

(English version)

**Question for written answer E-000849/25
to the Commission
Christine Anderson (ESN)
(26 February 2025)**

Subject: Criminalised speech across EU Member States

In the light of recent statements by US Vice-President JD Vance, who criticised certain European countries for ‘criminalising speech’ and described such actions as ‘Orwellian’, I seek clarification on the legal treatment of insults across EU Member States. Given the fundamental importance of freedom of expression as enshrined in the Charter of Fundamental Rights of the European Union, I ask the following questions:

1. Which EU Member States criminalise insults under their national laws, what are the specific legal provisions governing such offences, and do these laws differentiate between general insults and those directed at public officials, institutions or specific groups?
2. Has the Commission initiated or engaged in any infringement proceedings, legal assessments or formal communications with Member States regarding the compatibility of insult-related criminal laws with EU fundamental rights, particularly freedom of expression under the Charter?
3. Has the Commission conducted or considered conducting a comparative study on the enforcement and practical implications of insult-related criminal laws across the Member States? If so, what conclusions or concerns have been raised regarding the consistency of these laws with EU legal principles?

Submitted: 26.2.2025

**Answer given by Mr McGrath on behalf of the European Commission
(19 May 2025)**

Freedom of expression is a fundamental right and a cherished value. There is, however, a line drawn by human rights law: it must not be exploited to incite hatred and violence. Illegal hate speech represents a systemic risk for democracy and fundamental rights, and a threat to the common values of respect for human dignity, freedom, democracy and equality enshrined in the Treaty on the Functioning of the European Union (TFEU)⁽¹⁾.

The Council Framework Decision on combating racism and xenophobia⁽²⁾ requires Member States to consider hate speech as a criminal offence, i.e. the public incitement to violence or hatred, on grounds of race, colour, religion, descent or national or ethnic origin. The directive on combating violence against women and domestic violence, adopted in 2024, provides that Member States will also have to penalise the public incitement to violence or hatred by reference to gender, when committed online⁽³⁾. Under both instruments, Member States may choose to limit criminal liability to conduct which is either carried out in a manner likely to disturb public order or which is threatening, abusive or insulting.

Any infringement procedures initiated by the Commission have been strictly related to the transposition and implementation of the Council Framework Decision on combating racism and xenophobia⁽⁴⁾.

A study commissioned by the Commission provides a detailed mapping of the legal frameworks in Member States criminalising hate speech and hate crime⁽⁵⁾. There is no other Commission studies on the subject matter suggested by the Honourable Member. Should the Commission conclude that Member States have failed to fulfil their obligations under the EU law framework *acquis*, it may decide to use its power under Article 258 TFEU to initiate infringement procedures.

⁽¹⁾ OJ C 202, 7.6.2016, p. 1-388 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=oj:JOC_2016_202_R_TOC.

⁽²⁾ <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32008F0913>.

⁽³⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024L1385>.

⁽⁴⁾ Information on such infringement proceedings are available through the infringement database of the Commission: https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/?lang_code=en&langCode=EN&version=v1&typeOfSearch=byDecision&page=2&size=10&order=desc&sortColumns=decisionDate&legalBasis=32008F0913.

⁽⁵⁾ Directorate-General for Justice and Consumers, Spark Legal Network, TIPIK, Ypma, P., Drevon, C. et al., Study to support the preparation of the European Commission’s initiative to extend the list of EU crimes in Article 83 of the TFEU to hate speech and hate crime — Final report, Publications Office of the European Union, 2021.