**Court of Appeal sez. III - Turin, 22/06/2021, n. 727**

**Case Summary and Outcome**

This case addresses the dissemination of false content and hate speech online. Primarily, it involved a false interview and criticism by a political figure complaining about the discrimination coming from the initiative organized by the foundation of the Egyptian Museum of Turin which was promoting access to the exhibition with special discounts for Arabs.

The Court of Turin considered the claim to be partially well-founded. The Court recognized the compensation for the non-pecuniary damage to the foundation and ordered the removal of the video from any profile referred to the user in question on Facebook or other social networks as well as an injunction against its further dissemination. The Turin Court of Appeal reversed this decision. Particularly, the Court considered that the defendant, as a political figure, has exercised his right to freedom of expression, particularly political speech.

**Facts**

In 2017, the foundation Museo delle Antichità Egizie di Torino launched the campaign “Fortunato chi parla arabo”. The initiative aimed to offer Arabic-speaking citizens the opportunity to visit the museum in two people for the price of a single ticket, with the aim of bringing the Arab community closer to its collections.

A Facebook user, at the time head of the Young Padans Movement, published a fake video of a phone call in which he expressed heavy criticism of the initiative with an alleged switchboard operator of the foundation. The video was published accompanied by expressions such as Al Museo Egizio ingressi gratuiti per gli arabi. E gli italiani? Pagano”, “Condividiamo questa vergogna”, “Facciamogli sentire cosa ne pensiamo!” [At the Egyptian Museum free admission for Arabs. And Italians? They pay", "Let's share this shame", "Let's make them feel what we think!].

In a few days, the content reached a million views on the Facebook pages of the defendant and the actor inciting comments of racist content, polemic and gratuitous attack against the Foundation accused of “rubare i soldi degli italiani” [stealing the money of the Italians]. The effect of sharing the content in question fuelled dissent not only online but also through the museum's sales channels.

Against this conduct, the foundation sued the user to obtain compensation for non-pecuniary damages complaining of the serious damage to the image, reputation and trademark of the museum due to the circulation of false content shared by the defendant, which clearly overstepped the boundaries of the right to freedom of expression and particularly, criticism.

The Court of Turin upheld the claim raised by the foundation. The Court has ordered the defendant to pay 15000 euro for the non-pecuniary damage and the removal of the video from any profile referred to the defendant on Facebook or other social networks as well as an injunction against its further dissemination. However, the Turin Court of Appeal overturned the decision.

**Decision Overview**

According to the Turin Court of Appeal, the defendant has not exceeded the perimeter of the exercise of the right to criticism. The false interview had not perniciously compromised the objective truth of the message. The defendant has not altered the reality of the initiative organized by the foundation which was exclusively for Arabs. Likewise, the language used by the defendant was never offensive, also following the decision of the Judge for Preliminary Investigations (GIP) of Turin, who dismissed the criminal case underlining that the defendant had never overcome the limit of personal and gratuitous offence against the foundation.

The decision also recognized that the defendant had legitimately exercised his right to criticize. A political figure usually expresses his opinion and ideas through a language which is not entirely free of the peculiarities of rhetoric and political oratory, notoriously aimed not only at convincing the electorate rationally, but also to persuade them by appealing to their emotions. These expressions can also be evocative, allusive, redundant, colorful, exorbitant and often exaggerate the scope of a certain piece of news or a certain event of public interest. According to the Court, this form of speech is certainly permissible and tolerated in the “democratic game”, and this is particularly relevant in the age of social media.

The Court of Appeal also disagreed that the foundation does not receive any funding from the State to carry out its activities. These are not only based on internal revenues deriving from the annual contributions of the founding members and resources of a private nature. Even payments from local and regional authorities are part of the state public contributions to the activities of the foundation. In addition, the Court clarified that the initiative was also aimed not only at Arabs but also at the "New Italians", Arabic-speaking citizens, and in particular, the "New Torinese" of Arabic language to promote social inclusion.

Besides, the whole verbal context was nothing offensive in defining as shameful and discriminating Italian citizens, not of Arab origin, language and culture. Even the statement "Let's make them hear what we think" which has triggered haters and insults towards the museum were not considered as a way to incite to offend the other party, nor could the invitation in itself be read and interpreted as an incitement to hatred. The Court underlined that the museum could have directly denounce the haters calling the museum, rather than the defendant.

Therefore, the Turin Court of Appeal reversed the decision, thus recognising that the defendant has legitimately exercised his right to free speech.

**Direction of the case**

The case expands freedom of expression. The Turin Court of Appeal has reversed the decision of the court of first instance which ordered the defendant to pay damages and the removal of content on social media. The expansion of political speech is critical for the protection of the right to free speech. However, this case also underlines the challenges of addressing the spread of disinformation and hate speech online.