

**Question for written answer E-008096/2012  
to the Commission  
Rule 117  
Marek Henryk Migalski (ECR)**

**Subject:** Criminal liability for defamation under Article 212 of the Polish Criminal Code

According to a report on the global human rights situation published by the US State Department, Poland restricts freedom of speech by maintaining laws in its Criminal Code that make the defamation or libel of public figures punishable. Under Article 212 of the Polish Criminal Code, defamation of a person, group of people, institution, legal person or business entity is punishable by a fine or the restriction of freedom. However, committing defamation using mass media is punishable by a fine, restriction of freedom or imprisonment for up to one year. Almost one thousand people were convicted under Article 212 between 2002 and 2008, some 30% of whom received punishments of restriction of freedom or imprisonment.

Many specialists believe that maintaining imprisonment as a punishment for defamation is contrary to the case-law of the European Court of Human Rights in Strasbourg, where Poland regularly loses cases relating to the imposition of criminal penalties for defamation. The need to remove Article 212 from the Criminal Code was pointed out to the Polish Justice Minister by Dunja Mijatović, OSCE Representative on Freedom of the Media. In her view, Poland's continued classification of defamation as a criminal offence undermines its credibility in the international arena. She also indicated that freedom of expression and the free circulation of information are fundamental values of the OSCE, and that these include the right of journalists to criticise and to reveal the government's mistakes and abuses.

In light of the above information, it is clear that Poland's Criminal Code contains provisions that undoubtedly restrict the civil liberties set out in the Charter of Fundamental Rights – specifically Article 11 on freedom of expression and information – of physical persons, and in particular of journalists, who can face severe penalties – including imprisonment – for defamation.

What is the Commission's view on Article 212 of the Polish Criminal Code, and will it take this matter up with the Polish Government?