

Defamation and slander – defamation charges:

written by Dennis_ Rombaut_ | March 28, 2022

What exactly is slander and defamation?

In order to speak of slander or defamation, the criminal law requires several conditions to be met:

- The person spreading the false information must know that this information is false. Thus, there must be malicious intent and the one who spreads the information must have the intention to harm the other party.
- It must concern an allegation of a specific fact and therefore not a general insult
- The incorrect information must cause damage to the victim. This damage can be broadly interpreted. Anything that could harm someone's good name qualifies.
- It must happen in public. So, if nobody else has heard or read the false allegation, there can be no question of slander or defamation.

Slander and defamation can be committed against a natural person as well as against legal persons.

Slander and defamation can be done verbally as well as in writing. When it is done in writing – for instance via social media (Facebook, Twitter, YouTube, etc.) – it is in fact a press offence. According to the Belgian Constitution, press offences fall under the exclusive competence of the Assize Court, as a result of which, in practice, attacks on one's honour or reputation via writings or the Internet are not prosecuted. After all, the assize procedure is an extremely heavy procedure that is reserved for the most serious crimes (in practice, only murder). It is possible, however, to try to obtain compensation through the civil courts.

Finally, there is a distinction between slander and defamation, but this is mainly a legal technicality and not very important in practice. According to the criminal law, we speak of slander when it concerns false allegations of facts which the law permits to be proved. We speak of defamation when it comes to false allegations of facts which the law does not allow for. This distinction is purely legal and has no impact on penalties.

A specific case of defamation is the libellous report. In this case, someone

spontaneously makes a malicious report of false facts allegedly committed by another person. This victim must be able to suffer a disadvantage as a result of this declaration. A report can only be defamatory if it is proven that the facts were false or if the alleged facts are impossible to prove.

The penalty for this offence varies depending on whether it is made orally or in writing and against whom (e.g. a public official).

For more information on this offence, a concrete sentence and/or advice tailored to your needs, contact our criminal lawyers at info@studio-penale.be.