



**LIBEL AND INSULT LAWS:
A MATRIX ON WHERE WE STAND AND
WHAT WE WOULD LIKE TO ACHIEVE**

A comprehensive database on criminal and civil defamation provisions and court practices in
the OSCE region

Vienna 2005

CONTENTS

Acknowledgements	4
Remarks	5
Albania	6
Andorra	9
Armenia	11
Austria	17
Azerbaijan	19
Belarus	25
Belgium	31
Bosnia and Herzegovina	34
Bulgaria	36
Canada	39
Croatia	41
Cyprus	45
Czech Republic	48
Denmark	51
Estonia	54
Finland	57
France	60
Georgia	63
Germany	66
Greece	68
Holy See	71
Hungary	72
Iceland	75
Ireland	77
Italy	78
Kazakhstan	84
Kyrgyzstan	87
Latvia	90
Liechtenstein	93
Lithuania	96
Luxembourg	98
The former Yugoslav Republic of Macedonia	101
Malta	104
Moldova	107
Monaco	110
Netherlands	111
Norway	111
Poland	117
Portugal	120
Romania	123
Russian Federation	126
San Marino	131
Serbia and Montenegro	134
Republic of Serbia	134
Republic of Montenegro	136
Kosovo/ Serbia and Montenegro	138

Slovak Republic	141
Slovenia.....	145
Spain	148
Sweden.....	151
Switzerland	154
Tajikistan.....	157
Turkey	160
Turkmenistan	163
Ukraine.....	165
United Kingdom.....	168
United States of America	171
Uzbekistan.....	175
 ANNEX.....	 178

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Remarks

In this survey, we use the terms *defamation, libel and insult*. These terms are most commonly referred to in the OSCE participating States' legislation to describe true and false statements of facts and opinions which harm the reputation of the other person and/or are insulting or offensive. Other terms used in participating States' legislation include *slander, calumny, insult of honour and dignity, smear, vilification, contempt, impairment of dignity, personal injury*, etc. which, we assume, are encompassed by defamation, libel and insult.

The period covered by this survey is from 1 January 2002 until 30 June 2004, unless otherwise specified.

The country reports for this survey are based on data that have been received from the governments of the OSCE participating States and from other sources, including OSCE field operations and international and local media NGOs. These sources have provided information to the best of their knowledge; however, some data are incomplete due to the scarcity of court statistics.

In each country report, we have indicated sources which provided the information. We have obtained information on some OSCE participating States' criminal and civil defamation provisions and court practices from two different sources. In such cases, both reports have been published.

Disclaimer

The data for this survey have been received from the governments of the OSCE participating States and from other sources, including OSCE field operations and international and local media NGOs. The Office of the OSCE Representative on Freedom of the Media was unable to verify all the data. Therefore, we cannot guarantee the accuracy of the facts contained in this survey. We reserve the right to correct or complete some of the data as necessary.

Albania

This report is based on the data provided by the OSCE Presence in Albania

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

Article 119 on insult was changed in 2000. **Previous:** *Intentionally insulting a person constitutes criminal contravention and is sentenced to a fine or to no more than six months imprisonment. When this act is committed publicly, it constitutes criminal contravention and is sentenced to a fine or no more than two years imprisonment.*

Current: *Intentionally insulting a person constitutes criminal contravention and is sentenced to fine or to no more than six months imprisonment. When this act is committed publicly, to the detriment of several people and repeatedly, it constitutes criminal contravention and is sentenced to a fine or no more than one year imprisonment.*

Article 120 on libel was changed in 2001. **Previous:** *Intentionally spreading rumours, and any other knowingly false information, which affect the honour and dignity of a person, constitutes criminal contravention and is sentenced to a fine or no more than one year imprisonment. The same act, committed publicly, constitutes criminal contravention and is sentenced to a fine or no more than two years imprisonment.*

Current: *Intentionally spreading rumours and any other knowingly false information, which affect the honour and dignity of the person, constitutes criminal contravention and is sentenced to a fine or no more than one year imprisonment. The same act committed publicly, to the detriment of several people or repeatedly, constitutes criminal contravention and is sentenced to a fine or no more than two years imprisonment.*

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

The Albanian Media Institute, the Justice Initiative and the Institute for Policy and Legal Studies have come up with proposals on amendments to the criminal legislation on defamation, libel and insult and discussed them in the presence of the chairman of the Parliamentary Media Committee. They are expected to propose the amendments to the Assembly through a group of MPs in a near future. The amendments aim at decreasing the number of defamation provisions in the Criminal Code.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

One year for insult; two years for libel

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Unlimited

8. Administrative consequences of a conviction

None

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

Six people (*Shekulli* journalist Kujtim Boriçi, *Tema* editor-in-chief Mero Baze, *Koha Jone* publisher Nikolle Lesi, *Korrieri* journalist Irena Vreto, *Zeri i Popullit* journalist Albana Çakshiri and *Shekulli* journalist Jorgjeta Gjanci) have been accused. In terms of cases, the number is accidentally the same since Boriçi was involved in two cases, Baze in two cases, Lesi in one case and Vreto, Çakshiri and Gjanci were all involved in one case.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

Two (Mero Baze, Editor-in-Chief of the *Tema*, in two cases).

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

Average: 0;
maximum: 0.

13. Average and maximum amounts of fines

Average: € 813;
maximum: € 1,219.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes (Articles 617, 625, 626)

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

The Albanian Media Institute, the Justice Initiative and the Institute for Policy and Legal Studies have made proposals on amendments to the civil legislation on defamation, libel and insult (more specifically Article 625) and discussed them in the presence of the chairman of the Parliamentary Media Committee. They are expected to propose the amendments to the Assembly through a group of MPs in a near future.

20. Maximum fines/damages

Unlimited

21. Other penalties

None (the electronic media law, though, envisages the right of rebuttal/reply in its Article 47).

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

Seven cases (*Rilindja Demokratike* journalist Artur Bega, *Shekulli* journalist Kujtim Boriçi, analyst Fatos Lubonja, *Tema* newspaper, *Romiosini* editor-in-chief Kristaq Xhai, *Koha Jone* publisher Nikolle Lesi, five newspapers).

23. Average and maximum amount of fines/damages paid

Average: € 12,000;
maximum: € 40,000.

24. Other court practices

No other practices

Andorra

This report is based on the data contained in the publication *Aperçu des législations nationales en matière de diffamation et d'injure* (Strasbourg, le 12 décembre 2003). This publication was prepared by the Media Division of the Directorate General of Human Rights of the Council of Europe.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No information available

3. Are there specific provisions protecting state, state symbols and government institutions?

No information available

4. Changes made in criminal defamation legislation during the past ten years

No information available

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Three years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

No information available

8. Administrative consequences of a conviction

No information available

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

No information available

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Armenia

This report is based on the data provided by the Government of Armenia

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

In the new Penal code, sanctions have been lowered. Criminal liability for defamation, libel and insult has not been revoked. Imprisonment provisions have not been revoked.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No amendments currently discussed or planned

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

One year imprisonment for defamation, libel and insult; four years for libel of a judge, prosecutor, investigator and/or executor of court decisions.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

€ 1,570

8. Administrative consequences of a conviction

None

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No one was serving a prison term for defamation, libel and insult as of 30 June 2004.

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

In January 1999 New Civil Code came into force. Article 19 of this Code concerns protection of honour, dignity and business reputation.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments currently discussed or planned.

20. Maximum fines/damages

No information available.

21. Other penalties

According to Article 19 *Protection of Honor, Dignity and Business reputation*, other penalties may include retraction of communications impugning on a person's honour, dignity, or business reputation if the statement is proven wrong. Protection of honour and dignity of citizens is also enforced after their death. If the aforementioned communications are contained in a document emanating from an organization, such a document is subject to replacement or recall. A citizen has the right to publication of his/her answer in the same medium of mass information. In addition to the retraction of such information, a citizen has the right to demand compensation for losses caused by their dissemination. If it is impossible to identify the person who disseminated communications impugning the honour, dignity, or business reputation of a citizen, the defamed person has the right to apply to court with a request that the defamations that were disseminated be declared null and void. The rules of this article on the protection of business reputation of a citizen shall be applied correspondingly to the protection of the legal reputation of a legal person (excerpts).

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Armenia

This report is based on the data provided by the OSCE Office in Yerevan

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No information available

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Libel and slander have been partially decriminalized (articles 135 and 136 of the Criminal Code). Changes were adopted by Parliament on 8 June 2004, signed by the President on 1 July 2004.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

One year; five years, if libellous information is disseminated about a candidate or a party during an election campaign.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

€ 22,935

8. Administrative consequences of a conviction

None

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

Unlimited

21. Other penalties

Retraction

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Austria

This report is based on the data contained in the publication *Aperçu des législations nationales en matière de diffamation et d'injure* (Strasbourg, le 12 décembre 2003). This publication was prepared by the Media Division of the Directorate General of Human Rights of the Council of Europe.

These data are good for 1999.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No information available

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

No information available

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

No information available

8. Administrative consequences of a conviction

No information available

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Azerbaijan

This report is based on the data provided by the Government of Azerbaijan

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No changes have occurred in Azerbaijani legislation on defamation, libel and insult over the past ten years. Criminal liability for these acts has not been revoked. Imprisonment provisions for these criminal offences are envisaged in articles 147, 148, 323 and 324 of the Criminal Code of the Republic of Azerbaijan.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Azerbaijan intends to remove articles on defamation and insult from criminal legislation and preserve them in the Civil Code.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code;
7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Fines at the rate of one to five hundredfold of conventional monetary unit (5500 manats = 1.10 US dollars), or community service not more than 240-hours, correctional labour not more than one-year, or a six-year term of imprisonment are envisaged in article 147 (defamation) of the Criminal Code of the Republic of Azerbaijan. Defamation with accusation of grave or particularly grave crimes is punishable by correctional labour not more than two-years, restriction of liberty not more than two-years or deprivation of liberty not more than three-years. Article 148 (insult) of the Criminal Code of the Republic of Azerbaijan envisages fines at the rate of three hundredfold to one thousand fold of conventional monetary unit, community service not more than 240-hours, correctional labour not more than one-year, or deprivation of liberty not more than six-months. Article 323 of the Criminal Code of the Republic of Azerbaijan envisages fines at the rate of five hundredfold to one thousand fold of conventional monetary unit, correctional labour not more than two-years or deprivation of liberty not more than two-years. When the same acts are committed in accusation of grave or particularly grave crimes, they are punished by deprivation of liberty not more than five-years. This article does not concern the critical materials about the activity of the President and state policy of the Republic of Azerbaijan. Under article 324 of the Criminal Code of the Republic of Azerbaijan, punishment of restraint of liberty not more than one-year or deprivation of liberty not more than two-years is envisaged.

8. Administrative consequences of a conviction

There are no provisions containing the application of administrative fines, such as revocation of a broadcasting license, banning journalists from exercising their profession and etc. in the Criminal and Civil Codes of the Republic of Azerbaijan. These issues are regulated under the Law on Media.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

38 complaints against 16 media outlets were received by courts in 2002. The proceedings were conducted on 19 of them. The total fine amount demanded by plaintiffs against media outlets was 283 billion 168 million 520 thousand manats. The courts reached verdict on payment of fines and compensations at the rate of 350 million 200 thousand by newspapers and amounting to expenditures of three months by editorial offices. 12 complaints against 3 newspapers and their collaborators, brought before the court in 2002, were considered in 2003. Fine at the rate of 520 million was imposed upon media outlets, although during court hearings 225 billion 620 million manats were demanded. Media outlets filed an appeal against the verdict of the court of first instance.

As a result of these appeals the amount of fines decreased to 240 million manats according to the verdict reached by the Supreme Court. 67 complaints against 18 media outlets were brought before courts under articles 147 and 148 of the Criminal Code of the Republic of Azerbaijan and fine at the rate of 7 billion 417 million 500 thousand manats was demanded from 15 media outlets in 2003. The rate of imposed fine amount was 1 billion 590 million 500 thousand manats. The courts reached verdicts on seven cases brought before them under articles 147 and 148 of the Criminal Code of the Republic of Azerbaijan till 1 October 2004. Media outlets and responsible persons were fined at the rate of 465 million manats. The decision to pay 15% of his salary to the plaintiff within two years was reached on one collaborator of the newspaper.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No imprisonment cases of journalists have been envisaged in 2002 and 2004. In 2003 one collaborator of newspaper disgorging 20% of his salary to the state, was brought to correctional labour. In 2003 legal proceedings were instituted against two collaborators of one newspaper under articles 147 and 148 of the Criminal Code of the Republic of Azerbaijan and they were found guilty and sentenced to five-month imprisonment. But the same persons were granted general pardon. So, within the reporting period two persons were sentenced to five months imprisonment for defamation and insult, but they have not served their sentence.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Two persons were sentenced to five-month imprisonment by courts, but they were granted general pardon and they have not served their prison term. There is no person who has served within the reporting period or is still serving a prison sentence for defamation and insult.

12. Average and maximum lengths of prison sentences

Not applicable.

13. Average and maximum amounts of fines

Fine for defamation amounts from 500 thousand up to 2,750 thousand manats; for insult between 1,650 thousand up to 5,500 thousand manats.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

No. Articles on defamation and insult are not envisaged in the Civil Code of the Republic of Azerbaijan. Article 23 of the Civil Code envisages the citizen's right to defend his honour, dignity and professional prestige through legal proceedings.

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years;

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No changes have occurred in Azerbaijani Civil Code within the past ten years due to the absence of the provisions on defamation and insult.

20. Maximum fines/damages;

21. Other penalties

According to article 23 of the Civil Code, if the Court finds that the honour, dignity and professional prestige of citizen has been defamed, it will require retraction by the media outlet or the person who published the defamation. Also this person has the right to demand reimbursement for damage inflicted as a result of the defamation.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

218 civil cases were processed by courts within the reporting period. The plaintiff was satisfied in 141 cases, while 77 cases were dismissed.

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

Verdicts on refutation for wrong information and imposition of fines were reached during legal proceedings.

Azerbaijan

This report is based on the data provided by the OSCE Office in Baku

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

The process of establishing the country's legislature (legal base for any field) is ongoing. It began nearly 10 years ago with the adoption of the Constitution of the Republic of Azerbaijan on 12 November 1995. During this period, Civil and Criminal Codes have been adopted, both of which have provisions on defamation, libel and insult.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Usually, the National Parliament discusses all amendments or draft laws. The President's Office and some other State institutions have the right to initiate a legislative process. No amendments to criminal legislation on defamation, libel and insult are being discussed by parliament and/or Government at the moment.

Several international organisations have repeatedly urged the Azerbaijani authorities to decriminalize the libel provisions.

In 2004, the Baku Press Club and Association of Azerbaijan Journalists *Yeni Nesil* set up a working group to draft a law "On Defamation: Protection of Honour, Dignity and Business Reputation". Within two months (February-March 2004) members of this group developed main provisions of the future law on the basis of precedents set by the European Court for Human Rights and principles set forth by *Article 19*. The law was further elaborated in the joint working group comprised of members of Parliament, media lawyers, and NGO activists. In October 2004, the draft law was presented to the relevant commission of the National Parliament. It is expected that the Law will be discussed in the first reading of Parliament's spring session.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

The Criminal Code envisages six months imprisonment, and, in cases where defamation contains accusation of grave crimes, three years of imprisonment.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

The Criminal Code establishes that the maximum fine is 5,500,000 AZM or approximately € 850.

Note that the criminal Code envisages the following ranges:

For defamation: from 550,000 AZM up to 2,750,000 AZM (€ 85-425);

for insult: from 1,650,000AZM up to 5,500,000 AZM (€ 250-850).

In addition, there may be alternative punishment such as 240 hours of community service, and not more than 1 year of correctional labour. In addition, there are other financial sanctions which may be applied to mass media institutions. In contrast to suits against TV and Radio, suits against print mass media there are no margins for determining pecuniary and moral damage established by the law.

Article 19 of the Law on Mass Media that determined the maximum margin of pecuniary and moral damage not to exceed financial expenses of mass media for three months, has been abolished recently.

However, the aforementioned margin is still applicable in Article 45 of the Law on TV and Radio Broadcasting.

8. Administrative consequences of a conviction

None

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

13

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

7

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Five (this number includes journalists only)

12. Average and maximum lengths of prison sentences

Average: 14 months;
maximum: two years.

13. Average and maximum amounts of fines

Average: € 155;
maximum: € 900.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

The process on establishing the country's legislature (legal base for any field) is still continuing. It commenced nearly 10 years ago with the adoption of the Constitution of the Republic of Azerbaijan on 12 November 1995. During this period, the Civil and Criminal Codes were adopted, both of which have provisions on defamation, libel and insult.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

See pt. 5 *Amendments to criminal defamation, libel, insult provisions currently being discussed. Plans to amend criminal provisions.*

20. Maximum fines/damages

For broadcasters, the maximum amount of money paid in pecuniary and moral damage may not exceed financial expenses of a broadcaster for three months. The maximum is unlimited for print media.

21. Other penalties

1. Demand for refutation;

2. right to publish his/her answer in the same mass media (or to appear on the same TV/Radio channel);
3. if it is impossible to determine the person who disseminated information defaming the honour, dignity and business reputation of physical person, the defamed person shall have the right to demand to have this information declared null and void (Article 23.5.of the Civil Code).

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

Total: 117

In 2002: 38;

in 2003: 67;

in 2004: 12.

23. Average and maximum amount of fines/damages paid

Average: € 5,000-7,000;

maximum: € 110,000

24. Other court practices

Not applicable

Belarus

This report is based on the data provided by the Government of Belarus

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

Over the last 10 years, liability for libel and insult provided by the criminal legislation of the Republic of Belarus has changed considerably. Criminal liability for discrediting the business reputation of a competitor, libel and insult has not been abolished. At the same time, the possibility of applying incarceration as punishment for these crimes has been excluded and application of alternative punishment has been extended. In 1999, the Code established criminal liability, which remains in effect today, for insulting a representative of the authorities (Article 369). This code also excludes the possibility of imposing a prison sentence and envisages the application of various alternative punishments.

One of the alternative forms of punishment for libel, insult and discrediting the business reputation of a competitor envisaged by Articles 188, 189 and 249 of the Code is imposition of a fine.

In addition, the Criminal Code of the Republic of Belarus of 1999 established criminal liability, which remains in effect today, for libel in respect to the President of the Republic of Belarus and insult against the President of the Republic of Belarus, which, alongside other penal measures, does not exclude the possibility of imposing a prison sentence: for a term no more than five years for libel, and for a term no more than three years for insult. The meaning of the term “prison sentence” as used in the questionnaire should also be explained. In the legislation of the Republic of Belarus, this notion is used only in the sense of the most severe form of incarceration and no such custodial regime is specifically envisaged for committing the indicated crimes. In the Code, the term “discrediting” does not designate an independent crime and is used exclusively as a component of a crime committed against the established procedure for engaging in economic activities.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Amendments to the criminal legislation related to discrediting, libel and insults have been discussed repeatedly by the House of Representatives of the National Assembly of the Republic of Belarus, both during the voting on adopting the new Criminal Code of the Republic of Belarus (which came into force as of 1 January 2001) and the subsequent introduction of amendments and addenda to it.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

At the present time the Code does not envisage a detention or imprisonment for libel (Article 188), insult (Article 189) or discrediting the business reputation of a competitor (Article 249). However, a maximum prison sentence not more than five years is set in part two of Article 367 of the Code which establishes liability for libel in respect to the President of the Republic of Belarus: expressed in a public statement, in a printed or publicly demonstrated work, or in mass media; committed by the person who has been previously convicted of libel or insult; or in conjunction with an accusation of committing a serious or grave crime.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

A fine is imposed by a court in accordance with Article 50 of the Code. Under part two of this Article, the amount of fine shall be determined by taking into account the size of the reference unit established on the day the sentence is handed down, and depending on the nature and degree of public danger posed by the crime committed, as well as the material situation of the convicted person, and shall be set within the limits of thirty to one thousand reference units.

On the basis of the size of the reference unit as of September 2004, the maximum amount of fine in the national currency is 19,000,000 Belarusian Roubles, which is equivalent to roughly € 7,000.

8. Administrative consequences of a conviction

At the present time administrative liability for libel and insult is established by the following Articles of the Code of administrative offences of the Republic of Belarus.

Article 156-2. Libel

Libel, that is dissemination of knowingly false fabrications disgracing another person, is punishable by a fine in the amount of up to three reference units or corrective labour for a term of one to two months with 20 per cent of salary withheld.

Article 156-3. Insult

Insult, that is intentional denigration of the honour and dignity of a person expressed in an indecent form, is punishable by a fine in the amount of up to two reference units.

