Outline the current rules relating to defamation in Irish law and evaluate the particular difficulties which arise in the context of defamatory statements made via social media.  20 Marks

Defamation in Ireland:

The law of defamation in Ireland is governed by the Constitution, common law and the [Defamation Act 2009](http://www.irishstatutebook.ie/2009/en/act/pub/0031/index.html). That Act repeals the Defamation Act 1961, which was in force until the first day of 2010. The Defamation Act 2009 now governs all claims of defamation arising since the commencement of the new legislation. This introduced many important changes to defamation law and procedures.

* According to the Defamation Act 2009, a defamatory statement is one which tends to injure a person’s reputation in the eyes of reasonable members of society.
* Traditionally in Ireland, defamation was the publication of a false statement which caused a person to be subject to ridicule or contempt, which in turn often lead to a claim for defamation damages by the injured party.
* That definition has given way to a more modern one, and now a claim for defamation in Ireland, can arise through a statement which tends to lower the reputation, or which creates a negative image of the subject in the eyes of right-thinking people.

Defamation can arise in many ways, through the spoken word, including broadcast media such as TV and radio, through the press or a magazine article, and in our modern era of communication in Ireland, through electronic media such as blogs, internet articles and even twitter.

* Defamation has traditionally been divided into two forms: libel and slander. Historically, libel was the written form of defamation, while slander was the spoken form.
* The advent of modern technology has made those definitions obsolete.
* Today, a defamatory statement broadcast on radio or television or the internet would be regarded as libellous, rather than slanderous.
* The 2009 act abolishes the separate torts of libel and slander and replaces them with the “tort of defamation”.

An actionable defamatory statement has three ingredients:

* it must be published,
* it must refer to the complainant and
* it must be false.

Article 40.6.1.i of the Irish Constitution says that the State guarantees the right of citizens to express freely their convictions and opinions. But the right of freedom of expression in Ireland is not absolute.

The right of freedom of speech is also guaranteed by Article 10 (1) of the European Human Rights Convention, which provides that: “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas, without interference by public authority and regardless of frontiers.”

But Article 10 (2) subjects this freedom to such restrictions “as are necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary”.

Defamation comes in several forms, including, calumny, slander, vilification and libel.