivate the Facebook page of CasaPound and, in the alternative, order the social network to return to the applicant the content of the Facebook page to CasaPound and that of personal profile to Davide Di Stefano.

**Decision Overview**

The Court of Rome observed that the Facebook’s ToS govern and regulate the relationship between each Italian user and Facebook. When subscribing to the service through registration, each user undertakes to accept, use and respect those conditions.In case of violation of ToS, the aforementioned contractual regulation establishes measures that can be considered as sanctions represented consisting of the removal of content, account suspension and, in serious cases, the temporary or permanent disabling of the account.

According to the Court, Facebook plays a crucial role in the implementation of constitutional principles such as that of pluralism of political parties (Art. 49 It. Const.). Indeed, users excluded by Facebook would also be effectively limited from the Italian political debate. This is also confirmed by the fact that almost all Italian political figures use social media to convey political messages and their ideas to Facebook users.

It follows that the relationship between Facebook and users is not comparable to the relationship between any two private subjects as the social network holds a special position. This position entails that, when entering into agreements with users, Facebook is bound by the respect of constitutional principles until it is demonstrated the violation of ToS by user. According to the Court of Rome, the respect for constitutional and legal principles limits the discretion of Facebook in the relationship with its users.

In the light of these considerations, the exclusion of the applicants from Facebook is a violation of the right to pluralism and strongly restrict the right to association, especially considering that the applicant has played an active in the Italian political landscape since 2009. The pre-eminent and relevant role of Facebook in the social media landscape makes the exclusion from the online community a prejudice, especially in terms of damage to the image.

Therefore, the Court of Rome upheld the applicant’s request and ordered Facebook to immediately reactivate the CasaPound page and personal profile of Davide Di Stefano, as administrator of the page. Moreover, the Court set a penalty of € 800.00 for each day of violation following the judicial order.

**Direction of the case**

The case expands freedom of expression. The Court of Rome has ordered the reactivation of the social media account. However, this case is just the result of a preliminary injunction. Furthermore, the expansion of constitutional safeguards to private actors such as Facebook can lead to chilling effects for freedom of expression due to the risk of collateral censorship.