Article 193-12. Insult against a customs official of the Republic of Belarus, persons participating in implementation of customs control, customs clearance, as well as in proceedings on a case relating to administrative customs violations or in consideration of such case and against attestors.

Insult against a customs official of the Republic of Belarus in connection with performance of his duties, persons participating in implementation of customs control, customs clearance, as well as in proceedings on a case relating to administrative customs violations or in consideration of such case, that is auditors, experts, specialists, translators, witnesses and attestors, is punishable by a fine imposed on individuals in the amount of ten to thirty reference units, and on officials – of twenty to fifty reference units. The revoking of a license to broadcast and dismissal of journalists from their positions – are not envisaged by the Code of administrative offences of the Republic of Belarus as administrative sanctions.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

56

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

50

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Imprisonment for committing the said crimes was not imposed during the given period of time. The term “prison sentence” has a somewhat different meaning under the legislation of the Republic of Belarus.

12. Average and maximum lengths of prison sentences

Not applicable

13. Average and maximum amounts of fines

In judicial practice fines are imposed for the said crimes in the amount of between 30 and 200 reference units which as of September 2004 amounted to between 570,000 and 3,800,000 Belarusian Roubles. The legislation of the Republic of Belarus does not provide for any “administrative and court charges to be paid under the rules of the criminal legislation for discrediting, libel and insult”.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No. The Civil Code of the Republic of Belarus does not provide for any special protection of the honour, dignity and business reputation of officials irrespective of their position.

In accordance with Article 81, part 3, of the Civil Procedural Code of the Republic of Belarus, it is envisaged that an application for protection of the honour and dignity of the President of the Republic of Belarus shall be submitted to a court by the General Prosecutor of the Republic of Belarus, prosecutors of the regions, the city of Minsk or equivalent prosecutors with the consent of the President of the Republic of Belarus.

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

The rule of the Civil Code establishing liability for dissemination of information which is untrue and defames honour, dignity and business reputation has undergone changes within the past ten years.

The Civil Code of the Republic of Belarus of 1965 as restated by the Law of 3 March 1994 envisaged the possibility of recompense for the moral (immaterial) injury inflicted on an individual only if the false information was disseminated in mass media.

The Civil Code of the Republic of Belarus of 1999 envisages that a defamed citizen shall have the right to demand, alongside revocation of the defamation, recompense for the losses and moral injury incurred as a result of the defamation, by whatever means.

19. Amendments to civil defamation, libel and insult provisions currently under discussion: plans to amend civil provisions

In the Republic of Belarus, the legislative and judicial authorities are separate, and consideration of amendments to the legislation does not fall within the terms of reference of the courts.

20. Maximum fines/damages

Unlimited. As a recompense for damages incurred through dissemination of information denigrating honour, dignity and business reputation, it is possible to seek redress for moral injury. In determining the amount of such recompense, the Court takes into account aggravating circumstances, including the extent of physical and moral suffering as a result of the defamation of the victim (Article 152 of the Civil Code of the Republic of Belarus). The maximum amount of recompense is not stipulated by law but Article 970 of the Civil Code of the Republic of Belarus envisages that the requirements of reasonableness and fairness shall be taken into account in determining the amount of such recompense.

21. Other penalties

For protection of honour, dignity and business reputation primarily non-monetary recompense mechanisms are applied (Article 153 of the Civil Code of the Republic of Belarus): - if information is disseminated in mass media it must be refuted in the same mass media; - if information is contained in a document originating from an organization, said document is subject to replacement or recall; - a person in relation to whom mass media have published information infringing on his rights or lawfully protected interests shall have the right to publish his reply in the same mass media; -the refutation procedure in other cases shall be established by Court.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

During the period from 1 January 2002 to 30 June 2004 the general courts of the Republic of Belarus heard 310 cases on protection of honour, dignity and business reputation.

23. Average and maximum amount of fines/damages paid

The amount of the recompense for moral injury has not been set by law. In view of plaintiff's demands the amount is determined by the court and is levied, as judicial practice testifies, in the amount between 100 thousand Belarusian Roubles and 50 million Belarusian Roubles on the basis of the criteria indicated in Article 153 and Article 970 of the Civil Code of the Republic of Belarus.

24. Other court practices

There have been no other practices relating to civil cases in the Republic of Belarus on protection of honour, dignity and business reputation.

Belarus

This report is based on the data provided by the OSCE Office in Minsk

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

In 1998, defamation/insult of the President became a criminal offence. In 1999, a special amendment allows prosecutors to start cases for defamation/insult of the President (Art. 7 of the Law on the President of Belarus). Neither liability, nor imprisonment has been revoked.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

In November 2002, a group of MPs proposed changes to the criminal code to abolish articles regarding defamation of the President. The draft was declined by other MPs. In September 2003, the Constitutional Court suggested changing the criminal code without success. Currently, there aren't any plans to amend criminal provisions.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Defamation: 5 years;
insult: 3 years.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

10,000 USD

8. Administrative consequences of a conviction

Criminal Code contains no provisions for direct administrative consequences. However, other laws can be applied along with criminal charges. Art. 49 of the Media Law allows suspending a newspaper for 3-6 months for defaming the President. Art. 16 of the Media Law allows courts to close down a media outlet if it was suspended for defamatory reasons more than once. Art. 156 (2), 156 (3) of Administrative Code envisage a fine (up to 30 USD) for libelling 'ordinary people'. Art. 172 (1) of Administrative Code imposes fine of 500-1000 USD for libelling the President in mass media.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

Around 20

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

12

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Three persons served restraint of liberty. One person was serving restraint of liberty as of July 2004.

12. Average and maximum lengths of prison sentences

2.5 years is the average and the maximum. The average *de facto* term is approx. one year.

13. Average and maximum amounts of fines

Average: 600 US dollars;
maximum: 600 US dollars in 50 per cent of all cases.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments are currently being discussed.

20. Maximum fines/damages

Unlimited. Only 'moral damages' are compensated for.

21. Other penalties

Refutation, refutation in the same mass medium, publishing of response. If an order of the Court is not obeyed, then an 'unlimited' fine may be imposed. Compensation of moral damages is also possible.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

The total number is 14 (these are cases involving the media only, the actual amount of cases may be different).

2002: 5 cases;

2003: 2 cases;

2004: 7 cases.

23. Average and maximum amount of fines/damages paid

Average: difficult to determine;

maximum: 56,000 USD. Confiscation of property and bank accounts of media outlets are possible before and after court hearings on defamation, libel and insult.

24. Other court practices

Confiscation of property and bank accounts of media outlets are possible before and after court hearings on defamation, libel and insult.

Belgium

This report is based on the data provided by the Belgian Government

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No information available

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

One year

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

1,000 Euro

8. Administrative consequences of a conviction

When the Press is convicted of such offences, the guilty verdict is usually based on the “violation of the press laws”. Article 150 of the Constitution foresees a jurisdiction privilege concerning violating press laws: the violation comes before a court of assizes.

An exception exists for violating press laws based on racist or xenophobic assertions; in this instance the case comes before a criminal court. This mechanism only affects newspapers, broadcast is excluded.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes, according to responsibility rights principles. Articles 1382 and 1383 of the Civil Code.

15. Do government officials enjoy more protection than other individuals?

No, action is only possible through the responsibility rights principles. Articles 1382 and 1383 of the Civil Code.

16. Do public figures or celebrities enjoy more protection than other individuals?

No, action is only possible through the responsibility rights principles. Articles 1382 and 1383 of the Civil Code.

17. Are there specific provisions protecting state, state symbols and government institutions?

No, action is only possible through the responsibility rights principles. Articles 1382 and 1383 of the Civil Code.

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion: plans to amend civil provisions

No

20. Maximum fines/damages

The harm that has been done is integrally compensated. It is up to the claimant to actually bring evidence toward this end. The evaluation is generally done on an *ex aequo et bono basis*.

21. Other penalties

The judgement is made public, which assures its publicity.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Bosnia and Herzegovina

This report is based on the data provided by the OSCE Mission to Bosnia and Herzegovina

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

No

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

No

4. Changes made in criminal defamation legislation during the past ten years

The High Representative decided to decriminalize defamation in 1999.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Not applicable

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Not applicable

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Not applicable

8. Administrative consequences of a conviction

Not applicable

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

Not applicable

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

Not applicable

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Not applicable

12. Average and maximum lengths of prison sentences

Not applicable

13. Average and maximum amounts of fines

Not applicable

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

Bosnia and Herzegovina adopted the law on the *Protection against Defamation of the Federation of Bosnia and Herzegovina*, which has been in force in the Republica Srpska since June 2001 and in the Federation since 1 November 2002.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments are currently being discussed.

20. Maximum fines/damages

Unlimited

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

196 (in 2002 and 2003)

23. Average and maximum amount of fines/damages paid

Average: no information available;
maximum: € 5,000.

24. Other court practices

According to verdicts, both sides - plaintiffs and defendants - have to pay court fees.

Bulgaria

This report is based on the data provided by the Government of Bulgaria

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

After the adoption of the first Penal Code in Bulgaria in 1896, until the year 2000, defamation and libel were incriminated in Chapter XV *Contempt to Honour* (art. 234-246), which prescribed cumulative sanctions of “imprisonment” and fine. The 1951 Penal Code provided for three alternative sanctions for defamation and libel – imprisonment, correctional labour, or a fine and, cumulatively, public reprobation, and for the qualified corpus delicti – cumulative imprisonment and fine.

In the year 2000, a law amending the Penal Code revoked imprisonment, keeping in force only the sanctions of a fine and public reprobation.

These crimes are considered private in nature, i.e. according to the Law, the criminal proceedings shall be instituted upon a complaint by the aggrieved person, and only this person has the burden to defend the accusation. (Art. 161, para. 1 of the Penal Code).

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No amendments are currently under discussion.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

The sanction of imprisonment is not envisaged in the Bulgarian Penal Code (See: Art. 146 – 148 of the Penal Code, the exact contents being quoted above).

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

For insult in public; insult circulated through a printed matter or in any other way; for insult of an official or a representative of the public during or on occasion of his duty or functions, and for insult by an official or representative of the public during or on occasion of fulfilment of his/her duties or functions, the punishment shall be a fine of 3,000 BGN (€ 1,500) to 10,000 BGN (€ 5,000), and public reprobation.

For libel committed under the conditions of the preceding paragraphs, as well as for libel as a result of which grave circumstances have occurred, the punishment shall be a fine of 5,000 BGN (€ 2,500) to 15,000 BGN (€ 7,500), and public reprobation.

8. Administrative consequences of a conviction

No administrative consequences are envisaged.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

Data provided by the National Institute of Statistics show that the number of persons sentenced for libel (art. 147 and art. 148, para.2 of the Penal Code) with enforced judgment on cases of private nature are, as follows:
in 2002: total of 10 persons, or 10 percent of all 100 sentenced persons;
in 2003: total of 15 persons, or 16 percent of all 109 sentenced persons;
for the first half of 2004: total of 4 persons, or 2 percent of all 48 sentenced persons.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Not applicable

12. Average and maximum lengths of prison sentences

Not applicable

13. Average and maximum amounts of fines

The Court determines the amount of a fine by assessing all circumstances of the case including the basis for defamation and/or libel.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

No

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

Not applicable

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

Not applicable

20. Maximum fines/damages

Not applicable

21. Other penalties

Not applicable

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

Not applicable

23. Average and maximum amount of fines/damages paid

Not applicable

24. Other court practices

Not applicable

Canada

This report is based on the data provided by the Government of Canada

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

No

4. Changes made in criminal defamation legislation during the past ten years

The Supreme Court of Canada case of *R. v. Lucas*, [1998] 1 S.C.R. 439 restricted the definition of “defamatory libel” so that the crimes of defamatory libel can no longer be committed if the libel is published only to the victim of the libel.

In addition, the constitutionality of the crime in section 301 of the Criminal Code, that of publishing a defamatory libel, is, as a result of this Supreme Court and other recent decisions, in doubt.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

There are currently no such amendments being discussed or planned.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

The maximum punishment for publishing a knowingly false, defamatory libel is five years’ imprisonment.

The maximum punishment for the crime of publishing a defamatory libel is two years’ imprisonment. Some courts have concluded that this crime is unconstitutional.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

The crimes of defamatory libel set out in sections 300 or 301 of the Criminal Code do not specify a maximum fine.

Under section 734 of the Criminal Code, a court may impose a fine in lieu of or in addition to imprisonment if there is no minimum term of imprisonment. Since the crimes of defamatory libel do not have minimum terms of imprisonment, it follows that a fine can be imposed in lieu of or in addition to imprisonment.

Except in very limited circumstances, a court may fine an offender under section 743 only if the court is satisfied that the offender is able to pay the fine. (Subsection 734(2) of the Code)

If the accused is an organization, the organization is liable to a fine, in lieu of imprisonment, except where otherwise provided by law, as follows:

- (a) that is in the discretion of the court, where the offence is an indictable offence; or
- (b) not exceeding one hundred thousand dollars, where the offence is a summary conviction offence.

“Organization is defined in section 2 of the Criminal Code. It includes a public body or body corporate, society, company, firm, trade union or an association of persons.

8. Administrative consequences of a conviction

No such administrative consequences are present in the Criminal Code of Canada.

CRIMINAL CODE: court practices¹

9. Number of persons accused of defamation, libel and insult

57

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

23 convicted (nine prison sentences, 19 probation sentences, one fine sentence).

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Data not available, estimated to be one [as only one prison sentence was more than 30 months long during this time period].

12. Average and maximum lengths of prison sentences

Average: 270 days;
maximum: 1460 days.

13. Average and maximum amounts of fines

Average (mean) fine sentence: \$50;
maximum fine sentence: \$50 [only 1 fine sentence].

CIVIL CODE: provisions

The civil law of libel falls within the exclusive jurisdiction of the ten provinces and three territories of Canada. This does not fall within the jurisdiction of the Government of Canada.

¹ These data are available only for fiscal years and are available for 90% of Canada. The numbers provided above are estimates only. They are for 1 January 2002 to 31 March 2004 for 100% of Canada. The sections of the Criminal Code of Canada which are included here are 298 to 302.

Croatia

This report is based on the data provided by the Government of Croatia

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

The Law on the *Amendments to the Criminal Code* of July 2004, which entered into force on 1 October 2004 (*Official Gazette of the Republic of Croatia* No. 105/04), abolished a provision concerning guilt in special cases, i.e., the so-called “cascade liability” of the editor-in-chief and other persons mentioned in Art. 48 (this is, de facto, subject to objective liability). Abolishing this provision is pursuant to international recommendations (including the ones from the OSCE), which, in case of libel and slander in the media, consider civil liability for damages sufficient.

With this amendment Croatian criminal legislation has been modernised, and the possibility of claiming damages in a civil lawsuit from the editor-in-chief and other persons remains outside the scope of criminal prosecution.

The provision of Art. 203 of the Criminal Code concerning the reasons for exclusion of illegality has been amended to reduce the maximum extent of criminal liability to journalists for such criminal offences, and the burden of proof has been shifted from the possibly accused journalist to the accusing party.

The existence of Art. 203 of the Criminal Code and its practical enforcement are important because it envisages reasons for excluding illegality, and under particular circumstances substantially mitigates the criteria for criminal offences against the honour and reputation of individuals.

If the amendments are related to the existing criminal provision of Art. 107 of the Criminal Code, which incriminates proceedings that deny or restrict the freedom of the press or other media, it is beyond a doubt that leaving out Art. 48 and almost entirely eliminating the criminal offence of slander if committed in the course of journalists’ work (unless such proceeding was solely aimed at damaging another’s honour or reputation) provides maximum freedom of the media.

In Croatian criminal legislation, there is no criminal offence for which only a fine would be prescribed; there is always a concurrent option to apply a prison term.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Not applicable

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

The maximum prescribed prison term for slander is not more than one year, and that is in case of a qualified form of slander, while for the basic form of slander the prescribed prison term is six months. For libel, the

prescribed prison term is not more than six months for a qualified form, or up to three months for the basic form. For disclosing personal or family circumstances, the prison term is not more than one year.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

The maximum fine for the basic form of the criminal offence of slander is up to one hundred and fifty daily wages, and the fine for a qualified form is determined pursuant to Art. 51 of the Criminal Code; for the basic form of libel the fine is up to one hundred daily wages, for a qualified form up to one hundred and fifty daily wages; for disclosing personal or family circumstances the maximum fine is not prescribed in Art. 201 sanctioning this offence but Art. 51 of the Criminal Code contains the provision on fines which prescribes that the fine shall be determined and calculated in daily wages of the person convicted, but it cannot exceed three hundred daily wages.

8. Administrative consequences of a conviction

In the general section of the Criminal Code, security measures are prescribed, including banning from a profession, activity or duty.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

According to the information from the National Bureau of Statistics, in 2002, 365 persons were accused of libel (422 in 2003). In 2002, 330 persons were accused of slander (352 in 2003). In 2002, six persons were accused of disclosing personal or family circumstances (11 in 2003).

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

In 2002, 136 persons were convicted of libel. None of them received an unconditional prison sentence, 57 received suspended sentences, 42 received unconditional fines, and eight received suspended fines. Courts admonished 26 persons.

In 2003, 155 persons were convicted of libel. None of them received an unconditional prison sentence, 82 received suspended sentences, 32 received unconditional fines, and three received suspended fines. Courts admonished 37 persons.

In 2002, 47 persons were convicted of slander (two received unconditional prison sentences, 29 received suspended prison sentences, two received suspended fines). Courts admonished five persons.

In 2003, 46 persons were convicted of slander (one received unconditional prison sentence, 29 received suspended prison sentences, seven received unconditional fines, one received suspended fine). Courts admonished eight persons.

In 2002, one person was convicted of disclosing personal or family circumstances and received unconditional fine, while in 2003, five persons were convicted and received suspended prison sentences.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult;

12. Average and maximum lengths of prison sentences

According to the information received from the Ministry of Justice, Penitentiary Division, from 1 January 2002 to 30 June 2004, there were two prison inmates serving twenty or thirty days, respectively, for libel. In the same period, there was one inmate serving fifteen days. Currently, there is no inmate serving any sentence for the criminal offences concerned.

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Civil law provisions do not provide libel and defamation as the basis for claiming damages. Civil law provisions of the Republic of Croatia do not contain liability for libel and defamation. In civil lawsuits, damages are claimed under the Civil Obligations Act, which includes material and non-material damages incurred, among other things, through the violation of the right of personality. In such cases, courts order sums of money to be paid as damages.

15. Do government officials enjoy more protection than other individuals?

Civil law provisions do not contain any stipulations that would include libel and defamation, i.e. provide increased protection of government/state officials from libel and defamation.

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

Within the past ten years, the Republic of Croatia has not enacted any specific legal provisions to sanction any form of libel or defamation in civil law. The Criminal Procedure Act includes as criminal offences libel, defamation and disclosure of personal or family circumstances. Under the civil law provisions, a lawsuit can be initiated in case of the violation of the right of personality, to claim non-material damages.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

Amendments to the Civil Obligations Act are under consideration, as this Act is applicable to lawsuits for claiming material and non-material damages (for inflicting others physical or by mental pain or instilling fear).

20. Maximum fines/damages

Since there is no specific civil law act to regulate the cases of libel and defamation, no fines can be quoted. Court statistics are not kept in such a manner as to make it apparent in damages lawsuits what the basis for any individual claim is. According to the above-mentioned Civil Obligations Act, on the basis of which non-material damages are awarded, there is no legally determined minimum or maximum amount to be awarded to a party.

21. Other penalties

Not applicable

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Cyprus

This report is based on the data provided by the Government of Cyprus

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

No

2. Are there specific provisions protecting government officials and/or public figures?

No, but there is a specific provision (section 68) which envisages criminal liability for insulting a foreign sovereign, ambassador or any other foreign state official.

3. Are there specific provisions protecting state, state symbols and government institutions?

No, except section 50D of the Criminal Code which envisages a criminal liability for insulting the National Guard. Such an offence is punishable with imprisonment not exceeding two years, or with a fine not exceeding 1,500 Cyprus pounds, or with both such penalties.

4. Changes made in criminal defamation legislation during the past ten years

On 18 June 2003, the criminal legislation for defamation, libel and insult was amended. With the Criminal Code (Amendment No. 3) Law of 2003, criminal liability and imprisonment provisions for defamation, libel and insult were revoked and all sections were abolished.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

There are no provisions in the Criminal Code for imposing imprisonment for defamation, libel and insult.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

There are no provisions in the Criminal Code for imposing a fine for defamation, libel and insult.

8. Administrative consequences of a conviction

No

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

0

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

0

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

Not applicable

13. Average and maximum amounts of fines

Not applicable

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes have occurred

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments currently discussed or planned

20. Maximum fines/damages

Unlimited

21. Other penalties

Apart from awarding damages the Court has jurisdiction to award aggravated damages and to grant an injunction restraining any further or future publication of the works complained of or any similar defamatory matter.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

District Court of Nicosia: 29; District Court of Limassol: 20; District Court of Larnaca: 18; District court of Paphos: 11.

