

Third Study Commission Questionnaire 2022

Israel

For 2022, the Third Study Commission, which focuses on Criminal Law, decided to study "Restrictions by the criminal law of the freedom of speech".

In order to facilitate discussion and to assist us in learning from colleagues, we ask that each country answers the following questions:

- 1. Does your country protect freedom of speech and, if so, how? Please refer to legislation, including any applicable bill of rights or charter of rights or human rights code, as examples, and/or jurisprudence (court decisions) as an overall picture.**
- 2. Does your country criminalize hate speech and, if so, how? Please refer to legislation and/or jurisprudence as an overall picture.**
- 3. Does your country have restrictions by the criminal law of the freedom of speech? And if yes, could you give an overall picture of what the legislation is like? Including**
 - Are there groups of persons who enjoy special protection **of their** freedom of speech due to their gender, sexual preference, religion, race or other conditions
 - Are there topics that enjoy special protection **in terms of** freedom of speech – for example topics of religion and politics
- 4. If there are restrictions in the criminal law of the freedom of speech, are the restrictions then absolute or must they be weighed against the consideration of free speech?**
 - Does this apply to all groups and if not, are the restrictions either absolute or not? Please mention which persons and groups belong to which category

- In cases where the freedom of speech and the restrictions are to weighed against each other –
 - Are there then **guidelines** on how the **balancing** should be **done**?
 - If Yes, which of the two parameters weighs heaviest, a) the protection of free speech or b) the category that is protected by the legislation? And does this **differ** from category to category?
 - And how **much discretion is there such that the outcome of the balancing exercise may differ from judge to judge**?

5. Do you find that the legislation is clear and comprehensible to the citizen or does it give cause for doubt?

- If it gives cause for doubt, how is it expressed? Does it **deter** the citizen from making statements? Or does it **deter** citizens from suing?

6. Do you find in your work as a judge that the relevant legislation in your country, as it pertains to the freedom of speech and its protection and the criminalization of hate speech, is clear and comprehensible, or do you find that it gives too much room for different outcomes in the same types of cases?