[FR] Court rejects politician’s request for reinstatement of Twitter account suspended because of hate content

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A French politician and polemicist involved in the recent presidential election campaign as a supporter of the candidate of the Reconquête party, of which he had been the official spokesperson at the time, asked the courts to reinstate his Twitter account, which had been suspended.

The plaintiff's account, which had 164,000 subscribers, had been suspended by the social network after he published the following tweet: “#Migrants #violence Pas un jour, PAS UN, sans que des #migrants d'#Afrique du #Nord ou subsaharienne s'attaquent aux #Français. Si nous faisions la même chose chez eux ils nous casseraient à coup de pierre, de machette ou de fusils. Ca suffit. Dehors!” (“#Migrants #violence Not a day, NOT ONE, without #migrants from #North or sub-Saharan #Africa attacking the #French. If we did the same in their country they would attack us with stones, machetes or guns. Enough! Get out!”). He had received the following message (translated from French): “Your account has been suspended and will not be reinstated because it has broken the Twitter code of conduct, in particular our rules on hateful conduct.” Twitter said that it had been legally obliged to suspend the account because the messages posted by the politician had repeatedly broken its rules on hateful conduct. Under Article 6-I-7 of the *Loi pour la confiance dans l'économie numérique* (Law on confidence in the digital economy – LCEN), it was required, as a host, to combat the dissemination of online hate. The account had therefore been suspended in accordance with the contract between the plaintiff and Twitter Inc.

The judge examined whether the suspension of the account was a “patently unlawful disturbance” that needed to be stopped. He noted that, although the measure taken in this case respected the terms of the contract, he needed to consider, by measuring its proportionality, whether the restriction of freedom of expression was justified. Only within this strict framework could the courts limit the autonomy of social networks when they drew up and implemented their policies for monitoring content disseminated online, ruled the judge.

After analysing the wording of the disputed tweet, the judge ruled that Twitter Inc had not committed an error of judgment by suspending the execution of its contract with the plaintiff, especially since it had received numerous complaints.

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The judge then examined the consequences of the resulting infringement of the plaintiff's freedom of expression by weighing the relevant fundamental interests. Firstly, with regard to the meaning of the comments and their place in the public debate, he said that, although it was legitimate to question the subject of immigration in a democratic debate, this debate, which in itself was in the general interest, should not be used to spread highly discriminatory messages that incited hate towards people for who they were, as was the case here.

Regarding the consequences of suspending the account, the plaintiff's use of the social network concerned was not essential to his political activities, since he could continue to express his views, communicate and contribute to the public debate through other social networks such as Facebook or Instagram. Therefore, since no "patently unlawful disturbance" had resulted from the suspension of his Twitter account, the plaintiff's request for it to be reinstated was dismissed.

Tribunal judiciaire de Paris (ord. réf.), 14 avril 2022, n° 21/57009, Messiha c/ Twitter France et Twitter Inc.

Paris court of justice (urgent procedure), 14 April 2022, no. 21/57009, Messiha v Twitter France and Twitter Inc.

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