23. Average and maximum amount of fines/damages paid

Average: 10,000 CYP;
maximum: 30,000 CYP.

24. Other court practices

A significant number of civil defamation cases are settled by withdrawing the offending publication or by publishing an amending one.

Czech Republic

This report is based on the data provided by the Government of the Czech Republic.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes, to a certain extent (see question two). These responses do not include legislation on defamation or hate speech against racial, religious, ethnic or other groups.

2. Are there specific provisions protecting government officials and/or public figures?

Yes, criminal offence of contempt of the court (Section 169b of the Criminal Code), criminal offence of slander of state body because of performance of its duties or in the course of performance thereof (S. 154 para 2 of the Criminal Code).

3. Are there specific provisions protecting state, state symbols and government institutions?

No

4. Changes made in criminal defamation legislation during the past ten years

Criminal offences of public defamation of the Czech Republic (S. 102 CC), and of public defamation of the President of the Republic because of performance of his/her duties or because of his/her political activity (S. 103 CC) have been abolished in 1997.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Yes, the Ministry of Justice prepared new Penal Code, which is being discussed by the Parliament. Neither the provision on slander of state body (S. 154 para 2 CC) nor provision on libel (S. 206 CC) are included in this proposal.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

The most severe deprivation of liberty for offences under S. 169b or 206 CC is two years imprisonment. For offence under S. 154 para 2 CC it is one year imprisonment.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Maximum fine is 5 million CZK /approx.168 067 EUR as of 21 March 2005/, however, this is simply a maximum fine applicable to almost all criminal offences (S. 53 CC). Minimum fine is 2000 CZK /approx. 68 EUR as of 21 March 2005/. Proportionality must be observed. The court must take into account personal and financial situation of the offender (S. 54 CC).

8. Administrative consequences of a conviction

No, but the court may ban the offender from performing specific activity (S. 49 CC) for up to ten years, if the offence has been committed in connection to that activity.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

Data are available only for S. 206 CC, as the other provisions cover more types of conduct (including threats of death, frustration of court activity etc.), not only defamation. Therefore, data available would not be representative. In any case, maximum sentence actually imposed under S. 154 CC in 2002 – 2004 did not

exceed 1 year; the same applies to offences under S. 169b CC, while the ratio of persons accused to persons convicted was about 3:2.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

2002 – 2004/ S. 206
179 Persons accused
64 Persons convicted
1 Prison terms served

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

Maximum: One year

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

No

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No. Civil law provisions cannot engage criminal liability, as far as the Czech legal system is concerned.

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the last 10 years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Denmark

This report is based on the data provided by the Government of Denmark

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

No

4. Changes made in criminal defamation legislation during the past ten years

In 1995, subsection 2 of section 266b was added. Consequently, it is now considered a particularly aggravating circumstance if the conduct prescribed in section 266b is characterized as propaganda.

The sections 121, 266b, 267, 268 have been changed in connection with the abrogation of simple detention.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No amendments currently being planned or discussed.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Sections 266 b and 268 in the Danish Criminal Code prescribe a maximum term of imprisonment not exceeding two years.

According to section 115 of the Danish Criminal Code, the penalty for offences against personal honour and certain individual rights may be doubled if the offence was committed against the sovereign or the constitutional regent.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

There is no specific maximum fine envisaged in the Danish Criminal Code.

8. Administrative consequences of a conviction

No consequences envisaged.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

Number of people accused of defamation, libel and insult in 2002:

defamation: 10;

libel: 1;

insult: 1.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

Number of people convicted of defamation, libel and insult in 2002

Offence	Suspended sentence	Charge omitted
Defamation	1	2
Libel	1	0
Insult	0	0

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

The Ministry of Justice does not have information concerning the total number of people who have served and are still serving prison terms for defamation, libel and insult. There were only two suspended sentences in 2002.

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

The Damages Liability Act, order no. 228 of May 23, 1984 (Erstatningsans-varsloven) has been changed several times. Section 26 on Compensation for Personal Injury was changed in 1995 by the insertion of subsection 2 and 3.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments are currently discussed or planned.

20. Maximum fines/damages

Unlimited

21. Other penalties

The Danish Press Council, which is an independent, public tribunal, can decide whether a publication has been made in contravention with the principle of good Press Practice, and whether a mass media is obligated to publish a retort from an injured person, including the content of the retort, its shape and placement in the mass media concerned, cf. the Danish Media Liability Act, section 43.

Furthermore, the Council can prescribe that the mass media, which the complaint concerns, shall publish a ruling from the Council, cf. section 49.

If a person is convicted and sentenced to a penalty (prison or a fine), damages or mortification because of the content of a mass media, the Court can decide, that the conviction shall be published in the media concerned as soon as possible, cf. section 54. The Press Council cannot impose a sentence on the mass media or assure the complainant financial compensation.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No other practices exist

Estonia

This report is based on the data provided by the Government of Estonia

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

The Penal Code took effect on 01.09.2002. The previous regulation, the Criminal Code, regulated defamation and insult in more general terms. According to Article 129 of the Criminal Code, dissemination of known false or embarrassing, unfounded information about another person was punishable by a fine.

Defamation in print or by other means accessible by several persons, or in a petition or anonymous letter submitted to a state, non-profit or other organisation was punishable by a fine or detention.

Insult was regulated in Article 130 of the Criminal Code. The Article stated that degradation of the honour or dignity of another person in an improper manner was punishable by a fine or detention.

The Penal Code now prescribes defamation and insult towards the state and the state authorities only.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No amendments are currently being discussed or planned.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Two years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

For a criminal offence, the court may impose a pecuniary punishment up to 500 daily rates. The court shall calculate the daily rate of a pecuniary punishment based of the average daily income of the convicted offender.

8. Administrative consequences of a conviction

According to Article 40 Section 4 Clause 5 of the Broadcasting Act, the Ministry of Culture shall refuse to issue a broadcasting licence if the activity applied for is illegal. There is no provision stating that a broadcasting licence may be revoked on the bases of defamation, libel or insult.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

Pursuant to Article 129 of the Criminal Code 27 people were prosecuted since the end of 2001 and until the enforcement of the Penal Code. Pursuant to Article 130 of the Criminal Code 12 people were prosecuted since the end of 2001 until the enforcement of the Penal Code.

Pursuant to Articles 247 and 305 of the Penal Code (since September 1, 2002) nobody has been prosecuted, pursuant to Article 275 of the Penal Code (since September 1, 2002) 249 people have been prosecuted.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

Pursuant to Articles 129 and 130 of the Criminal code four people were convicted. Pursuant to Article 129 four people received pecuniary punishment. Pursuant to Article 130 three people received pecuniary punishment and one person was imposed detention.

Pursuant to Article 275 of the Penal Code 122 people have been convicted, of which 62 people received pecuniary punishment, 40 people received suspension of the sentence on probation, three people were sentenced to fines, 15 people were sentenced to imprisonment, one person was released from the sentence and in one case the sentence is not yet determined.

It should be noted that in most of the court cases settlement proceedings have been used, which means that the terms of the sentence are negotiated with the defendant.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

There are 15 people who are serving prison terms for defamation, libel and insult (Article 275 of the Penal Code).

12. Average and maximum lengths of prison sentences

Average: 4.5 months;
maximum: one year.

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

The Law of Obligations Act entered into force 1 July 2002. Before that the protection against defamation was stipulated in the General Principles of the Civil Code Act.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments currently discussed or planned

20. Maximum fines/damages

Unlimited

21. Other penalties

According to Article 1043 of the Law of Obligations Act, a person (tortfeasor) who unlawfully causes damage to another person (victim) shall compensate for the damage if the tortfeasor is culpable of causing the damage or is liable for causing the damage pursuant to law.

Article 1046 Section 1 of the Act states, the defamation of a person, *inter alia*, by passing undue judgment, by the unjustified use of the name or image of the person, or by breaching the inviolability of the private life or another personality right of the person is unlawful unless otherwise provided by law.

According to Article 1047 Section 4, in the case of the disclosure of incorrect information, the victim may demand that the person who disclosed such information refute the information or publish a correction at the person's expense regardless of whether the disclosure of the information was unlawful or not.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

According to individual articles of the Law of Obligations Act the statistics is not compiled.

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Finland

This report is based on the data provided by the Government of Finland

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes (the National Flag)

4. Changes made in criminal defamation legislation during the past ten years

No major changes have occurred. New provisions adopted in 2000 introduced primarily technical changes.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No amendments currently being discussed or planned

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Two years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

120 unit fines

8. Administrative consequences of a conviction

No administrative consequences

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

550 (this number includes the number of both criminal and civil cases; in Finland, there is no separate criminal and civil court statistics concerning cases of libel, defamation and insult).

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

510 (this number includes the number of both criminal and civil convictions; in Finland, there is no separate criminal and civil court statistics concerning cases of libel, defamation and insult).

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Three

12. Average and maximum lengths of prison sentences

Average: 4.5 months;
maximum: 5.5 months.

13. Average and maximum amounts of fines

Average: 24 unit fines;
maximum: 65 unit fines.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes have occurred

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

The provision on civil liability for defamation, libel and insult contained in Tort Liability Act (Ch. 5 Sec. 6) has been amended by the Act on Personal Injury Reform which was passed by the Parliament in June 2004 (509/2004). The amendment will enter into force on 1 January 2006. The main features of the amended Ch. 5 Sec. 6 reform relevant in this context are as follows:

- defamation, libel or insult must constitute a criminal act in order to entitle the person offended against to claim compensation;
- the Section contains a generally applicable, non-exhaustive list of factors that must be taken into consideration when assessing compensation payable for an offence, e.g. defamation, libel or insult. The factors listed are the nature of the offence, the position of the person against whom the offence has been committed, the relationship between the offender and the person against whom the offence has been committed, and the publicity of the offence. No limit as to the amount of compensation is provided for.

20. Maximum fines/damages

Unlimited

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

See *Criminal Practice*

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

France

This report is based on the data provided by the Government of France

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

No. The French criminal law provides for three categories of offences: crimes, delicts and misdemeanours. Defamation as well as insult are delicts. However, when they are not public, they are misdemeanours (Articles R-621-2, R-624-4 and R-624-5). Libel is a delict.

2. Are there specific provisions protecting government officials and/or public figures?

Yes. Libel against one or several members of the government, one or several deputies of one or the other legislative chambers, state officials, representatives of the government, ministers of one of the religions subsidized by the state, individuals entrusted, on an *ad hoc* or permanent basis, with discharging any work or assignment of public importance, jurors or witnesses in courts and other judicial bodies, members of the armed forces or other government agencies is punishable with a fine of € 45,000 (Articles 30 and 31 of the Law dated 29 July 1881); libel against an individual is punishable with a fine in the amount of € 12,000.

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes. Insult against the President of the Republic is punishable under Article 26 of the Law dated 29 July 1881.

In addition, under Articles 433-5 and 433-5-1 of the Criminal Code, libel against a government representative and desecration of the tricolour and of the national anthem are punishable offences.

4. Changes made in criminal defamation legislation during the past ten years

The major amendment under the Law dated 9 March 2004 was abrogation of such delict as insult against head of a foreign state. The amendment was enacted pursuant to the relevant ruling of the European Court of Human Rights.

In addition, the enactment of the Law dated 9 March 2004 extended the statute of limitations for racially based libel and insult from three months from the date of the offence was committed, to twelve months, irrespective of how the libel or insult was disseminated, including the Internet.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Yes, they relate to liability for statements of a misanthropic nature.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Under the Law dated 15 June 2000 most terms of imprisonment for libel or insult were repealed. However, libel against a person or a group of persons for reasons of their origin or affiliation with a particular ethnic group, nation, race or religion may be punishable with imprisonment for a term of not more than twelve months (Article 32, Part 2, of the Law dated 29 July 1891).

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Fine of € 45,000 (Articles 30, 31 and Article 32, Part 2, of the Law of 29 July 1881).

8. Administrative consequences of a conviction

Conviction for delicts of defamation, insult or libel does not give rise to any special administrative consequences. Conviction for such offences entails the same consequences as any other offences relating to the category of delicts. Specifically, this is in reference to the relevant entries made in criminal records.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

See [Annex](#).

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

See [Annex](#).

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

See [Annex](#).

12. Average and maximum lengths of prison sentences

See [Annex](#).

13. Average and maximum amounts of fines

See [Annex](#).

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments are currently being discussed or planned.

20. Maximum fines/damages

Unlimited. The amounts payable as damages and interests depend on the level of damages incurred. There are no upper or lower limits.

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Georgia

This report is based on the data provided by the OSCE Mission to Georgia

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

No

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

No

4. Changes made in criminal defamation legislation during the past ten years

Criminal liability for libel was revoked by the parliament of Georgia on 15 July 2004. It had been on the books since the Soviet period, but was never used because it was subject to private prosecution and burden of proof.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Not applicable

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Not applicable

8. Administrative consequences of a conviction

Not applicable

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

0

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

0

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

Not applicable

13. Average and maximum amounts of fines

Not applicable

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

On 15 July 2004 the Law on Freedom of speech and expression was adopted which, *inter alia*, guarantees absolute privilege for protection of opinion, establishes clear conditions for restriction of freedom of speech, narrowing down possibilities of such restrictions, substantially limits interpretation of a statement as defamatory, increases obligation of public servants to tolerate criticism, puts burden of proof on plaintiff, etc.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No

20. Maximum fines/damages

Unlimited

21. Other penalties

Retraction of libellous statement

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

45 (data were collected from Tbilisi, Kutaisi, Rustavi and Poti District and Regional jurisdiction courts, as well as the Supreme Court of Georgia and may be incomplete).

23. Average and maximum amount of fines/damages paid

Average: 2,000 USD;
maximum: 25,000 USD.

24. Other court practices

Not applicable

Germany

This report is based on the data provided by Mr. Michael Fricke, Attorney-at-Law, Germany, which was commissioned by Reporters sans frontières at OSCE RFOM's request.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No changes

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Five years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Not specified in the Criminal Code

8. Administrative consequences of a conviction

Administrative consequences concern companies only, but not private individuals. No case has been reported of imposing such consequences on companies whose employees were convicted for defamation or insult.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No figures published

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No figures published

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No figures published

12. Average and maximum lengths of prison sentences

No information available about any sentence to imprisonment for defamation or insult

13. Average and maximum amounts of fines

The maximum amount cannot be specified because it depends on the size of the income of the convicted. The maximum fine in a case that was made public was € 9,000.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments are being discussed or planned.

20. Maximum fines/damages

Unlimited (subject to judgment of courts)

21. Other penalties

Not applicable

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No figures published

23. Average and maximum amount of fines/damages paid

According to the cases that were made public, the fines range from € 1,000 to € 35,000.

24. Other court practices

No other practices

Greece

This report is based on the data provided by the Government of Greece

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No changes

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No amendments are being discussed or planned.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Five years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

€ 15,000

8. Administrative consequences of a conviction

There are no administrative consequences

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

Prison sentences usually last from 12 months to two years.

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

New institutional Law 2239/1994 on Trademarks (Article 28 contains provisions envisaging criminal liability for insulting state symbols).

18. Changes occurred in civil libel legislation within the past ten years

The changes constitute the law 2243/1994.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments are being discussed or planned.

20. Maximum fines/damages

If the offences are committed through the press, the fine cannot be less than € 29,347 for the newspapers of the districts of Athens and Thessaloniki and the magazines distributed through the newspapers agencies, and not less than € 5,869 for the rest of newspapers and magazines. In the case of nationwide television stations, the amount is € 293,470 and for radio stations of the same kind it is € 146,735. For the rest the fine is € 58,694.

21. Other penalties

Publication of a summary of the sentence

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

See pt. 20 *Maximum fines/damages*

24. Other court practices

No information available

Holy See

This report is based on the data provided by the Holy See

HOLY SEE: Notes on the Defamation, Libel and Insult Legislation

The legislation of the Holy See on defamation, libel and insult is based on the *Code of Canon Law*^{*} and on the laws of Vatican City State.

Regarding the **canonical norms**, one should cite (in Latin and English) at least canons 220; 1369; 1390 §§ 1-3; 1455 § 3 together with canon 1457 §§ 1-2; 1470 § 2, with an explanation of the meaning of *censure* (canons 1331-1333) and *just penalty* (1349).

Regarding the **legislation of the Vatican City State**,

- The Italian Penal Code applicable in the Vatican City State is the Italian Penal Code in force on June 8, 1929 (cfr. Art. 4, 1, 7 June 1929, N. II), namely, the Italian Penal Code approved on 30 June 1889 (the so-called *Zanardelli Code*), “together with the laws that have modified or integrated it, as well as with its relative ordinances” (Art. 4, 1, 7 June 1929), until 31 December 1924 (Vatican Law 1969/50, Art. 39).
- The existing Code of Canon Law (cfr. above) is in force in the Vatican City State and, per se, prevails over the received Italian Penal Code (cfr. Art. 1, 1, 7 June 1929, N. II), but sane doctrine suggests that its prevalence and application be limited only to the ecclesiastical sphere and not extended to the secular one.
- The “laws promulgated for the Vatican City State by the Supreme Pontiff or by another authority delegated by him, and the ordinances legitimately promulgated by the competent authority” prevail, per se over the received Italian Penal Code (Art. 1, 1, 7 June 1929, N. II), but the laws and ordinances promulgated until now (2004) do not directly treat any matters concerning defamation, libel and insult. The laws that pertain to this matter, and then only in a general way, concern only the revaluation of payments of fines.
- The application of the received Italian Penal Code is subject to the following clauses:
 - if they are not contrary to the precepts of divine law (cfr. Art. 3, 1, 7 June 1929, N. II);
 - if they are not contrary to the general principles of (canon) law (cfr. Art. 3, 1, 7 June 1929, N. II);
 - if they are not contrary to the norms of the Treaty and Concordat between the Holy See and Italy (cfr. Art. 3, 1, 7 June 1929, N. II);
 - if they are applicable “in relation to the existing state of affairs in the Vatican City State” (Art. 3, 1, 7 June 1929, N. II).

^{*} Full text of the *Code of Canon Law* can be found at <http://www.vatican.va/archive/ENG1104/INDEX.HTM>

Hungary

This report is based on the data provided by the Government of Hungary

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

The Criminal Code was modified in 1993 by the Act XVII of 1993, which introduced, as a punishment of defamation and libel, “labour in the public interest” instead of “corrective educational work” (Article 75). Neither the criminal liability for such acts, nor the imprisonment provisions have been revoked.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Both crimes are stable and easy to apply by courts. Therefore there are neither legislative proposals nor future plans being discussed at present in order to amend these provisions.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Defamation is punishable by not more than 2 years imprisonment while libel is punishable by not more than one year (Criminal Code, Articles 179 (2) and 180 (1)).

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

According to the Article 51 of the Criminal Code, the maximum amount of the fine shall equal 540 days’ items. The maximum amount of an item is 20,000 HUF, thus the highest fine possible is 10,800,000 HUF (about € 43,440).

8. Administrative consequences of a conviction

Yes, there are. By virtue the Act LXIX of 1999 on the Offences, Article 138, a person committing a libel may be fined up to 50,000 HUF.

Other, not criminal law-related consequences are covered with civil law provisions.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

30 persons were accused of defamation and 165 people of libel (1 January 2002 – 30 June 2004).

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

27 persons were convicted of defamation and 160 for libel (1 January 2002 – 30 June 2004).

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Concerning the defamation cases, 6 persons were punished by imprisonment, but all of them were sentenced on probation. At the time of reporting, one person was serving a prison term.

As regards the libel cases, 59 persons were punished by imprisonment, of which 39 were sentenced on probation. Out of the 20 prisoners, two persons are still serving prison terms at the time of reporting.

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No. (The Constitutional Court – with regard to the practice of the European Court of Human Rights – held in its decision No. 36/1994. (VI. 24.) ABH that public persons, including politicians, state officials etc. can be criticized stronger by the press or the public opinion; in other words their protection is weaker in this field.)

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

There were no changes concerning the provisions on libel in the Act IV of 1959 on the Civil Code (hereinafter: Civil Code) within the past ten years. The same provisions exist from 1 March 1978.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

The Concept of the new Civil Code proposes a new way to provide pecuniary compensation for infringements of personality rights. It proposes to award non-economic damages in cases where the violation of a personality right does not result in any economic detriment on the part of the injured party, yet compensation should be provided on the basis of other aspects. This amendment is designed to offer more effective protection of personality rights under private law, as the court would not be compelled to examine and demand proof of injury on the part of the aggrieved party for awarding non-economic damages. This practice would also eliminate the “burden of proof” as it is frequently required under the current system, where the court is compelled to determine (construe) the degree of injury suffered by the plaintiff, even though it cannot be expressed in monetary terms, before awarding non-pecuniary damages.

