

## Facebook: contractual liability for deleting an user account without any objective reason

Mercredi 31 mars 2021

On 10 March 2021, the Court of Bologna (“Tribunale”) sentenced **Facebook** <sup>TM</sup> for a **contractual breach** with reference to the **permanent deletion of an user personal account** and two related pages about military history.

The decision comes after a complaint filed by an Italian lawyer who claims that the deletion of his personal Facebook profile – opened 10 years ago – and its two related pages is a **violation of the Facebook Terms of Service**, under which the social network can delete an user account/page only if it occurs a serious violation of the Community Standards, previously informing the account owner. The plaintiff argues that any violation was occurred in his case and that Facebook didn't send him any communications before deleting the profile and the pages.

In its order, the Tribunale – after reminding that the **relationship between any user and Facebook has to be defined as an onerous contractual one** – upholds the complaint and It underlines that **the erasure of an user personal account is a contractual breach** that lead to *“serious damages, even irreparable, to the social life , to the possibility of keeping to exercise the **right to freedom of thought** by using the net of social contacts built on the social network and, ultimately, to the user **right to personal identity**, that today it's created and strengthened also on social networks”*.

After stating that, the Tribunale quantifies the **contractual damages** in the amount of **14.000€** 10.000€ related to the user personal account and the rest to the two military history pages).

Furthermore, the defendant is condemned to pay the plaintiff the **additional amount of 12.000€ for having abused of the process**.

Indeed, the Tribunale rules that Facebook procedural conduct *“breaks with the most basic rules of procedural fairness”* because *“the refusal to identify the contractual nature of the user-social relationship, the defenses inconsistency, the **sudden destruction of all the contractual documents despite their electronical nature** , prevented the counterpart and the Judicial Authority to verify the reasons about the sudden withdrawal of the contract and to determine the effective development of the contractual relationship, including the effective use of the account, forcing to an **equitable compensation of damages**, based on a simple presumption considering statistics data”*.

In conclusion, considering all the above and the condemnation for **all the costs of the proceeding**, the **unlawful deletion of the account** – and of the two pages – **costs Facebook over 33.000 euros**.