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## THE LEGALITY CONDITION - EXERCISE 2 (1/1 point)

2. "X is tempted to write an op-ed in a daily newspaper, denouncing what he believes are instances of corruption in the municipality. He fears to do so, however, because the law against defamation is unclear. Even specialized lawyers he consulted cannot guarantee that he will not be prosecuted if he goes ahead with the op-ed. "

- ☒ This journalist needs a more reliable regulatory framework, providing greater legal security. 
- ☐ No regulatory framework can be drafted with sufficient precision to enable journalists to know with certainty in which cases they can denounce instances of corruption of public authorities;
- ☐ Clarifying the definition of defamation so as to provide greater legal certainty would unacceptably bind the hands of the courts and should be avoided.

### EXPLANATION

This is in a way the reverse of the preceding example. The preceding example was about the need to avoid an arbitrary use by the authorities of their powers. This argument is about the need for the individual to be able to know under which conditions he or she may exercise certain freedoms. In the absence of a sufficiently precise and reliable regulatory framework, allowing an individual to anticipate which consequences will follow certain courses of action, the individual may practice "self-censorship": he or she may not dare to exercise certain freedoms, because of the potential risks involved. The absence of an adequate regulatory framework may therefore have a "chilling effect" on the exercise of certain freedoms.

Note that this argument only applies to "freedoms" that are "exercised" at the initiative of the individual such as freedom of expression, freedom to exercise one's religion, freedom of peaceful assembly, freedom of association, or freedom to adopt certain forms of conduct that are protected as a manifestation of the right to respect for private life (for instance, to a certain sexual life). The argument does not extend to rights that the individual "has", or "enjoys", but does not "exercise", such as the right to life, freedom from hunger or freedom from torture: though the arbitrary conduct of authorities is as much a problem here as it is with "freedoms to", one cannot speak here of the "chilling effect" that the absence of a sufficiently detailed regulatory framework could have.

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