In addition to non-economic damages, damages would remain in effect in the current form under the rules of liability for damages [Civil Code, Article 84 (1) e)]. Damages and non-economic damages could be awarded separately or together.

The new Civil Code would not contain the penalty for violations of personality rights in the form of a fine to be used for public purposes [Civil Code, Article 84 (2)]. This concept is not used in practice and is considered alien to private law, and it would become obsolete with the introduction of non-economic damages.

A bill (No. 10420) extending the use of the Civil Code provisions on the infringement of personality rights to cases where an individual is injured as a member of a community (e.g. ethnic minorities) is under discussion in the Parliament.

20. Maximum fines/damages

Unlimited

21. Other penalties

Under Article 79 (1) of the Civil Code if a written or other medium publishes or disseminates false facts or distorts true facts about a person, this person shall be entitled to demand, in addition to other actions provided by law, the publication of an announcement to identify the false or distorted facts and indicate the true facts (rectification).

According to the Article 84 of the Civil Code, the other consequences are:

- a) demand a court declaration of the occurrence of the infringement;
- b) demand to have the infringement discontinued and the perpetrator restrained from further infringement;
- c) demand that the perpetrator make restitution in a statement or by some other suitable means and, if necessary, that the perpetrator, at his own expense, make an appropriate public disclosure for restitution;
- d) demand the termination of the injurious situation and the restoration of the previous state by and at the expense of the perpetrator and, furthermore, to have the effects of the infringement nullified or deprived of their injurious nature;
- e) file for compensation in accordance with the liability regulations under civil law.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

Since there are no specific provisions on libel and defamation in the Civil Code, the data collection cannot cover separately the civil cases based on these infringements. The category of personality rights infringement cases exists only: 283 cases were finished in the first half of 2004. More information from the years of 2002 – 2003 is not available because this type of lawsuits has not been registered before.

23. Average and maximum amount of fines/damages paid

Since the Civil Code does not contain provisions on the extent of compensation, it is the judicial practice to determine it. By virtue of that the amounts of compensation, depending on the weight of the infringement, oscillate between 100.000 and 500.000 HUF (€ 400 and € 2,000).

24. Other court practices

As far as criminal defamation and libel cases are concerned, Article 52 of the Criminal Code declares: "In case of non-payment, the fine shall be changed into imprisonment executable in a detention centre. The amount of one day's item shall be substituted by one day of imprisonment. In such cases the term of imprisonment may be less than two months." In addition, labour in public interest can also be substituted for imprisonment. According to the Article 50 of the Criminal Code, if the convict does not voluntarily satisfy his work obligation, labour in the public interest or its remaining part shall be substituted for imprisonment. This imprisonment shall be executed in a detention centre. Its duration may be from one to 50 days.

Iceland

This report is based on the data contained in the publication *Aperçu des législations nationales en matière de diffamation et d'injure* (Strasbourg, le 12 décembre 2003). This publication was prepared by the Media Division of the Directorate General of Human Rights of the Council of Europe.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

No information available

4. Changes made in criminal defamation legislation during the past ten years

No information available

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

No information available

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

No information available

8. Administrative consequences of a conviction

No information available

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

No information available

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Ireland

No information on Ireland is currently available

Italy

This report is based on the data provided by the Government of Italy

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

Articles 344 and 241 of the Criminal Code (action in contempt of a civil servant and action in contempt of public official) under Act n. 205/99 have been revoked. However, such behaviour may qualify as insult (article 594 of the Criminal Code) and also aggravated insult (article 6, circumstance n. 10, of the Criminal Code), and are punishable if a claim is made.

Under Act n. 274 of 28 August 2000, the offence of generic insult was included in the competences of the justice of the peace and the fine was increased (from € 258 to € 2,582, previously the maximum fine was 1 million Lira).

The penalty for the offence of insult with attribution of a certain fact was increased. The previous fine, amounting to a maximum of 2 million lira, was replaced by a fine from € 258 to € 2,852 and a penalty of either house arrest for six to 30 days, or a penalty to perform community service for a period from ten days to three months was introduced.

Under the same Act, the justice of peace was assigned the competence of deciding on the offence of generic defamation (article 595, paragraph 1) and defamation with attribution of a certain fact (article 595, paragraph 2). Here too, a penalty was introduced envisaging either house arrest for a period from six to 30 days, or the penalty to perform community service for a period from ten days to three months.

Moreover, the Act dated 6 August 1990 (article 30 n. 4) establishes that in case of defamation on television, with the attribution of a certain fact, the private or public licensee, or the person in charge of monitoring the broadcast, are punishable with a term of imprisonment from one to six years and a fine of at least 100,000 Lira (equal to € 51.65).

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Debates in Parliament and draft legislation:

- a) bill dated 21.05.02 – re-introduction of the offence of action in contempt of public official;
- b) government's bill dated 13.2.03 – re-introduction of action in contempt of certain public officials;
- c) bill dated 16.03.02 – new rules on libel through the press, television, internet or other means of dissemination;
- d) bill dated 12.12.01 – amendments to the Criminal Code on libel through the press;
- e) bill n. 1177 introduction of an independent notion of libel through the press and introduction without constraints of the exception veritatis;
- f) government's bill dated 01.06.01 – provisions on libel through the press or other means of dissemination;
- g) bill dated 28.07.99 – amendments to the notion of libel through the press.

The above-indicated bills aim at changing the following points:

- A) introduction of an independent notion of offence for libel through the press;
- B) Now the only penalty for insult and defamation is a fine;
- C) extension of the notion of exception veritas for all cases of attribution of a certain fact, or, in other cases, when there is also a public interest in providing the news or the defamation has been made through the press or by any other means of publicity;
- D) in case of libel through the press, if a remedy is made within two days in the same way as the defamatory statement was disseminated, no punishment can be applied; or if, within two days, the person responsible for it has the opportunity to deny it with the same publicity;
- E) in case of libel through the press, no punishment can be applied, if the source is quoted and if the statement was communicated personally, or the statement was reported by at least two press agencies

The bill which is closest to being adopted is bill n. 26 of 2001 – together with bill n. 385 of 2001 – which establishes, *inter alia*, the revocation of the term of imprisonment for insult and defamation, including libel through the press.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Generic insult: not more than six months imprisonment.
Insult with attribution of a certain fact: not more than one year imprisonment.
Generic defamation: not more than one year imprisonment.
Defamation with attribution of a certain fact: not more than two years imprisonment.
Libel through the press, television or other public means: not more than three years imprisonment.
Libel through the press with attribution of a certain fact: not more than six years imprisonment.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Generic insult: not more than € 516.
Insult with attribution of a certain fact: not more than € 1,032.
Generic defamation: not more than € 1,032.
Defamation with attribution of a certain fact: not more than € 2,065.
Libel through the press, television or other public means: minimum fine: € 516 (no maximum amount is indicated).
Libel through the press with attribution of a certain fact: minimum fine: € 516 (no maximum amount is indicated).

8. Administrative consequences of a conviction

Under article 31 of the Criminal Code, any conviction for abuse of a profession or art implies a ban on exercising such profession or art. Therefore, journalists convicted for libel through the press or any other means of publicity may be banned from exercising their profession, as it is mandatory to be members of a professional board.

However, it must be noted that in some cases the judge has decided that an isolated and not particularly serious event is not sufficient to require the application of the ancillary punishment.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No changes currently discussed

20. Maximum fines/damages

Unlimited

21. Other penalties

Publication of convictions, seizure of defamatory publications, obligation to publish statements denying defamatory statements

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

In civil law, there is no such case; in particular, in the Italian system, the indemnification of civil damages is totally separate and independent from any fines envisaged in the criminal law, also as a substitute for prison terms

Italy

This report is based on the data provided by Reporters sans frontières

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No changes

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Parliament is currently studying a substantial modification of libel and insult provisions. The draft was prepared by a parliamentary commission.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Six years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

No information available

8. Administrative consequences of a conviction

The Counsel of Order of journalists can independently initiate a disciplinary procedure. In the law project under discussion, an automatic intervention of the Counsel is anticipated in cases of conviction for defamation. The Counsel can impose a sanction suspending exercise of the profession for one to six months.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

91 cases were examined by courts in Milan where most of the Italian newspapers are headquartered in 2001 and 2002.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

Average: 0;
maximum: 0.

13. Average and maximum amounts of fines

Average: no information available;
maximum: € 258 for defamation, € 1,032 for insult.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

Reducing the time of prescription of the civil action from five years to one year is currently being discussed.

20. Maximum fines/damages

Unlimited

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

157 cases were examined by courts in Milan where most of the Italian newspapers are headquartered in 2001 and 2002.

23. Average and maximum amount of fines/damages paid

Average: € 23,221.12;
maximum: € 250,000.

24. Other court practices

No other practices

Kazakhstan

This report is based on the data provided by the OSCE Centre in Almaty

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

Liability was introduced for libel coupled with accusing a person of committing a corruption, grave or especially grave crime.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Adil Soz foundation produced a draft proposal on decriminalisation of libel and insult and sent it to the Government and Parliament. There was no reaction.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Five years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Equal to the salary or other income of the convicted person for 10 months

8. Administrative consequences of a conviction

Art. 345 of the Code of Administrative Wrongdoings envisages liability for a refusal to publish refutation, or a reply to information, which infringes on the rights and legitimate interests of citizens and organisations, as well as for violation of the envisaged order and term of the refutation or reply.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

In 2002, one journalist was sentenced to a fine (€ 301) for infringement on honour and dignity of the president.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

Average: 0;
maximum: 0.

13. Average and maximum amounts of fines

Average: no information available;
maximum: € 301.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

The Supreme Court decree of 21 June 2001 specified procedures of bringing charges for libel and moral harm. Only private individuals can now bring such charges because organisations and institutions do not have honour or dignity to be insulted. However, the decree is not always obeyed by courts.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

Some amendments have been included in the new draft law on Mass Media, which has been denied by the Constitutional Court.

20. Maximum fines/damages

Unlimited

21. Other penalties

Right to reply, refutation, compensation of moral harm

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

23. Average and maximum amount of fines/damages paid

Average: the Average amount is difficult to calculate because sums fluctuate between € 24 and 6,000;
maximum: € 300,000 (*The Assandy Times v. Presidential Administration*, now under appeal to higher courts).

24. Other court practices

In some cases of infringement on honour and dignity of the president, the convictions were amnestied.

Kyrgyzstan

This report is based on the data provided by the OSCE Centre in Bishkek

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No changes

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Decriminalization of slander and insult was discussed in the Parliament twice but it was not supported. The pieces of legislation discussed were Article 127 "Slander" and Article 128 "Insult" of the Criminal Code of the Kyrgyz Republic.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Up to 3 years of imprisonment for slander

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Up to € 2,000 for slander, up to € 200 for insult

8. Administrative consequences of a conviction

There are no such norms in the Administrative Code; any decision of supervising bodies can be appealed in court.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

0

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

Average: 0;
maximum: 0.

13. Average and maximum amounts of fines

Average: 0;
maximum: 0.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments currently discussed or planned

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Latvia

This report is based on the data provided by the Government of Latvia

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes. (Article 93 prescribes liability for the public desecration of the state symbol (the coat-of-arms of Latvia, the national flag of Latvia and the national anthem of Latvia). No criminal liability is prescribed for desecration (slander) of the state and public institutions.)

4. Changes made in criminal defamation legislation during the past ten years

The Criminal Law was enacted on 17 June 1998 and became effective as of 1 April 1999. Since its enactment, the following amendments have been introduced: 1) criminal liability for the defamation of a candidate to the Saeima (Parliament) (Article 91 of the Criminal Law) has been revoked; 2) criminal liability for defamation and injuring the dignity of a representative of public authority and other public official (Article 271 of the Criminal Law) has been revoked. This was done to ensure equality of individuals. In addition, penalties were reinforced in: Article 156 (Defamation) the amount of the fine was increased from minimum 10 to 50 monthly wages; Article 157 (Bringing into Disrepute) the amount of the fine was increased from minimum 20 to 60 monthly wages.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Currently a draft Law has been formulated amending Article 158 of the Criminal Law, providing criminal liability for intentional defamation or bringing into disrepute via mass media or by using public data transmission networks or telecommunications (e-mail, Internet, SMS). The draft Law has been submitted to the Saeima (Parliament).

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

At present only Article 158 of the Criminal Law "Defamation and Bringing into Disrepute in Mass Media" prescribes deprivation of liberty for a term of not more than one year, or custodial arrest (that is the maximum term).

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

The maximum fine for offences included in the questionnaire is 60 minimum monthly wages. It is provided by Article 157 of the Criminal Law "Bringing into Disrepute". In 2004, the minimum monthly wage was established in the amount of LVL 80 (LVL 80x 60= LVL 4,800). The exchange rate of the Lats (LVL) against the euro is established by the Bank of Latvia. At present, the exchange rate is sufficiently stable, the maximum fine is about € 7,250.

8. Administrative consequences of a conviction

Article 44 of the Criminal Law provides an additional penalty – the limitation of rights (deprivation of a licence, prohibition to engage in specific activities or other limitations of rights). At present, there are no additional penalties – limitation of rights – provided in the Special Part of the Criminal Law for criminal offences included in the questionnaire. Part 3 of Article 44 in the Criminal Law provides that the Court may also adjudge limitation of rights in cases when such punishment has not been provided for in the Sections of the Special Part of this Law, if the criminal offence has been directly related to the entrepreneurial activity or employment of the offender, or has been committed using, in bad faith, a special permit issued to them or rights conferred upon them.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

19

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

From 1 January 2002 until 31 December 2003, seven persons have been sentenced for defamation and bringing into disrepute. Information on court statistics is codified once a year, therefore data for the first half of 2004 are not available as of writing.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

The Ministry of Justice does not have information available on the number of persons serving prison sentences for criminal offences that are related to defamation and bringing into disrepute. However, in view of the fact that in 2002 and 2003 no person was sentenced to actual deprivation of liberty, it is possible that there are no such persons.

12. Average and maximum lengths of prison sentences

The maximum term of imprisonment that courts may adjudge for criminal offences that are related to defamation and bringing into disrepute is one year.

13. Average and maximum amounts of fines

Data on the amounts of fines and administrative court costs are not recorded.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

The Civil Law that is effective in Latvia at present was enacted in 1937, and the most recent amendments prescribing civil liability for injuring the reputation and dignity of a person were introduced by the Law of 22 December 1992. Within the past ten years no amendments of this nature have been introduced in the Civil Law.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

At present there are no draft laws, and no laws are in the process of being drafted, that would amend civil liability for injuring the reputation and dignity of a person.

20. Maximum fines/damages

Unlimited. The claimant justifies the reason and the amount of the material compensation he/she wants to receive; however, the amount of the compensation is established by court.

21. Other penalties

Retraction of untrue information can be demanded in respect of the injury of a person's reputation and dignity. If the untrue information has been disseminated in the press, such information must be retracted in the press.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

135

23. Average and maximum amount of fines/damages paid

Data on the moral compensation for defamation, libel and insult are not recorded.

24. Other court practices

Cases of defamation, libel and insult are heard by a single judge under the procedure prescribed by Civil Procedure Law and Criminal Procedure Law. In both court hearings, the case is initiated on the grounds of an application filed by an individual.

Liechtenstein

This report is based on the data provided by the Government of Liechtenstein

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes.

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes.

4. Changes made in criminal defamation legislation during the past ten years

No changes

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No amendments being discussed or planned

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Defamation: not more than year;
libel: not more than three years;
insult: not more than three months.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Defamation: a fine not exceeding 360 daily rates/ earnings;
Libel: a fine not exceeding 360 daily rates/ earnings;
Insult: a fine not exceeding 180 daily rates/ earnings;
The fine is to be determined as provided for by § 19 of the Penal Code by the personal circumstances and the economic/ earning capacity of the delinquent at the time of the judgement of the first instance. The daily rate is however fixed at a minimum of 10 francs (approx. € 6.50) and a maximum of 1,000 francs (approx. € 650).

8. Administrative consequences of a conviction

Direct administrative sanctions in case of any of the aforementioned offences are not envisaged by the law as it stands today. General privileges for media persons in case of offences compromising the dignity and honour of another are to be introduced by the new Media Law, which is, however, still awaiting discussion in parliament.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

Not applicable

13. Average and maximum amounts of fines

Average fines: 30-180 daily rates; court fees depend on the judicial procedure in question, in the main however not more than 1,000 francs (€ 650).

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

In Liechtenstein, a new Media Law is under preparation. The government proposal will be discussed in parliament in its first version in October 2004. The enforcement of the new Media Law seems to be planned for the beginning of the year 2005.

The Liechtenstein version of the new Media Law is based on the Austrian Media Law. In particular the articles 32 ff of the Liechtenstein version of a Media Law adopt the model for the reparation of damages of the Austrian Media Law, which provides for diverse privileges and additional reasons to prevent arrest (e.g. "allowed for journalistic care") for the media (concerns), and furthermore largely frees the individual journalist from personal arrest, without robbing the affected person of his/ her right to protection under the law.

20. Maximum fines/damages

Compensation in cases of conviction; the amount is unlimited.

21. Other penalties

Expectation of satisfaction in the case of wounded honour (i.e. expectation of ideal reparation of damage); Art. 40 para. 1 Personal and Commercial Law.

Instead of or in addition to the payment of a sum of money as satisfaction/ compensation, another form of satisfaction can be recognized in case of malicious cunning, such as a public apology in court/ as a legal document, publication of the judgement at the expense of the other party, donation of a sum of money to a charitable foundation or house or charity of the victim's choice, or to funds earmarked for the alleviation of poverty or such like, Art. 40 para. 3 Personal and Commercial Law.

Right to a counter-representation; Art. 40a para.1 Personal and Commercial Law.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Lithuania

This report is based on the data contained in the publication *Aperçu des législations nationales en matière de diffamation et d'injure* (Strasbourg, le 12 décembre 2003). This publication was prepared by the Media Division of the Directorate General of Human Rights of the Council of Europe.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

The new Criminal Code of Lithuania took effect on 1 May 2002. No information about changes is available.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

No information available

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

No information available

8. Administrative consequences of a conviction

No information available

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Luxembourg

This report is based on the data provided by the Government of Luxembourg

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

On June 8, 2004, the law on freedom of expression in the media was enacted. This law abolished the law dated 20 July 1869 concerning the press and offences committed by other means of publication, which featured specific provisions with respect to insult, outrage, defamation and slander against the Grand Duc and his family as well as against foreign Heads of State. The law of 2004 does not contain specific criminal provisions. The provisions of the Penal Code are still in force.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No amendments being discussed or planned

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Article 144, outrage against religious symbols, is punishable by not more than six months, Art. 275, not more than two years, Art.385-1, outrage against public policy, not more than one year , Art.444, defamation, not more than one year, Art.448, insult, not more than two months.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

€ 5,000 (art.144), € 10,000 (art.275), € 12,500 (art.385-1), € 2,000 (art.444), € 5,000 (art.448)

8. Administrative consequences of a conviction

According to article 35 of the Media Law, a broadcasting license may be revoked/suspended in case of a violation of the provisions of said law. As each programme must comply with the provisions of article 6 of the Media Law, one could argue that the repeatedly and continuous violation of the abovementioned article could result in the revocation of the license. However, so far such a decision has not been taken.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No legal criminal action has been taken against a journalist within the reported period.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

Nobody has been convicted under criminal provisions within the reported period

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

Not applicable

13. Average and maximum amounts of fines

Not applicable

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments being discussed or planned

20. Maximum fines/damages

No information available

21. Other penalties

None

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

Approximately 10 cases have been brought before Luxembourg civil courts within the reporting period.

23. Average and maximum amount of fines/damages paid

During the reporting period, the maximum amount to the payment of which a journalist had been condemned was one euro.

24. Other court practices

No information available

The former Yugoslav Republic of Macedonia

This report is based on the data provided by the OSCE Spillover Monitor Mission to Skopje

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes (penalties are also envisaged for insulting a foreign state and its symbols)

4. Changes made in criminal defamation legislation during the past ten years

Minimal fines for libel and defamation have been removed, however libel remains part of the criminal code and imprisonment remains an option for punishment.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Latest changes made on 30 March 2004, no current decisions on further changes

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Three years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Minimum and maximum fines are no longer defined by the law.

8. Administrative consequences of a conviction

The criminal code prescribes no administrative action as a result of a conviction for libel or defamation.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

2002: 105 suits by private individuals, 46 of which were against journalists. 2003: 78 suits by private individuals, 41 of which were against journalists. 2004: information not yet available.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes (under Torts and misdemeanours although under misdemeanours it is referred to as "conveying wrong information" and not directly as libel).

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments currently discussed

20. Maximum fines/damages

€ 5,000 under the misdemeanour charges. Under torts one may seek undefined amount of "pecuniary damages" to be paid.

21. Other penalties

Tapes and publication may be destroyed or seized, the court judgment may be ordered to be published at the expense of the defendant.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

Not found

24. Other court practices

No other practices

Malta

This report is based on the data provided by the Government of Malta

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

The Act X of 1996 repealed the former Article 38 of the Press Act, whereby press offences were excluded from certain benefits granted by the Probation of Offenders Act. Criminal liability for libel (which includes defamation and insult through the press) can entail a maximum sentence of three months imprisonment under Article 11 of the Press Act, but imprisonment has not been applied as a punishment for a press offence for about 30 years.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

A White Paper entitled *Towards a Better and more Expeditious Administration of Justice* published on the 21st January 2005 by the Ministry for Justice and Home Affairs states the Government's intention to abolish the punishment of imprisonment in the Press Act with regard to libel.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Libel through the press is regulated by the *Press Act* and not under the Criminal Code. The maximum term of imprisonment is of three months.

Defamation other than through printed matter or broadcasting is regulated by the Criminal Code and the same punishments apply.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

LM 500 (around € 1,170)

8. Administrative consequences of a conviction

There are no such administrative consequences. Upon conviction for libel the Court may however, at the request of the injured party, order the publication of a summary of the judgment in the newspaper or on the broadcasting station concerned.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

12

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

Convicted: 1 person;
acquittals: 5 persons;
withdrawals by complaint: 2 persons;
pending Cases: 4 persons;
fined: 1 person;
(fine of LM 20, approx. € 46.80).

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

Not applicable

13. Average and maximum amounts of fines

During the reporting period only one LM 20 (€ 46.80) fine was imposed.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No.

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No.

18. Changes occurred in civil libel legislation within the past ten years

In 1996 the maximum amount of civil (moral) damages payable in respect of libel was increased from LM 2,000 (€ 4,680) to LM 5,000 (€ 11,700).

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments are currently being discussed.

20. Maximum fines/damages

The maximum amount of moral damages payable in a civil action for libel is of LM 5,000 (€ 11,700). The plaintiff can only be awarded a higher amount if he/she proves actual damages.

21. Other penalties

No such measures are provided for as penalties.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

A total of 49 cases:

withdrawn: 4;

put off sine die: 3;

abandoned: 2;

pending: 30;

decided: 10 (an appeal has been lodged in 6 of the 10 decided cases).

23. Average and maximum amount of fines/damages paid

Average: LM 600 (around € 1,404);

maximum: LM 1,000 (around € 2,340.00).

24. Other court practices

No other practices exist

Moldova

This report is based on the data provided by the OSCE Mission to Moldova

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

No: General calumny.

Yes: Insult of judges, persons carrying criminal investigations accompanied by the accusation of committing a grave crime; insult of the military superior by the military inferior, and *vice versa*.

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

1. Classic calumny was decriminalised on 07.05.04;

2. Criminal legislation in force since 12.06.03 does not sanction classic insult, except the insult of the military by another military;

3. The sanctions for calumny of a judge or other person who contributes to the achievement of justice in the Criminal Code in force since 12.06.03 increased in terms of pecuniary fine (from up to 480 MDL to up to 10000 MDL), but decreased in terms of imprisonment term (from no more than three to no more than two years).

4. The Code of administrative contraventions still allows imprisonment for insult or calumny for up to 30 days.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No changes currently under discussion

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Seven years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

€ 1,088

8. Administrative consequences of a conviction

Art.347, paragraph 3 of the Criminal Code allows the judge, in addition to the primary sanction, to ban the person who was responsible for supervising the use of state symbols from exercising the same activity for five years.

Art.203/2, paragraph 3 of the Criminal Code in force before 12.06.2003 obliged the judge, in addition to the primary sanction, to dismiss the person who previously was responsible for supervising the use of state symbols.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

There have been no convictions for general libel since 1993. A few people were sentenced to detention under the provisions of the Code of Administrative Contraventions

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

1. On 02.09.1999 the article 7 of the Civil Code was modified to exclude claiming moral damages for insult.

2. The Civil Code in force from 12.06.03 does not establish limits of the moral damage the judge can award for defamation, differently from the Art.7/1 of the old Civil Code that limited the amount of moral damage possible to award for defamation to 1,800 MDL (€ 125) from the natural person and 3600 MDL (€ 250) from the legal person.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

The President of Moldova in his statement pleaded for the introduction of the limits for moral damages for defamation.

It is expected to result in an initiative aimed to modify Art. 16 of the Civil Code, establishing limits for the moral damages possible to award to the applicant for defamation.

20. Maximum fines/damages

Unlimited

21. Other penalties

Publication of a denial

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No precise information available. The national courts examine at least 600 civil defamation cases every year.

23. Average and maximum amount of fines/damages paid

Average: no information available;
maximum: € 125,000 (has not been paid yet).

24. Other court practices

Not applicable

Monaco

No information on Monaco is currently available

Netherlands

This report is based on the data provided by the Government of the Netherlands.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes: Articles 111, 112, 113, 118, 119, 137c, 137e, and Title XVI of Book II (Defamation) – Articles 261, 262, 266, 267, 268, 270, and 271

2. Are there specific provisions protecting government officials and/or public figures?

Yes: Articles 111, 112, 113, 118, 119, and 267

3. Are there specific provisions protecting state, state symbols and government institutions?

Article 267, however, the offences mentioned above in question two could be interpreted as offences indirectly insulting the state, government, parliament or ministries.

4. Changes made in criminal defamation legislation during the past ten years
5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

Article 137c and 137e have been amended in 2003 in order to increase the term of imprisonment when the offence is committed by a person who makes it a profession or a habit to do so, or when the offence is committed by two or more persons in association. These articles will, in the near future, be including defamation of a group of persons of their handicap as a result of a proposed amendment.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Depending on the sort of offence under the defamation title, the maximum term of imprisonment runs three up to 32 months.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Depending on the sort of offence under the defamation title, the maximum fine runs from the second to fourth category (€ 2.250 - € 11.250; in the future € 3.350- € 16.750).

8. Administrative consequences of a conviction

The general provision on depriving convicted persons from the right to practice specific professions is generally speaking, not applicable in the case of offences like defamation. However, in the case of a conviction for the offences mentioned above of articles 111, 112, 113, 118, 119, 137e, 262, 268 and 271, the deprivation from the right to exercise some professions is possible.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

12.225

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

Approximately 4.276; This number is confined to convictions of solely the defamation offences mentioned above under question one and does, therefore, not include convictions with regard to the combination of defamation offences and other offences, for instance causing bodily harm.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

104

12. Average and maximum lengths of prison sentences

Average: 13 days
Maximum: 2 months

13. Average and maximum amounts of fines

Average: € 206
Maximum: € 1.000

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes, based on the general provision of civil liability.

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the last 10 years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

Unlimited

21. Other penalties

Conjunction, withdrawal of offending publication, publication of the courts decision

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

Unknown

23. Average and maximum amount of fines/damages paid

Unknown

24. Other court practices

None

Norway

This report is based on the data provided by the Government of Norway

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes. There are specific provisions for insulting the King, a foreign head of state or his envoy, and for insult of public servants while they are performing their duties.

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes (only for insults of foreign states, their symbols or representatives, or institutions).

4. Changes made in criminal defamation legislation during the past ten years

With the Human Rights Act of 21 May 1999 no. 30, several international human rights instruments were incorporated into Norwegian domestic law. Provisions in these instruments are now part of the domestic law – and will prevail in case of a conflict with another provision in the domestic law. Among the incorporated human rights instruments are the *European Convention for the Protection of Human Rights and Fundamental Freedoms* and the *International Covenant on Civil and Political rights*. Both of them protect the freedom of expression and through this, also set limits for criminalization and punishment for defamation, libel and insult.

Additionally, amendments to the Constitution concerning the freedom of expression are suggested and will be discussed in Parliament.

In 2000, chapter 19 relating to sexual felonies in the Penal Code was revised. In this process, a provision was amended stating that any person who accuses any other person of having committed some specified sexual offences, cannot be held liable pursuant to the provisions about defamation, if the accusations are made in a formal report to the police or in a confidential conversation.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

The Penal Code is currently under total assessment and revision – which also comprises the penal provisions for defamation, libel and insult. It's too early to say if this process will lead to any specific amendments in these provisions. It is, however, suggested that some of the provisions referred to under questions 2 and 3, shall be revoked.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Five years for insulting the King, three years if defamation has happened against better judgement, two years if the defamation is committed in print or in broadcasting or under especially aggravating circumstances, otherwise one year.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Unlimited

8. Administrative consequences of a conviction

There are no administrative consequences stemming from a conviction for defamation etc. Pursuant to section 430a in the Penal Code, however, an editor whose newspaper publishes or quotes a defamatory statement which results in a penalty, is obligated to publish the conclusion of the judgement or likewise, free of charge and in a prominent place in the newspaper.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

Statistics that show the number of people accused of defamation etc. during the reporting period are not yet available. Such statistics will be published on *Statistics Norway's* website: <http://www.ssb.no>.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

In 2002, three cases were solved through acceptance of a fine in lieu of prosecution, and one case resulted in a fine imposed by the courts. In 2003, the courts in three cases imposed fines. Statistics for 2004 are not yet available.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Statistics for the reporting period are not yet available, but will be published on *Statistics Norway's* web-site: <http://www.ssb.no>.

12. Average and maximum lengths of prison sentences

Sentences of imprisonment are very rare in cases of defamation, libel and insult, and we have found no examples of such sentences within the reporting period.

13. Average and maximum amounts of fines

The Supreme Court had only one case where damages were imposed within the reporting period. In this case (published in the report series for the Norwegian Supreme Court for the year 2003, Rt. 2003 page 928), the offender was sentenced to pay NOK 50,000 in damages to the offended.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

There have been no major changes in our civil legislation on defamation etc. within the past ten years, except for the more indirect changes (see *changes in criminal legislation*).

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

Not directly. Amendments to the Constitutional provision about freedom of expression are being discussed. They might also have impact on provisions on defamation, libel and insult.

20. Maximum fines/damages

Unlimited

21. Other penalties

Not applicable

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

One

23. Average and maximum amount of fines/damages paid

We have found no examples of civil cases before the Supreme Court within the reporting period where damages were imposed for defamation, libel or insult.

24. Other court practices

In cases of defamation, libel and insult, it is possible for the victim to claim a court's decision that states that the defamatory statement is null and void. Such a claim is not viewed as punishment, yet the procedural provisions in the Criminal Procedure Act apply to it.

A publication containing any felonious matter, for example defamation, libel or insult, may be confiscated by a court judgment regardless of whether any person may be punished for such a publication or even if the author cannot be punished at all because of circumstances that exclude a penalty. During the reporting period the Supreme Court of Norway heard three cases where the offended claimed a judgement that stated the defamatory statement was null and void. Such judgement was given in only one of the cases.

The judgements are published in the report series for judgements by the Supreme Court of Norway; Rt. 2002 page 764, Rt. 2003 page 914 and Rt. 2003 page 928.

In Rt. 2002 page 764 the case was that a newspaper had printed an article where allegations were made about tax-related irregularities. The Supreme Court found that article 10 of the *European Convention on Human Rights and Fundamental Freedoms* protected the statements. The newspaper was therefore acquitted.

In Rt. 2003 page 914, a newspaper was acquitted for statements that pointed out one family as the source of water pollution. The Supreme Court found that the statements were not allegations, but simply opinions about what the sources of pollution might be.

In Rt. 2003 page 928 a newspaper had printed an article that a person was violating regulations concerning obligation of residence. This was not true as there were in fact no such regulations for his real estate. The Supreme Court ruled that the statements were defamatory and that they should be considered null and void. The victim was awarded damages amounting to NOK 50,000.

The Supreme Court in the reporting period heard no cases about confiscation of a printed matter related to defamation, libel or insult.

Poland

This report is based on the data provided by the Government of Poland.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes.

4. Changes made in criminal defamation legislation during the past ten years

No changes.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No changes currently being discussed or planned

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Three years of imprisonment is the maximum term of the penalty of deprivation of liberty for insult. This is envisaged in case of:

- public insulting a group of people or an individual person because of their/his/her national, ethnic, race or religious affiliation or because of lack of any religious denomination or for these reasons breaching the personal inviolability of such individuals;
- public insulting of the President of the Republic of Poland;
- public insulting of the Nation of Poland.

In other cases of defamation, libel and insult a punishment is lower than three years.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

There are no regulations regarding fine envisaged especially for this kind of offences. The Polish Criminal Code provides only general provisions concerning fines as well as rules of fine assessment by courts. Following the general provisions of the Polish Criminal Code a maximum amount of fines is 720,000 PLN (€ 162,078.2, € 1 = 4.4423 PLN).

8. Administrative consequences of a conviction

There are no administrative consequences

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

2002: 6,272;

2003: 7,218.

Data concerning 2004 are not yet available.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

2002: 1472.

Data concerning 2003 and 2004 are not yet available.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Such detailed data are not available. However, there is a marginal amount.

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes have occurred

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments currently discussed or planned

20. Maximum fines/damages

Unlimited

21. Other penalties

Cessation of defamation, libel; removing effects of the infringement, in particular making a statement of indicated contents and form (e.g. apology); paying specified sum of money to a specific public purpose.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

2002: 1,246;

2003: 1,754.

Data concerning 2004 are not yet available.

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Portugal

No information on Portugal is currently available.

Romania

This report is based on the data provided by the Government of Romania

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

Regarding the contents of the offences, no major changes occurred in the penal legislation in the past decade. Only the legal limits of punishment for defamation suffered significant changes brought by law no. 140/1996 and the Emergency Ordinance no. 58/2002. The latter eliminated imprisonment as alternative punishment for insult, which is currently sanctioned only by fine, while the limits of imprisonment for committing defamation were lowered to two months to two years imprisonment. Law no. 301/28 June 2004 on the Romanian Criminal Code, which will take effect force on 29 June 2005, decriminalized insult and revoked the provisions concerning the increased criminal liability for defaming state representatives, as well as the provisions regarding criminal liability for insulting the symbols of the State and the authorities. Imprisonment is no longer prescribed as a punishment for defamation.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

The Romanian Parliament adopted Law no. 301 of 28 June 2004, which contains amendments to the criminal legislation on defamation and insult. Defamation will be sanctioned with a 10 to 120 days-fine.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

The Criminal Code currently in force provides a maximum term of imprisonment of two years for defamation. The new Criminal Code which will take effect on 29 June 2005 stipulates that defamation shall only be sanctioned with days-fine.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

The Criminal Code in force provides a maximum fine of 300,000,000 ROL (€ 7,310) for defamation and 100,000,000 ROL (€ 2,437) for insult. The new Criminal Code, which will take effect on 29 June 2005 provides for a maximum fine of 120,000,000 ROL (€ 2,926) for defamation.

8. Administrative consequences of a conviction

There are no administrative consequences as a result of a conviction for defamation. Still, the Criminal Code in force provides, in article 64 (d), the optional alternative punishment of suspending the person who committed a criminal offence in connection with his/her profession from that profession. That provision is also applicable to defamation, if the punishment established by the national court is two years imprisonment. The new Criminal Code, which will take effect on 29 June 2005, regulates the alternative punishments in Article 75, but

suspension of exercising a profession cannot be applied to persons convicted of defamation committed in connection with their profession, since defamation is no longer punishable by imprisonment.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

In 2002, 1,202 persons were sentenced for the commission of the offence of insult, of which: eight to imprisonment, 71 to imprisonment with conditional suspension of service, 1,117 to criminal fine and six persons were sanctioned with a reprimand. Within the same period, 361 persons were sentenced for libel: 328 to criminal fine and 33 to imprisonment with conditional suspension of service.

In 2003, 1,275 persons were sentenced for having committed the offence of insult: four to imprisonment, 166 to imprisonment with conditional suspension of service, one to imprisonment with supervised suspension of service, 1,100 to the payment of a criminal fine and four persons were sanctioned by means of reprimand.

During the same period, for commission of the offence of libel, 366 persons were sentenced, of which 297 to a criminal fine, three to imprisonment and 68 to imprisonment with conditional suspension of service, two to imprisonment with supervised suspension of service and 583 to criminal fine.

For having committed the offence of libel, 134 persons were sentenced, of which 113 were sentenced to a criminal fine, 20 to imprisonment with conditional suspension of service and one person received a reprimand.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

During this period, 26 persons served prison terms as a result of a final sentence for commission of the offences of insult and libel. Two persons are currently serving custodial penalties.

12. Average and maximum lengths of prison sentences

Average: six to 12 months;
maximum: one to five years.

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes have occurred

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments currently discussed. According to the new draft Civil Code, persons who suffer violations of their rights not related to property – dignity being provided expressly as one of these rights – may at any time request the cessation of the act that causes such violation. Also, those who suffer a violation of such rights may request the court to oblige the author of the act to accomplish any measures that the court deems necessary to restore the violated right.

20. Maximum fines/damages

Unlimited

21. Other penalties

No other penalties are envisaged in civil law for defamation or insult. However, the plaintiff could ask the court to order the defendant to publish the court decision on his/her expense or to carry out other acts aimed at re-establishing the infringed right.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No other practices

Romania

This report is based on the data provided by Mr. Doru Costea, Attorney-at-Law, Romania which was commissioned by Reporters sans frontiers at RFOM's request.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

The new Romanian Criminal Code (Law 301/2004, issued on 29 June 2004) will take effect on 29 June 2005. According to this law, insult will no longer be a criminal offence. Imprisonment provisions for defamation have been revoked. Defamation will be punishable by daily fines (for 10 to 120 days, 100,000 (€ 2,5) to 1,000,000 lei (€ 25) per day) only.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No changes currently occurred

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Defamation: two months to two years. There are no imprisonment provisions for insult.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Insult: 10,000,000 lei (€ 250); defamation: 300,000,000 lei (€ 7,500).

8. Administrative consequences of a conviction

Law 504/2002 (Art. 95 (1)) concerning audio and video products and broadcasting stipulates two possible consequences:

- revocation of the broadcasting license;
- shortening the period of validity of the broadcasting license by 50 per cent.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No precise information available. Nobody has been sentenced to imprisonment.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

Not available; there are no administrative fees for criminal cases.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments currently discussed

20. Maximum fines/damages

There are no fines for civil defamation and insult, the injured party may be granted a compensation for moral and material damages.

21. Other penalties

No other penalties

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

Not applicable

Russian Federation

This report is based on the data provided by the Government of the Russian Federation

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes. Criminal liability for libel and insult is provided by Articles 129 and 130, respectively, of the Criminal Code of the Russian Federation (hereinafter "the Code").

Libel is defined as "dissemination of knowingly false information denigrating the honour and dignity of another person or undermining his/her reputation" (Article 129, part 1, of the Code).

Article 129, part 2, of the Code envisages liability for libel expressed in a public statement, publicly demonstrated work or mass media.

Article 129, part 3, envisages liability for libel which is combined with accusing a person of committing a serious or grave crime.

Insult is defined as "denigration of the honour and dignity of another person expressed in an indecent form" (Article 130, Part 1, of the Code).

Article 130, part 2, envisages liability for insult expressed in a public statement, a publicly demonstrated work, or mass media.

2. Are there specific provisions protecting government officials and/or public figures?

Yes. Article 319 of the Code envisages criminal liability for public insult against a representative of the authorities while executing his duties, or in connection with their execution.

A representative of the authorities is an official of a law-enforcement or controlling body, as well as any other official lawfully assigned with regulatory powers in relation to persons not directly subordinate to him.

In addition, the criminal legislation of the Russian Federation establishes liability under Article 297 of the Code for contempt of court expressed in insults against the participants in court proceeding (part 1) or against a judge, a juror or any other person participating in administration of justice (part 2).

Article 298 of the Code envisages criminal liability for libel against a judge, juror, prosecutor, investigator, person conducting an inquiry, court enforcer or court executor.

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes. Article 329 of the Code establishes criminal liability for desecration of the National Emblem of the Russian Federation or the National Flag of the Russian Federation.

4. Changes made in criminal defamation legislation during the past ten years

This legislation has not undergone any major changes and criminal liability has not been revoked.

In the previous Criminal Code and in the present Criminal Code imprisonment is envisaged for libel – under Article 129, part 3, and Article 298, parts 2 and 3, as well as under Article 329 for desecration of the National Emblem of the Russian Federation or the National Flag of the Russian Federation. Less severe forms of punishment for insult are envisaged under Articles 130, 297 and 319.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

According to Article 298 part 3 of the Code, up to four years of imprisonment.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

The maximum fine for libel envisaged by Article 129, part 3, of the Code is up to 300 thousand Roubles (about € 8,500) or in the amount of the convicted person's salary or other income for a period of one to two years.

The maximum fine for insult envisaged by Article 297, part 2, of the Code is up to 200 thousand Roubles (over € 5,500) or in the amount of the convicted person's salary or other income for a period of up to eighteen months.

8. Administrative consequences of a conviction

According to Article 47 of the Code, if the court considers it necessary, in view of the nature and degree of social danger posed by the crime and the personality of the perpetrator, it may impose an additional punishment in the form of deprivation of the right to hold certain posts or to engage in a specific activity for a term of six months to three years.

Article 5.13 of the Code of administrative offences of the Russian Federation, which came into effect as of 1 July 2002, establishes administrative liability in the form of imposing a fine for not providing an opportunity to make public (publish) a refutation or other explanation in defence of the honour, dignity or business reputation of a registered candidate before expiry of the period of pre-election campaigning. In the event that information capable of damaging the honour, dignity or business reputation of a registered candidate is made public (published) during TV and radio programmes on channels of organizations performing TV and (or) radio broadcasts and in periodical printed publications, if in accordance with the federal legislation on elections and referenda, it is mandatory to provide such an opportunity.

Providing a candidate with an opportunity to make public (publish) a refutation or other explanation in defence of his honour, dignity or business reputation before the expiry of the period of pre-election campaigning is envisaged by Article 56, para. 6, of the Federal Law No. 67-FZ, dated 12 June 2002, "On basic guarantees of electoral rights and the right to participate in a referendum of citizens of the Russian Federation", Article 56, para. 6, of the Federal Law No. 19-FZ, dated 10 January 2003, "On elections of the President of the Russian Federation" and Article 64, para. 6, of the Federal Law No. 175-FZ, dated 20 December 2002, "On elections of deputies to the State Duma of the Federal Assembly of the Russian Federation".

No other administrative offences connected with dissemination of information denigrating the honour and dignity of an individual and the business reputation of an individual or legal entity are established by the Code of the Russian Federation on administrative offences.

In accordance with Article 48, part 5, of the Law No. 2124-1 of the Russian Federation, dated 27 December 1991, "On the media", a journalist may be deprived of his accreditation if false information denigrating the honour and dignity of the organization that accredited the journalist is disseminated by the journalist or the editorial board, as confirmed by a valid court judgement.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

Criminal cases connected to the crimes envisaged by Article 129, part 1, and Article 130 of the Code are considered to be private prosecution criminal cases, and can be opened only on the basis of the application by the victim or his legal representative. In the event of reconciliation between the victim and the accused, the cases are subject to dismissal (Article 20 of the Criminal Procedural Code of the Russian Federation).

We do not have at our disposal data on the number of people brought to criminal liability under Articles 129 (parts 2 and 3), 297, 298, 319 and 329 of the Code.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

Over the period of 2002, 2003, and the first six months of 2004, the following numbers of people were convicted:

Under Article 129, part 1, of the Code: 852;
under Article 129, part 2, of the Code: 45;
under Article 129, part 3, of the Code: 71;
under Article 130, part 1, of the Code: 7,885;
under Article 130, part 2, of the Code: 67;
under Article 297, part 1, of the Code: 43;
under Article 297, part 2, of the Code: 63;
under Article 298, part 1, of the Code: 21;
under Article 298, part 2, of the Code: 8;
under Article 298, part 3, of the Code: 19;
under Article 319 of the Code: 10,251;
under Article 329 of the Code: 20.

No statistics are available on punishments for insult and libel in the current forms of reporting.

However, the practice shows that punishment in the form of incarceration is applied in very few cases since under Article 15 of the Code these crimes are considered to be of minor (Article 298, parts 1 and 2, and Article 329 of the Code) or medium gravity (Article 129, part 3, and Article 298, part 3, of the Code). In such cases the courts often impose a suspended sentence under Article 73 of the Code.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

The criminal legislation of the Russian Federation does not provide imprisonment for people convicted of minor and medium gravity crimes.

Usually, when given a custodial sentence, such people serve their term in a penal colony. The court may sentence the convicted person to a term in a minimum security correctional facility only if it provides motivation for such a decision (Article 58 of the Code).

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

Yes. In the event of desecration of the national symbols of the Russian Federation, civil liability is incurred in accordance with the legislation of the Russian Federation. In particular, this is provided by:

Article 10 of the Federal Constitutional Law No. 1-FKZ, dated 25 December 2000, "On the National Flag of the Russian Federation": "Use of the National Flag of the Russian Federation in breach of the present Federal Constitutional Law as well as desecration of the National Flag of the Russian Federation shall entail liability in accordance with the legislation of the Russian Federation"; Article 9 of the Federal Constitutional Law No. 3-FKZ, dated 25 December 2000, "On the National Anthem of the Russian Federation": "Performance and use of the National Anthem of the Russian Federation in breach of the present Federal Constitutional Law as well as desecration of the National Anthem of the Russian Federation shall entail liability in accordance with the legislation of the Russian Federation";

Article 11 of the Federal Constitutional Law No. 2-FKZ, dated 25 December 2000, "On the National Emblem of the Russian Federation": "Use of the National Emblem of the Russian Federation in breach of the present Federal Constitutional Law, as well as desecration of the National Emblem of the Russian Federation shall entail liability in accordance with the legislation of the Russian Federation".

18. Changes occurred in civil libel legislation within the past ten years

In December 2004, the Supreme Court of Russia forbade courts to order media outlets to pay exorbitant sums in compensation for publishing untrue information which lead to bankruptcy of the media. This is provided in the resolution "On judicial practice in cases of the protection of honour and dignity of citizens and the business reputation of citizens and legal entities" which was approved by the plenary assembly of the Supreme Court.²

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

The civil legislation does not regulate the maximum amount of compensation for losses and moral injury that a defamed person has the right to claim under Article 152, paras. 5 and 7, of the Civil Code (the text of this Article is provided in the response to question 14).

21. Other penalties

On the basis of the provisions of Article 152 of the Civil Code of the Russian Federation (the text of the Article is provided in the response to question 14) protection of the honour, dignity and business reputation of a defamed person may be performed by means of:

refutation of the denigrating information;

replacement or withdrawal of the document if such information is contained in a document originating from an organization;

publication of a response given by the person in relation to whom information has been published that infringes on his rights or legally protected interests;

compensation for losses and moral injury caused by dissemination of the denigrating information;

recognition of the disseminated information as false if it proves impossible to identify the person who disseminated the denigrating information.

The Law of the Russian Federation No. 2124-1, dated 27 December 1991, "On mass media" envisages such methods for protecting honour, dignity and business reputation as:

refutation of the denigrating information disseminated in mass media;

publication of a response given by the defamed person;

² This part of the report is based on information from the media.

compensation for moral injury incurred by a person as a result of the dissemination by mass media of false information denigrating his honour and dignity or causing him any other non-material harm.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

According to data from the governmental statistical reporting for 2002, 7,464 court judgements were issued on civil cases connected with the protection of honour, dignity and business reputation, for 2003, 6,498 and for the first six months of 2004, 3,320 such judgements were issued.

23. Average and maximum amount of fines/damages paid

It is not possible to provide such information because this data is not detailed in the official statistics.

24. Other court practices

No information available

San Marino

This report is based on the data provided by the Government of San Marino

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes. The 1974 Criminal Code punishes defamation (art. 183), insult (art. 184) and defamation committed via means of social communication ('public libel', art. 185).

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes, offence against officials is the most serious crime (Art. 382). Less serious are defamation, insult and libel.

4. Changes made in criminal defamation legislation during the past ten years

Art. 7 of the Law number 5 of 29 January 1996 modified art. 184 on insult by introducing a heavier sanction. The previous sanction envisaging detention for five days to one month was changed. Now the punishment for this offence is detention for 15 days to two months.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

The maximum term of detention for insult is two months. In case of defamation and defamation committed by means of social communication it is one year.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

The maximum fine for insult is a fine of up to 40 fine days. The amount is established by the judge according to the parameters provided by Art. 85 of the Criminal Code. The maximum fine for defamation committed by means of social communication is € 2,000.

8. Administrative consequences of a conviction

No information available

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

2002: 36

2003: 32

2004: 27

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

2002: 3
2003: 0
2004: 0

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

For the period 2002-2004, prison sentences were suspended according to article 61 of the Penal code.

12. Average and maximum lengths of prison sentences

The average prison sentence is 45 days. For the period 2002-2004, two prison sentences lasted 55 days. The Maximum prison sentence is three months.

13. Average and maximum amounts of fines

The average fine is € 350. During the period 2002-2004, there was only one case where a person got a € 300 fine. The quantification for the damage is usually determined by a civil judge, except for measures of liquidations of provisionals. The maximum amount is € 1.549,37. This figure was taken from a 2001 sentence.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Serbia and Montenegro

Republic of Serbia

This report is based on the data provided by the OSCE Mission to Serbia and Montenegro

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No changes

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

In Serbia, a working group of the Ministry of Justice was drafting a new criminal code at the time of reporting. The draft copies the existing provisions on libel and insult with small changes, adding fines as alternative punishment in the paragraph 2 of Art. 171.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Three years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Unlimited

8. Administrative consequences of a conviction

No

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult :
10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

There are no statistics covering the reporting period; according to the NUNS (Independent Journalist Association of Serbia) report, 110 people were accused of defamation (libel and insult) during the reporting period. However, the number is not accurate due to the lack of data.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No data available (usually imprisonment is substituted by probation).

12. Average and maximum lengths of prison sentences

Only suspended sentences have been applied.

13. Average and maximum amounts of fines

These amounts can hardly be estimated as they depend on duration of court proceedings, number of hearings and usually applicants are referred to civil courts to demand damages.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

The new Public information Law took effect in 2003.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments currently being discussed or planned.

20. Maximum fines/damages

Unlimited

21. Other penalties

Refutation (right to reply) and correction

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

There is no statistics covering the reporting period, according to the NUNS (Independent Journalist Association of Serbia) report, there were 61 civil defamation, libel and insult cases. However, due to the lack of data the number is not accurate.

23. Average and maximum amount of fines/damages paid

Average: This amount can hardly be estimated as it depends on the length of a case and number of hearings. In several cases the defendants were obliged to pay approx. € 1,500 in damages and approx. € 430 attorney's fees.

Maximum: € 2,500.

24. Other court practices

Usually prison sentence is substituted with probation (up to two years). It has become a common practice that applicants in civil cases demand tremendous amounts paid in remedies (in one case the amount reached approx. € 90,000)

Republic of Montenegro

This report is based on the data provided by the Office in Podgorica of the OSCE Mission to Serbia and Montenegro

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

The imprisonment provisions have been revoked. Defamation provisions still fall under the Criminal Code, however they envisage fines only.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No amendments are currently being discussed

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Imprisonment has been abolished as an option for punishment for libel, defamation and insult.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

€ 14,000 is the maximum fine which may be applied in case of defamation committed through media or at a public gathering (Article 197 (3)).

8. Administrative consequences of a conviction

Not applicable

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

No information available

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Kosovo/ Serbia and Montenegro

This report is based on the data provided by the OSCE Mission in Kosovo

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

No

4. Changes made in criminal defamation legislation during the past ten years

Until April 2004, Criminal Law of the Socialist Autonomous Province of Kosovo had been applied in Kosovo.

In April 2004, the Provisional Criminal Code of Kosovo was adopted by the Kosovo Assembly. Provisions on Insult and Defamation were not revoked, but charges were reshaped.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

The provisions on libel and defamation are not on the agenda of the Kosovo Assembly. However, the OSCE Mission in Kosovo intends to raise this issue in the near future.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Three months

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

The amount of fine is not specifically defined for defamation, libel and insult. Generic provisions are applied: the Provisional Criminal Code, UNMIK/Reg/3003/25
Article 39:

"(1) The punishment of a fine may not be less than 50 European Euros (hereinafter "EUR"). The punishment of a fine may not exceed 25.000 EUR or, in the case of criminal offences committed to obtain a material benefit, it may not exceed 500.000 EUR."...

"(4) If the convicted person does not consent to the replacement of the fine with an order for community service work, as provided for in paragraph 3 of the present article, the court 14 shall order one day of imprisonment for each 15 EUR of the fine, provided that the term of imprisonment does not exceed six months.

(5) The punishment of a fine may be also imposed as an accessory punishment (Article 54 of the present Code)."

8. Administrative consequences of a conviction

Not applicable

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

From 2002 until November 2004, three journalists of the newspaper *Bota Sot*, Mr. Myrfet Shasivari, Mr. Isuf Bytyçi, Mr. Bajrush Morina were convicted by the Kosovo municipal courts based on the Criminal Law of the Socialist Autonomous Province of Kosovo.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

Mr. Myrfet Shasivari and Isuf Bytyçi received suspended sentences.

Mr. Bajrush Morina was fined the amount of 1350 EUR.

12. Average and maximum lengths of prison sentences

Not applicable

13. Average and maximum amounts of fines

1350 EUR in 2004

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

There is no civil code in Kosovo. The Civil Procedure and Law on Basic Property Relations are under the current Kosovo legislation.

15. Do government officials enjoy more protection than other individuals?

Not applicable

16. Do public figures or celebrities enjoy more protection than other individuals?

Not applicable

17. Are there specific provisions protecting state, state symbols and government institutions?

Not applicable

18. Changes occurred in civil libel legislation within the past ten years

Not applicable

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

Not applicable

20. Maximum fines/damages

Not applicable

21. Other penalties

Not applicable

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

Not applicable

23. Average and maximum amount of fines/damages paid

Not applicable

24. Other court practices

Not applicable

Slovak Republic

This report is based on the data provided by the Government of Slovak Republic.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

The amendment No. 421/2002 Coll. of the Penal Code revoked the criminal offence of defamation of the state and its representative (Sections 102 and 103). The offences were revoked because they were inconsistent with Article 26 of the Constitution of the Slovak Republic which covers freedom of expression, with the *European Convention on Human Rights*, and with the *International Covenant on Civil and Political Rights*. Moreover, the judgment of the European Court of Human Rights supported protection of freedom of expression, even in case of insulting, mind-bending idea(s) or idea(s) which could be a serious concern for the State or the public. Revoking these provisions addresses the concerns of the UN Human Rights Committee regarding the state of freedom of expression, which may be restricted by sanctions for criticizing the government (Article 19 International Covenant on Civil and Political Rights).

The Section 156 para 3 of the Penal Code has been repealed (1st September 2003). The repealed provision contained the crime of slandering or insulting of a public official.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

The Slovak Government passed a re-codified version of the Penal Code which is currently under consideration by the National Council of the Slovak Republic (the Parliament). The Minister of Justice has already submitted a proposal to lift the provision related to gross insult or a libel of the public authority (during the legislative process in the Parliament).

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Under valid Section 154 para 2 of the Penal Code the maximum sentence of imprisonment for gross insult or a libel of the state body can be up to one year or a pecuniary penalty.

The Section 206 para 2 of the Penal Code (Libel) stipulates maximum sentence of imprisonment up to 5 years or pecuniary penalty or by a ban on professional activity.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

The maximum pecuniary penalty (fine) can be imposed from 5 000 SKK (approx. € 125) up to 5,000,000 SKK (approx. € 125,000).

8. Administrative consequences of a conviction

Under the Section 206 para 2 of the Penal Code (Libel committed through TV, radio, motion picture or public press) a ban on professional activity can be imposed as a criminal sanction.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult ;
10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

Slovak Criminal Libel, Defamation and Insult Court Statistics

Number of accused people:

Assault on a state official (Section 153 of the Criminal Code)

<u>Year</u>	<u>Number</u>
2002	2
2003	2
2004	1

Assault on a state official (section 154 of the Criminal Code)

<u>Year</u>	<u>Number</u>
2002	5
2003	16
2004	6

Assault on a public official (Section 155 of the Criminal Code)

<u>Year</u>	<u>Number</u>
2002	380
2003	276
2004	216

Defamation (Section 206 of the Criminal Code)

<u>Year</u>	<u>Number</u>
2002	30
2003	69
2004	51

Number of convictions:

2002

Crime	Convicted	Imprisonment	Fine	Suspended sentence
Section 154 para 2	1	0	0	1
Section 156 para 3	97	6	25	66
Section 206	8	0	1	7

2003

Crime	Convicted	Imprisonment	Fine	Suspended sentence
Section 154 para 2	0	0	0	0
Section 156 para 3	66	6	19	37
Section 206	14	0	6	8

January - June 2004

Crime	Convicted	Imprisonment	Fine	Suspended sentence
Section 154 para 2	1	0	0	1
Section 156 para 3	no information			
Section 206	12	2	5	5

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

Average: 8 months (2004);
maximum: 10 months (2004).

13. Average and maximum amounts of fines

Average: 15,000 SKK in 2002 (€ 375), 11 700 SKK in 2003 (€ 290), 8,600 SKK in 2004 (€ 215).
Maximum: 35,000 SKK (approx. € 875).

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

According to the Plan of the legislative tasks of the Government of the Slovak Republic for the year 2004, the Ministry of Culture of the Slovak Republic submitted in April 2004 for comments of other Ministries the legislative plan of the law on rights and obligations in receiving and treating with information and on their retransmission through the communication media (the press act).

20. Maximum fines/damages

Unlimited

21. Other penalties

Right to a correction (section 21 of the Act No. 308/2000 Coll. on broadcasting and retransmission; section 19 of the Act No. 81/1966 Coll. on periodical press and on other mass media)

Section 64 of the Act No. 308/2000 Coll. distinguishes the following sanctions:

- a) warning on a breach of law;
- b) broadcasting of a notice about breach of law;
- c) suspension of broadcasting of a program or its part;
- d) fine;

Section 13 of the Civil Code:

- preventive legal measures: to quit an interference;
- restitution legal measures: elimination of the consequences of an interference;
- satisfaction legal measures: just satisfaction, if it is not sufficient, the financial reparation of a non-material injury is possible.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

In 2002, there were 377 claims concerning the defamation at issue.

In 2003, there were 406 claims at issue.

No information concerning 2004 is available.

23. Average and maximum amount of fines/damages paid

The Ministry of Justice of the Slovak Republic has no statistical data about amounts of fines or money paid in damages.

24. Other court practices

No information available

Slovenia

This report is based on the data contained in the publication *Aperçu des législations nationales en matière de diffamation et d'injure* (Strasbourg, le 12 décembre 2003). This publication was prepared by the Media Division of the Directorate General of Human Rights of the Council of Europe.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No information available

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

One year

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

No information available

8. Administrative consequences of a conviction

No information available

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

No information available

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Spain

This report is based on the data contained in the publication *Aperçu des législations nationales en matière de diffamation et d'injure* (Strasbourg, le 12 décembre 2003). This publication was prepared by the Media Division of the Directorate General of Human Rights of the Council of Europe.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No information available

3. Are there specific provisions protecting state, state symbols and government institutions?

No information available

4. Changes made in criminal defamation legislation during the past ten years

No information available

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

No information available

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

No information available

8. Administrative consequences of a conviction

No information available

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

No information available

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Sweden

This report is based on the data contained in the publication *Aperçu des législations nationales en matière de diffamation et d'injure* (Strasbourg, le 12 décembre 2003). This publication was prepared by the Media Division of the Directorate General of Human Rights of the Council of Europe.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

No information available

4. Changes made in criminal defamation legislation during the past ten years

No information available

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

No information available

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

No information available

8. Administrative consequences of a conviction

No information available

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Switzerland

This report is based on the data provided by Dr. Charles Poncet, Master of Comparative Law, avocat au barreau de Genève, Switzerland, which was commissioned by Reporters sans frontières at OSCE FROM's request.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

No information available

3. Are there specific provisions protecting state, state symbols and government institutions?

No information available

4. Changes made in criminal defamation legislation during the past ten years

No changes

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No changes are currently being discussed

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Five years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

No information

8. Administrative consequences of a conviction

A conviction may entail administrative difficulties for broadcasters. However, these difficulties do not extend to an interdiction of exercising the profession.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

50 to 100 convictions per year

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

Usually a prison sentence of a few weeks is pronounced and accompanied by a suspended sentence (one to three months).

13. Average and maximum amounts of fines

There are no reliable statistics available. Usually the amount is between 1,000 CHF (€ 650) and 3,000 CHF (€ 1,950).

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion: plans to amend civil provisions

No changes

20. Maximum fines/damages

No information available

21. Other penalties

Not applicable

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No precise data are available. Compensations awarded are symbolic (several thousand francs).

24. Other court practices

No other practices

Tajikistan

This report is based on the data provided by the OSCE Centre in Dushanbe.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

The following major changes were introduced to the Criminal Code by a presidential decree on 17 May 2004: the maximum term of imprisonment for libel was reduced from three to two years; the maximum term of correctional labour for insult was increased from three months to one year; an imprisonment provision was adopted for insulting a representative of power (up to two years); arrest for three to six months for insulting the state symbols was revoked. In addition, the amount of fines for defamation and insult was increased from 1.5-5 minimal salaries to 200-1,500 minimal salaries.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No changes are currently being discussed.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Five years for libel and public insult of the president; two years for insult and insult of a representative of the authorities.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

€ 1,917 for libel; € 2,876 for insult of a representative of the authorities

8. Administrative consequences of a conviction

None

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

52

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

Total: 41;

imprisonment: 1;
correctional labour: 2;
suspended sentence: 3;
fine: 35.

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

1

12. Average and maximum lengths of prison sentences

One year

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

Yes

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

Provisions were adopted which stipulate a compensation for moral harm; compensation of damages caused by dissemination of data which make an imputation against someone's honour and dignity.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No changes

20. Maximum fines/damages

Unlimited. No fine is envisaged. A citizen may suggest any amount that, according to his/her estimates, would compensate the harm caused by the disseminated information. The court defines the amount of fine on basis of reasonableness and justice.

21. Other penalties

Refutation of information which makes an imputation against honour and dignity in the same way it was disseminated; compensation for moral harm; compensation for damages caused by dissemination of data which make imputation against someone's honour and dignity; declaring the information invalid by court.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

Seven

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No other practices

Turkey

This report is based on the data provided by the Government of Turkey

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes. (Article 299 of the New Penal Code stipulates increased criminal liability (from 1 to 4 years imprisonment) for defaming, libelling and insulting the President of the Republic. If this crime is committed via press, the penalty is increased by 1/3).

The New Penal Code No. 5237 was adopted by the Turkish Grand National Assembly on 26 September 2004. The Law will come into force on 1 April 2005.

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes. (Article 300 of the New Penal Code stipulates from one to three years imprisonment for publicly insulting state symbols. Article 301 stipulates from six months to three years imprisonment for publicly insulting the Turkish Nationality, the Republic and the Parliament. The same Article stipulates from six months to two years imprisonment for publicly insulting the Government, the judiciary, the military and security forces. This Article further states that expressions of opinion aimed at criticism do not constitute crime).

4. Changes made in criminal defamation legislation during the past ten years

In the New Turkish Penal Code (Article 125), criminal liability has not been revoked, including punishment of imprisonment. However, the maximum term of imprisonment has been decreased from three years to two years excluding exceptions for increased criminal liability. The term of imprisonment can be converted into "judicial fine" except in cases of insulting the state, state symbols and institutions. The maximum term of imprisonment for insulting the state, state symbols and institutions has also been reduced.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

The subject was dealt with in discussions on the New Penal Code in the parliament in 2004.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Four years in case of the President (Art. 299).

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

No specific amount of fine is fixed in the New Penal Code. A "judicial fine" can be ordered by the court which is calculated in accordance with the provisions of Art. 52.

8. Administrative consequences of a conviction

None, only the right of reply and correction as well as the right to compensation apply.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes. (It is regulated by the Law on the Establishment of Radio and Television Enterprises and Their Broadcasts (Broadcasting law) No. 3984 of 20 April 1994. The text of law in English can be found at <http://www.rtuk.org.tr/ying3984.htm>.)

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

Yes. (In Article 4 of the Broadcasting Law it is stated that radio, television and data broadcasts shall be conducted within a spirit of public service, in compliance with the supremacy of the law, the general principles of the Constitution, fundamental rights and freedoms, national security and general moral values.)

18. Changes occurred in civil libel legislation within the past ten years

Amendments to Law No. 3984 (May 2002) enhance the scope of the rights of individuals and institutions against defamation, libel and insult.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments are currently being discussed.

20. Maximum fines/damages

Those who violate the broadcasting principles outlined in Article 4 of the Broadcasting Law are subject to the provisions of Article 33 on Warning, Fine, Suspension and Revocation. According to this article, in case of the third repetition of the same violation, the following administrative fines are issued:

a) For national broadcasting enterprises, provided that it shall not be less than 125,000 YTL (€ 65,000), up to 250,000 YTL (€ 139,000) in accordance with the gravity of the violation.

b) For local, regional and cable broadcasting enterprises, up to 100,000 YTL (€ 55,555) in accordance with the gravity of violation).

21. Other penalties

The Radio and Television Supreme Council issues warnings to those private radio and television enterprises which fail to fulfil their obligations, violate the conditions of the broadcasting permit, or transmit programs that violate the broadcasting rules and other standards stipulated in this Law, or requires them to apologise clearly during the same broadcasting spot. In case of non-compliance with this request or repetition of the violation, the transmission of the programme which contains violation, shall be suspended between one to twelve times. In case of the third repetition of the violation, administrative fines are issued.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

- As for crimes committed through media, in accordance with Article 28 of the Media Law, fines (except the ones specified in Art. 18 and 22) cannot be converted into imprisonment.
- On 3 September 1999, the Law on the Postponement of the Court Cases and Sentences related to Crimes committed through Press and Publication has entered into force.
- According to Article 125 of the New Turkish Penal Code, for defamation, libel and insult crimes committed through media, penalties are increased by 1/3.

Turkmenistan

This report is based on the data provided by the OSCE Centre in Ashgabad

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

On 30 December 2002, the People's Council decided to make insult of the President treason.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Five years

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

30 average monthly wages, or € 1,000

8. Administrative consequences of a conviction

No information available

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

Yes

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No changes

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

Annulment of the official document that contains defamation or insult; compensation of moral damages; refutation; withdrawal of the offending publication

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

Ukraine

This report is based on the data provided by the OSCE Project Co-ordinator in Ukraine

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

No.

2. Are there specific provisions protecting government officials and/or public figures?

No.

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes.

4. Changes made in criminal defamation legislation during the past ten years

In 2001, the Ukrainian Rada passed amendments to the Criminal Code, decriminalizing defamation, libel and insult and thus revoking all criminal liability and imprisonment provisions for these acts. The previous Criminal Code contained two articles which envisaged criminal liability for defamation, libel and insult.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No amendments are currently being discussed or planned.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

One may be convicted to six months of detention for insulting the Ukrainian State and its symbols. Nobody can be imprisoned for defamation, libel and insult of an individual.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

One may be ordered to pay a fine of € 10 for insulting the Ukrainian State and its symbols. No one can be fined for defamation, libel and insult.

8. Administrative consequences of a conviction

None.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

Not applicable. The Criminal Code was amended prior to the reporting period.

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No.

18. Changes occurred in civil libel legislation within the past ten years

The new Civil Code was adopted in 2003 and came into force in 2004.

The old Civil Code contained only one article which specifically dealt with protection of dignity, honour and business reputation and provided mechanisms for protection of citizens' rights/interests violated by libel, defamation and insult.

The new Civil Code contains a whole chapter on "Personal non-property rights of a physical person" to which the right to respect of one's dignity, honour and business reputation belongs.

The main differences between the regulation of the issue by the old Civil Code and the new one is that the new Civil Code describes in greater detail the regulation of and mechanisms for protection of one's dignity, honour and business reputation.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments are currently being discussed or planned.

20. Maximum fines/damages

Unlimited. However, courts usually assign compensation for moral damages not exceeding € 90.

21. Other penalties

The right to refutation, respond, and/or a ban on issuing a publication or radio/TV programme; seizure of property.

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

54 (in 2002 and 2003)

23. Average and maximum amount of fines/damages paid

Average: no information available;
maximum: € 462,000.

24. Other court practices

No other practices

United Kingdom

This report is based on the data provided by Mr. Mark Stephens, Partner, Finer Stephens Innocent, United Kingdom, which was commissioned by Reporters sans frontières at OSCE RFOM's request.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

No

4. Changes made in criminal defamation legislation during the past ten years

No major changes occurred. In relation to recent cases, the Attorney General has indicated his intention to rarely (if ever) use criminal libel provisions. That being said, a recent case in the Privy Council from the Caribbean has accepted that the criminal libel laws of Antigua are still enforceable. However, it is believed that the domestic Human Rights Act in the UK would prevent future criminal libel laws.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No changes are currently being discussed.

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Not applicable

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Not applicable

8. Administrative consequences of a conviction

There are a number of administrative consequences stemming from a conviction. These include the fact that it has to be declared when applying for jobs and it would ordinarily take 10 years to become excised from a person's general record under the Rehabilitation of Offenders Act. Even then, there are jobs which are statutorily exempt from the Rehabilitation of Offenders Act and for which it would need to be disclosed.

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

0

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

No incarceration has occurred. One would only anticipate fines being imposed backed by criminal sanctions.

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

Political Parties Elections and Referendums Act, 2000;
Freedom of Information Act, 2000;
Youth Justice and Criminal Evidence Act, 1999 (relating to reporting restrictions);
Regulation of Investigatory Powers Act and Data Protection Act, 1998;
Protection from Harassment Act, 1997;
Broadcasting Act, 1996;
Security Services Act, 1996;
Defamation Act, 1996.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

There has been a Law Commission Report on defamation and the Internet, the outcome of which was not particularly conclusive. As a result, no substantial changes are in the offing. There have been a number of concerns expressed about the recent *Caroline of Monaco v. Germany* decision in the European Court of Human Rights and its impact on coverage.

20. Maximum fines/damages

Not applicable

21. Other penalties

Not applicable

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

Uncertain, but the number of claims is significantly down, although the complexity and length of the cases that remain are increasing. We have seen over this period the advent of libel tourism in the United Kingdom – individuals and corporations are arbitrating between different jurisdictions in order to obtain the most advantageous jurisprudential ground on which to fight, there has been an upsurge in small defamation cases funded by the Police trade union and by the advent of conditional fees which have increased the number of small cases.

We have seen a large number of commercial enterprises entering the arena of libel in order to chill criticism.

We have also seen the use of internet publication only, in order to found jurisdiction within the United Kingdom for foreign claimants.

23. Average and maximum amount of fines/damages paid

There is a practical cap of £ 200,000 in terms of damages (several cases have achieved this level) almost invariably the costs of bringing or defending a suit exceeds the amount of damages by many times.

24. Other court practices

There are some applications in relation to arguments over meaning. There are offers of amends where a publication may choose to refute an admitted defamation. Payments can be made into Court so as to secure adverse costs consequences. British defamation laws have been held to be not compliant with the U.S. Bill of Rights and therefore British libel judgments are unenforceable in the USA.

Many commercial enterprises are entering the arena of libel in order to chill criticism. In some cases, internet publication was used only, in order to found jurisdiction within the United Kingdom for foreign claimants.

United States of America

This report is based on the data provided by Mr. Dave Heller, Media Law Resource Center, the United States of America, which was commissioned by Reporters sans frontières at OSCE RFOM's request.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

There are no federal criminal defamation or insult laws of any kind. On the state level, 17 states and two territories continue to have criminal defamation laws "on the books".

The following U.S. States and territories have criminal libel statutes:

1. Colorado (Colo. Rev. Stat. § 18-13-105)
2. Florida (Fla. Stat. § 836.01-836.11)
3. Idaho (Idaho Code § 18-4801-18-4809) *
4. Kansas (Kan. Stat. Ann. §21-4004)
5. Louisiana (La. R.S. 14:47)
6. Michigan (Mich. Comp. Laws § 750.370)
7. Minnesota (Miss. Stat. § 609.765)
8. Montana (Mont. Code Ann. § 13-35-234) *
9. New Hampshire (N.H. Rev. Stat Ann. § 644:11)
10. New Mexico (N.M. Stat. Ann. §30-11-1)
11. North Carolina (N.C. Gen. Stat. § 14-47)
12. North Dakota (N.D. Cent. Code § 12.1-15-01) *
13. Oklahoma (Okla. Stat. tit. 21 §§ 771-781)
14. Utah (Utah Code Ann. § 76-9-404)
15. Virginia (Va. Code Ann. § 18.2-417)
16. Washington (Wash. Rev. Code 9.58.010) *
17. Wisconsin (Wis. Stats. § 942.01)
18. Puerto Rico (P.R. Laws, tit. 33, §§ 4101-4104)
19. Virgin Islands (Virgin Islands 14 V.I. Code § 1172)

** Teacher insult statute. The state of Colorado also has a statute that criminalizes false statements about agricultural products.*

2. Are there specific provisions protecting government officials and/or public figures?

No

3. Are there specific provisions protecting state, state symbols and government institutions?

No

4. Changes made in criminal defamation legislation during the past ten years

In 2003, an attempt to repeal the Kansas criminal defamation statute failed.

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No changes currently discussed

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Not applicable

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Not applicable

8. Administrative consequences of a conviction

No

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

There were 41 attempted and actual criminal defamation prosecutions from 1992 through August 2004

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

From 1992 through August 2004, six defendants were convicted under criminal defamation statutes. In three cases, the statute in question was declared unconstitutional on appeal.

From 1965 through August 2004, 16 cases ended in final convictions. Nine of these included jail sentences, with an average sentence of 173.6 days. Six of these cases resulted in fines, averaging 1,700 USD. Four defendants received probation, which lasted an average of 547.5 days. Two defendants received community service; the average requirement was 120 hours. Finally, one case required the defendant to write a letter of apology. (Note that sentences in a single case may combine multiple penalties.)

RESULTS OF CASES

Result Unknown: 5

Statute held unconstitutional: 3

Dismissed: 8

Charges dropped: 12

Conviction reversed: 1

Plea: 2

Plea, reversed: 1

Conviction: 6

Statute held constitutional: 1

Pending: 2

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

0

12. Average and maximum lengths of prison sentences

Average: 173.6 days (average for 1965 through August 2004);
maximum: no information available.

13. Average and maximum amounts of fines

Average: 1,700 USD (average for 1965 through August 2004);
maximum: No information available.

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

An emerging defence to civil defamation claims is provided by statutes known as anti-SLAPP laws. The acronym stands for “strategic lawsuits against public participation.” Anti-SLAPP laws provide specific statutory protection against law suits of questionable merit that are filed to stifle political expression. Generally the statutes provide for an early dismissal of the claim and recovery of legal fees. The laws originate from a study that found that libel, slander and other suits were being filed against people who would testify, protest or speak out at on certain public issues, such as zoning and land use issues.

To date, 19 states in the U.S. – California, Delaware, Florida, Georgia, Indiana, Louisiana, Maine, Massachusetts, Minnesota, Nebraska, Nevada, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Washington – have enacted such laws, although they differ in language or scope. Generally anti-SLAPP laws protect a person’s “exercise of the right to petition.” This generally includes a person’s statements made at governmental proceedings or about matters under governmental review. For example, an anti-SLAPP statute may apply to a libel claim filed by a land developer against a community organization that distributed fliers protesting a development plan where the development plan was under government review.

California takes a more expansive approach, extending protection not only to petitioning activity but also to any act or conduct in furtherance of free speech. California courts have applied the law broadly to defamation claims against the media on the grounds that defamation claims inhibit free speech. Several defamation lawsuits against newspapers and broadcasters have been dismissed under the law.

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No amendments are currently being discussed or planned.

20. Maximum fines/damages

Not applicable

21. Other penalties

Not applicable

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

Civil defamation cases are not filed or catalogued by courts in the United States and it is currently impossible to determine the precise number of such claims filed in the U.S.

23. Average and maximum amount of fines/damages paid

Average: no fines are assessed in civil defamation cases;
maximum: no information available.

24. Other court practices

No other practices

Uzbekistan

This report is based on the data provided by the OSCE Centre in Tashkent

CRIMINAL CODE: Provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No changes

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

Maximum term of imprisonment for defamation is three years. Maximum punishment for insult is arrest for up to six months. Maximum punishment for insult of the president is five years.

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

Maximum fine for libel is 100 minimal wages (650 USD). Maximum fine for insult is 150 minimal wages (975 USD).

8. Administrative consequences of a conviction

Revocation of licenses and other administrative measures are not defined as direct legal consequences of being sentenced for defamation, libel and insult. However, if the offence is repeated by the same medium, the licensing authority may suspend the license.

CRIMINAL CODE: Court Practices

9. Number of persons accused of defamation, libel and insult

26 cases were registered in 2003, 14 cases were registered in January – June 2004 (according to the statistics of the Supreme Court of the Republic of Uzbekistan).

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

The imprisonment provision seems to have never been used.

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: Provisions

14. Are defamation, libel and insult civil offences?

Yes

15. Do government officials enjoy more protection than other individuals?

No

16. Do public figures or celebrities enjoy more protection than other individuals?

No

17. Are there specific provisions protecting state, state symbols and government institutions?

No

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend civil provisions

No information available

20. Maximum fines/damages

Unlimited

21. Other penalties

Publishing refutation in the same medium

CIVIL CODE: Court Practices

22. Number of cases registered within the reporting period

338 cases were registered in 2003, 67 cases were registered in January – July 2004 (according to the statistics of the Supreme Court of the Republic of Uzbekistan).

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available

ANNEX

FRANCE: Statistics on Cases of Libel

Year	2000	2001	2002
LIBEL OF JURISDICTIONAL OR GOVERNMENT BODIES, EXECUTIVE BODIES, COURTS OR ARMED FORCES, EXPRESSED VERBALLY, BY GRAPHIC IMAGES, IN WRITING OR VIA AUDIOVISUAL COMMUNICATIONS			
Defined under: ARTICLE 30, ARTICLE 23, PART 1, ARTICLE 29, PART 1, ARTICLE 42 OF THE LAW OF 29/07/1881. ARTICLE 28 OF THE LAW 51-18 OF 05/01/1951.			
Punishable under: ARTICLE 30 OF THE LAW OF 29/07/1881.			
Year	2000	2001	2002
Number of convictions	4	5	2
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	1	0	0
Including imprisonment	0	0	0
Average number of months	0	0	0
Including probation with respect to the entire prison term	1	0	0
Fine	3	5	2
Average fine amount	<i>16,667 French francs or approximately 2,541 Euros</i>	<i>23,333 French francs or approximately 3,557 Euros</i>	<i>3,800 Euros</i>
ALTERNATIVE PUNISHMENTS			
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0

Disfranchisement	0	0	0
LIBEL OF INDIVIDUALS ON THE GROUNDS OF THEIR RACE OR ORIGIN, EXPRESSED VERBALLY, BY GRAPHIC IMAGES, IN WRITING OR VIA AUDIOVISUAL COMMUNICATIONS			
Defined under: ARTICLE 32, PART 2, ARTICLE 23, PART 1, ARTICLE 29, PART 1, ARTICLE 42 OF THE LAW OF 29/07/1881.			
Punishable under: ARTICLE 32 OF THE LAW OF 29/07/1881.			
Year	2000	2001	2002
Number of convictions	3	8	7
PRIMARY PUNISHMENTS			
Release from punishment	0	1	0
Incarceration:	0	0	1
Including imprisonment	0	0	0
Average number of months	0	0	0
Including probation with respect to the entire prison term	0	0	1
Fine	3	6	4
Average fine amount	3,667 <i>French francs</i> <i>or approximately 559 Euros</i>	4,000 <i>French francs</i> <i>or approximately 610 Euros</i>	1,200 <i>Euros</i>
ALTERNATIVE PUNISHMENTS	0	1	0
Including: performance of public works	0	1	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	2
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

Year	2000	2001	2002
LIBEL OF INDIVIDUALS, EXPRESSED VERBALLY, BY GRAPHIC IMAGES, IN WRITING OR VIA AUDIOVISUAL COMMUNICATIONS			
Defined under: ARTICLE 32, PART 1, ARTICLE 23, PART 1, ARTICLE 29, PART 1, ARTICLE 42 OF THE LAW OF 29/07/1881.			
Punishable under: ARTICLE 32, PART 1 OF THE LAW OF 29/07/1881.			
Number of convictions	224	215	110
PRIMARY PUNISHMENTS			
Release from punishment	4	1	0
Incarceration:	6	2	2
Including imprisonment	0	1	1
Average number of months	0	3	4
Including probation with respect to the entire prison term	6	1	1
Fine	214	212	108
Average fine amount	<i>14,780 French francs or approximately 2,253 Euros</i>	<i>11,912 French francs or approximately 1,816 Euros</i>	<i>1,625 Euros</i>
ALTERNATIVE PUNISHMENTS			
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

Year	2000	2001	2002
LIBEL OF CIVIL SERVANTS OR STATE AGENCIES, ADMINISTRATIVE BODIES, COURTS OR ARMED FORCES, EXPRESSED VERBALLY, BY GRAPHIC IMAGES, IN WRITING OR VIA AUDIOVISUAL COMMUNICATIONS			
Defined under: ARTICLE 31, PART 1, ARTICLE 23, PART 1, ARTICLE 29, PART 1, ARTICLE 42 OF THE LAW OF 29/07/1881.			
Punishable under: ARTICLE 31, PART 1, ARTICLE 30 OF THE LAW OF 29/07/1881.			
Number of convictions	104	103	98
PRIMARY PUNISHMENTS			
Release from punishment	0	1	6
Incarceration:	2	2	2
Including imprisonment	0	0	0
Average number of months	0	0	0
Including probation with respect to the entire prison term	2	2	2
Fine	102	100	90
Average fine amount	14,792 French francs or approximately 2,255 Euros	14,597 French francs or approximately 2,225 Euros	1,623 Euros
ALTERNATIVE PUNISHMENTS			
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

FRANCE: Statistics on Cases of Insult

Year	2000	2001	2002
<p>PUBLIC INSULT OF ADMINISTRATIVE AND JUDICIAL BODIES, PUBLIC SERVANTS OR THOSE ENTRUSTED WITH WORK OF PUBLIC IMPORTANCE, EXPRESSED ORALLY, BY GRAPHIC IMAGES, IN WRITING OR VIA AUDIOVISUAL COMMUNICATIONS</p> <p>Defined under: ARTICLE 33, PART 1, ARTICLE 30, ARTICLE 31, ARTICLE 23, PART 1, ARTICLE 29, PART 2, ARTICLE 42 OF THE LAW OF 29/07/1881.</p> <p>Punishable under: ARTICLE 33, PART 1, OF THE LAW OF 29/07/1881.</p>			
Number of convictions	18	13	15
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	3	2	0
Including imprisonment	1	0	0
Average number of months	0	0	0
Including probation with respect to the entire prison term	2	2	0
Fine	14	10	15
Average fine amount	<i>6,091 French francs or approximately 929 Euros</i>	<i>5,200 French francs or approximately 793 Euros</i>	<i>1,062 Euros</i>
ALTERNATIVE PUNISHMENTS			
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	1	1	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

Year	2000	2001	2002
PUBLIC INSULT OF INDIVIDUALS ON THE GROUNDS OF THEIR RACE, RELIGION OR ORIGIN, EXPRESSED VERBALLY, BY GRAPHIC IMAGES, IN WRITING OR VIA AUDIOVISUAL COMMUNICATIONS			
Defined under: ARTICLE 33, PARTS 3 AND 2, ARTICLE 23, PART 1, ARTICLE 29, PART 2, ARTICLE 42 OF THE LAW OF 29/07/1881.			
Punishable under: ARTICLE 33, PART 3 AND 4, OF THE LAW OF 29/07/1881.			
Year	2000	2001	2002
Number of convictions	98	109	103
PRIMARY PUNISHMENTS			
Release from punishment	4	3	2
Incarceration:	33	39	50
Including imprisonment	11	5	11
Average number of months	2	3	2
Including probation with respect to the entire prison term	22	34	39
Fine	52	54	45
Average fine amount	5,305 <i>French francs</i> <i>or approximately 809 Euros</i>	3,448 <i>French francs</i> <i>or approximately 526 Euros</i>	468 <i>Euros</i>
ALTERNATIVE PUNISHMENTS	7	10	3
Including: performance of public works	3	0	0
Imprisonment replaced with a fine	3	7	3
Driving restrictions	1	3	0
Deportation from France	0	0	0
Educational measures	2	3	3
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	2	2
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	1	0	0

Year	2000	2001	2002
PUBLIC INSULT OF INDIVIDUALS, EXPRESSED VERBALLY, IN WRITING, BY GRAPHIC IMAGES OR VIA AUDIOVISUAL COMMUNICATIONS			
Defined under: ARTICLE 33, PART 2, ARTICLE 23, PART 1, ARTICLE 29, PART 2, ARTICLE 42 OF THE LAW OF 29/07/1881.			
Punishable under: ARTICLE 33, PART 2, OF THE LAW OF 29/07/1881.			
Year	2000	2001	2002
Number of convictions	49	70	29
PRIMARY PUNISHMENTS			
Release from punishment	2	1	2
Incarceration:	6	3	2
Including imprisonment	1	0	0
Average number of months	3	0	0
Including probation with respect to the entire prison term	5	3	2
Fine	35	62	16
Average fine amount	4,065 <i>French francs</i> <i>or approximately 620 Euros</i>	3,991 <i>French francs</i> <i>or approximately 608 Euros</i>	976 <i>Euros</i>
ALTERNATIVE PUNISHMENTS	2	0	1
Including: performance of public works	2	0	0
Imprisonment replaced with a fine	0	0	1
Driving restrictions	1	1	0
Deportation from France	0	0	0
Educational measures	4	4	8
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0

Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

FRANCE: Statistics on Cases of Contempt

CONTEMPT AGAINST MAGISTRATES OR JURORS THROUGH GESTURES OR THREATS AT A HEARING			
Defined under: ARTICLE 434-24 OF THE CRIMINAL CODE.			
Punishable under: ARTICLE 434-24, PART 2, AND ARTICLE 434-44, PART 4, OF THE CRIMINAL CODE.			
Year	2000	2001	2002
Number of convictions	34	26	22
PRIMARY PUNISHMENTS			
Release from punishment	0	1	1
Incarceration:	21	19	18
Including imprisonment	14	12	13
Average number of months	2	4	3
Including probation with respect to the entire prison term	7	7	5
Fine	8	3	2
Average fine amount	<i>3,800 French francs or approximately 579 Euros</i>	<i>2,667 French francs or approximately 407 Euros</i>	<i>425 Euros</i>
ALTERNATIVE PUNISHMENTS	3	3	0
Including: performance of public works	1	1	0
Imprisonment replaced with a fine	2	1	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	2	0	1
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0



CONTEMPT AGAINST GOVERNMENT REPRESENTATIVES

Defined under:
ARTICLE 433-5, PARTS 1 AND 2, OF THE CRIMINAL CODE.

Punishable under:
ARTICLE 433-5, PART 2, AND ARTICLE 433-22 OF THE CRIMINAL CODE.

Year

CONTEMPT AGAINST PERSONS ENTRUSTED WITH SOCIALLY IMPORTANT WORK			
Defined under: ARTICLE 433-5, PART 1, OF THE CRIMINAL CODE.			
Punishable under: ARTICLE 433-5, PART 1, ARTICLE 433-22 OF THE CRIMINAL CODE.			
Year	2000	2001	2002
Number of convictions	2550	2255	2431
PRIMARY PUNISHMENTS			
Release from punishment	58	59	52
Incarceration:	315	347	450
Including imprisonment	116	133	182
Average number of months	3	4	3
Including probation with respect to the entire prison term	199	214	268
Fine	1848	1515	1577
Average fine amount	3,090 <i>French francs</i> or approximately 471 <i>Euros</i>	3,176 <i>French francs</i> or approximately 484 <i>Euros</i>	499 <i>Euros</i>
ALTERNATIVE PUNISHMENTS	86	111	110
Including: performance of public works	15	23	25
Imprisonment replaced with a fine	27	45	40
Driving restrictions	43	42	46
Deportation from France	0	0	0
Educational measures	243	223	242
ADDITIONAL PUNISHMENTS			
Performance of public works	0	1	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	10	9	12
Prohibition of stay on the territory of France	1	0	1
Social and judiciary supervision	0	0	0
Disfranchisement	9	11	11

CONTEMPT BY A SERVICEMAN AGAINST A SUBORDINATE WHILE OFF SERVICE			
Defined under: ARTICLE 461, PARTS 1 AND 3, AND ARTICLE 462 OF THE MILITARY JUSTICE CODE.			
Punishable under: ARTICLE 461, PART 3, OF THE MILITARY JUSTICE CODE.			
Year	2000	2001	2002
Number of convictions	1	0	0
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	1	0	0
Including imprisonment	0	0	0
Average number of months	0	0	0
Including probation with respect to the entire prison term	1	0	0
Fine	0	0	0
Average fine amount	-	-	-
ALTERNATIVE PUNISHMENTS	0	0	0
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

CONTEMPT BY A SERVICEMAN AGAINST A SUBORDINATE WHILE IN SERVICE			
Defined under: ARTICLE 461, PARTS 1 AND 3, AND ARTICLE 462 OF THE MILITARY JUSTICE CODE.			
Punishable under: ARTICLE 461, PART 1, OF THE MILITARY JUSTICE CODE.			
Year	2000	2001	2002
Number of convictions	0	1	0
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	0	1	0
Including imprisonment	0	0	0
Average number of months	0	0	0
Including probation with respect to the entire prison term	0	1	0
Fine	0	0	0
Average fine amount	-	-	-
ALTERNATIVE PUNISHMENTS	0	0	0
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

CONTEMPT BY A SERVICEMAN, CIVILIAN EMPLOYEE WITH COMBAT STATUS OR OFFICER AGAINST A SUPERIOR COMMANDER WHILE OFF SERVICE			
Defined under: ARTICLE 453 OF THE MILITARY JUSTICE CODE.			
Punishable under: ARTICLE 453, PART 4, OF THE MILITARY JUSTICE CODE.			
Year	2000	2001	2002
Number of convictions	3	0	0
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	3	0	0
Including imprisonment	1	0	0
Average number of months	1	0	0
Including probation with respect to the entire prison term	2	0	0
Fine	0	0	0
Average fine amount	-	-	-
ALTERNATIVE PUNISHMENTS	0	0	0
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

CONTEMPT BY A SERVICEMAN, CIVILIAN EMPLOYEE WITH COMBAT STATUS OR OFFICER AGAINST A SUPERIOR COMMANDER WHILE IN SERVICE			
Defined under: ARTICLE 453 OF THE MILITARY JUSTICE CODE.			
Punishable under: ARTICLE 453, PART 4, OF THE MILITARY JUSTICE CODE.			
Year	2000	2001	2002
Number of convictions	11	7	1
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	11	7	1
Including imprisonment	7	4	0
Average number of months	2	2	0
Including probation with respect to the entire prison term	4	3	1
Fine	0	0	0
Average fine amount	-	-	-
ALTERNATIVE PUNISHMENTS	0	0	0
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

Year	2000	2001	2002
DESECRATION OF THE NATIONAL FLAG OR THE ARMY BY A SERVICEMAN OR CIVILIAN EMPLOYEE OF THE ARMED FORCES			
Defined under: ARTICLE 440, PART 1, OF THE MILITARY JUSTICE CODE.			
Punishable under: ARTICLE 440, PART 1, OF THE MILITARY JUSTICE CODE.			
Year	2000	2001	2002
Number of convictions	0	1	0
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	0	1	0
Including imprisonment	0	0	0
Average number of months	0	0	0
Including probation with respect to the entire prison term	0	1	0
Fine	0	0	0
Average fine amount	-	-	-
ALTERNATIVE PUNISHMENTS	0	0	0
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

CONTEMPT AGAINST A LABOR INSPECTOR OR ASSISTANT INSPECTOR			
Defined under: ARTICLE L.631-2 OF THE LABOUR CODE. ARTICLE 433-5, PART 2, OF THE CRIMINAL CODE.			
Punishable under: ARTICLE L.631-2 OF THE LABOUR CODE. ARTICLE 433-5, PART 2, AND ARTICLE 433-22 OF THE CRIMINAL CODE.			
Year	2000	2001	2002
Number of convictions	6	5	11
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	3	0	4
Including imprisonment	0	0	0
Average number of months	0	0	0
Including probation with respect to the entire prison term	3	0	4
Fine	3	5	7
Average fine amount	4,667 French francs or approximately 711 Euros	2,833 French francs or approximately 432 Euros	308 Euros
ALTERNATIVE PUNISHMENTS			
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	1	0	0

CONTEMPT AGAINST FOREIGN DIPLOMATIC AGENTS			
Defined under: ARTICLE 37, ARTICLE 42 OF THE LAW OF 29/07/1881.			
Punishable under: ARTICLE 37, ARTICLE 61 OF THE LAW OF 29/07/1881.			
Year	2000	2001	2002
Number of convictions	0	1	0
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	0	0	0
Including imprisonment	0	0	0
Average number of months	0	0	0
Including probation with respect to the entire prison term	0	0	0
Fine	0	1	0
Average fine amount	-	<i>15,000 French francs or approximately 2,287 Euros</i>	-
ALTERNATIVE PUNISHMENTS	0	0	0
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

Year	2000	2001	2002
CONTEMPT AGAINST PERSONS ENTRUSTED WITH WORK OF PUBLIC IMPORTANCE AT OR NEAR EDUCATIONAL ESTABLISHMENTS IN CONNECTION WITH THE ARRIVAL OR DEPARTURE OF STUDENTS			
Defined under: ARTICLE 433-5, PARTS 1 AND 3, OF THE CRIMINAL CODE.			
Punishable under: ARTICLE 433-5, PART 3, ARTICLE 433-22 OF THE CRIMINAL CODE.			
Year	2000	2001	2002
Number of convictions	0	0	1
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	0	0	0
Including imprisonment	0	0	0
Average number of months	0	0	0
Including probation with respect to the entire prison term	0	0	0
Fine	0	0	1
Average fine amount	-	-	300 Euros
ALTERNATIVE PUNISHMENTS	0	0	0
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

CONTEMPT BY A GROUP OF PERSONS AGAINST EMPLOYEES OF PUBLIC TRANSPORT OPERATORS			
Defined under: ARTICLE 26 OF THE LAW OF 15/07/1845. ARTICLE 433-5, PART 1, OF THE CRIMINAL CODE.			
Punishable under: ARTICLE 26, PART 2, OF THE LAW OF 15/07/1845.			
Year	2000	2001	2002
Number of convictions	4	4	24
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	0	2	13
Including imprisonment	0	1	6
Average number of months	0	4	4
Including probation with respect to the entire prison term	0	1	7
Fine	0	2	9
Average fine amount	-	2,500 French francs or approximately 381 Euros	203 Euros
ALTERNATIVE PUNISHMENTS	3	0	2
Including: performance of public works	0	0	0
Imprisonment replaced with a fine	3	0	2
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	1	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

CONTEMPT AGAINST EMPLOYEES OF PUBLIC TRANSPORT OPERATORS			
Defined under: ARTICLE 26, PART 1, OF THE LAW OF 15/07/1845. ARTICLE 433-5, PART 1, OF THE CRIMINAL CODE.			
Punishable under: ARTICLE 26, PART 1, OF THE LAW OF 15/07/1845.			
Year	2000	2001	2002
Number of convictions	114	171	301
PRIMARY PUNISHMENTS			
Release from punishment	1	0	4
Incarceration:	67	86	141
Including imprisonment	30	31	61
Average number of months	2	2	2
Including probation with respect to the entire prison term	37	55	80
Fine	23	43	76
Average fine amount	<i>3,071 French francs or approximately 468 Euros</i>	<i>3,908 French francs or approximately 596 Euros</i>	<i>438 Euros</i>
ALTERNATIVE PUNISHMENTS	21	38	75
Including: performance of public works	10	14	16
Imprisonment replaced with a fine	11	23	57
Driving restrictions	0	1	2
Deportation from France	0	0	0
Educational measures	2	4	5
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	1

CONTEMPT BY A GROUP OF PERSONS AGAINST GOVERNMENT REPRESENTATIVES			
Defined under: ARTICLE 433-5, PARTS 1, 2 AND 4, OF THE CRIMINAL CODE.			
Punishable under: ARTICLE 433-5, PART 4, ARTICLE 433-22 OF THE CRIMINAL CODE.			
Year	2000	2001	2002
Number of convictions	137	234	324
PRIMARY PUNISHMENTS			
Release from punishment	0	4	4
Incarceration:	80	165	232
Including imprisonment	33	79	122
Average number of months	4	3	3
Including probation with respect to the entire prison term	47	86	110
Fine	29	41	30
Average fine amount	2,220 <i>French francs</i> or approximately 338 <i>Euros</i>	2,877 <i>French francs</i> or approximately 439 <i>Euros</i>	419 <i>Euros</i>
ALTERNATIVE PUNISHMENTS	25	23	50
Including: performance of public works	10	9	21
Imprisonment replaced with a fine	12	13	24
Driving restrictions	3	1	5
Deportation from France	0	0	0
Educational measures	3	1	8
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	6	1
Prohibition of stay on the territory of France	0	0	1
Social and judiciary supervision	0	0	0
Disfranchisement	0	2	6

CONTEMPT BY A GROUP OF PERSONS AGAINST PERSONS ENTRUSTED WITH WORK OF PUBLIC IMPORTANCE			
Defined under: ARTICLE 433-5, PARTS 1 AND 3, OF THE CRIMINAL CODE.			
Punishable under: ARTICLE 433-5, PART 3, ARTICLE 433-22 OF THE CRIMINAL CODE.			
Year	2000	2001	2002
Number of convictions	37	49	69
PRIMARY PUNISHMENTS			
Release from punishment	1	0	1
Incarceration:	14	31	30
Including imprisonment	5	13	9
Average number of months	3	2	4
Including probation with respect to the entire prison term	9	18	21
Fine	14	6	26
Average fine amount	2,227 <i>French francs</i> <i>or approximately 340 Euros</i>	2,500 <i>French francs</i> <i>or approximately 381 Euros</i>	416 <i>Euros</i>
ALTERNATIVE PUNISHMENTS	1	5	4
Including: performance of public works	1	2	0
Imprisonment replaced with a fine	0	3	3
Driving restrictions	0	0	1
Deportation from France	0	0	0
Educational measures	7	7	8
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	2	0	0

Year	2000	2001	2002
CONTEMPT AGAINST MAGISTRATES OR JURORS WHILE ON DUTY THROUGH GESTURES, THREATS OR THROWING ITEMS			
Defined under: ARTICLE 434-24, PART 1, OF THE CRIMINAL CODE.			
Punishable under: ARTICLE 434-24, PART 1, ARTICLE 434-44, PART 4, OF THE CRIMINAL CODE.			
Number of convictions	8	7	13
PRIMARY PUNISHMENTS			
Release from punishment	0	0	0
Incarceration:	6	5	10
Including imprisonment	5	1	5
Average number of months	2	1	2
Including probation with respect to the entire prison term	1	4	5
Fine	2	1	2
Average fine amount	<i>2,750 French francs or approximately 419 Euros</i>	<i>General suspension</i>	<i>525 Euros</i>
ALTERNATIVE PUNISHMENTS	0	1	1
Including: performance of public works	0	1	0
Imprisonment replaced with a fine	0	0	1
Driving restrictions	0	0	0
Deportation from France	0	0	0
Educational measures	0	0	0
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	0	0	0

Year	2000	2001	2002
CONTEMPT AGAINST MAGISTRATES OR JURORS WHILE ON DUTY EXPRESSED ORALLY, IN WRITING OR GRAPHICALLY			
Defined under: ARTICLE 434-24, PART 1, OF THE CRIMINAL CODE.			
Punishable under: ARTICLE 434-24, PART 1, ARTICLE 434-44, PART 4, OF THE CRIMINAL CODE.			
Year	2000	2001	2002
Number of convictions	93	114	135
PRIMARY PUNISHMENTS			
Release from punishment	0	0	2
Incarceration:	64	77	103
Including imprisonment	36	47	64
Average number of months	2	3	4
Including probation with respect to the entire prison term	28	30	39
Fine	18	27	16
Average fine amount	4,250 French francs or approximately 648 Euros	2,775 French francs or approximately 423 Euros	576 Euros
ALTERNATIVE PUNISHMENTS	9	9	13
Including: performance of public works	1	1	3
Imprisonment replaced with a fine	6	8	8
Driving restrictions	2	0	2
Deportation from France	0	0	0
Educational measures	2	1	1
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	1	1	1

ORAL CONTEMPT AGAINST MAGISTRATES OR JURORS WHILE ON DUTY IN COURT			
Defined under: ARTICLE 434-24, PARTS 1 AND 2, OF THE CRIMINAL CODE.			
Punishable under: ARTICLE 434-24, PART 2, ARTICLE 434-44, PART 4, OF THE CRIMINAL CODE.			
Year	2000	2001	2002
Number of convictions	59	51	53
PRIMARY PUNISHMENTS			
Release from punishment	1	0	0
Incarceration:	40	36	37
Including imprisonment	25	25	29
Average number of months	3	3	3
Including probation with respect to the entire prison term	15	11	8
Fine	7	11	7
Average fine amount	2,643 <i>French francs</i> or approximately 403 <i>Euros</i>	2,250 <i>French francs</i> or approximately 343 <i>Euros</i>	309 <i>Euros</i>
ALTERNATIVE PUNISHMENTS	11	3	4
Including: performance of public works	3	0	4
Imprisonment replaced with a fine	7	3	0
Driving restrictions	1	0	0
Deportation from France	0	0	0
Educational measures	0	1	5
ADDITIONAL PUNISHMENTS			
Performance of public works	0	0	0
Imprisonment replaced with a fine	0	0	0
Driving restrictions	0	0	0
Prohibition of stay on the territory of France	0	0	0
Social and judiciary supervision	0	0	0
Disfranchisement	1	0	0