

## **ECRI's Opinion on the IHRA Working Definition of Antisemitism (adopted at ECRI's 84<sup>th</sup> plenary meeting on 2 December 2020)**

1. ECRI notes that there is currently no final and absolute definition of antisemitism. Academic discussions have reflected a wide range of different approaches, but without a conclusive result.
2. In 2004, the European Monitoring Centre on Racism and Xenophobia (EUMC, the predecessor of the EU Fundamental Rights Agency – FRA) encountered problems in accurately compiling data on antisemitic incidents due to the complete or partial absence of official state monitoring in this area. Guidelines for recording such incidents were often ambiguous if they existed at all, which led to under-reporting by police and other relevant authorities. Combating the growing problem of antisemitism in Europe was thus severely hindered by the absence of an operational definition which could adequately describe traditional forms of antisemitism, with their origins in racial, religious, economic, and extremist political theories, *as well as* various contemporary forms of antisemitism expressed as demonisation of Israel as a Jewish state but which masqueraded as mere anti-Zionism. In order to remedy the situation, the EUMC commissioned a working definition, which was agreed with representatives of Jewish organisations and the Organisation for Security and Cooperation in Europe (OSCE). This working definition was not designed to be legislated, but to provide operational guidance to relevant public authorities. The EUMC working definition provided the basis for further work in this area, although it was not finally adopted due to the fact that neither the EUMC, nor its successor FRA, were standard-setting bodies but research agencies advising the Commission of the European Union.
3. Subsequently, in 2016, the International Holocaust Remembrance Alliance (IHRA) adopted the non-legally binding Working Definition of Antisemitism which is largely based on the previous work of the EUMC. This Working Definition has since been gaining increasing support in the international community and has been adopted by 27 states (as of November 2020), including 23 member states of the Council of Europe, and been endorsed or recommended for usage by various international actors, such as the European Union and the United Nations Special Rapporteur for Freedom of Religion and Belief.
4. However, there has also been criticism of the Working Definition. Inter alia, it has been argued that the Working Definition does not reflect a consensus within academic scholarship. Others pointed out though that the Working Definition was not designed as an academic exercise and should be understood as an operational tool.

5. Another criticism is that the Working Definition is not suitable as a legal text for various reasons, in particular its lack of precision. Proponents argue that this was never the purpose or intention of the Working Definition and that it was explicitly meant to be a non-legally binding text that aims at providing practical guidance to governments to support them in their efforts to prevent and counter the different forms of antisemitism more effectively.<sup>1</sup>
6. Concerns have also been expressed that the Working Definition would regard all criticism of Israel as antisemitic and would stifle free speech, in particular in the context of protests against violations of human rights committed by the Israeli authorities. At the same time, the Working Definition states that “criticism of Israel similar to that levelled against any other country cannot be regarded as antisemitic”.
7. In this context, ECRI has also repeatedly underlined that criticism of Israel cannot be considered per se antisemitic, as long as it is expressed in the same way as criticism against other states. ECRI strongly emphasises that any attempts to misuse the Working Definition and its examples to stifle, or stigmatise as antisemitic, legitimate criticism of Israel and its policies, in particular towards the Palestinian people and in the context of the Israeli occupation of Palestinian territories, will jeopardise efforts to combat antisemitism and should therefore be rejected. ECRI must reiterate, however, that it is unacceptable when criticism of the Israeli government is used to stir up hatred against all Jewish people in Israel and elsewhere, including by allegations of a “Jewish conspiracy” at a global level. This image, which builds on century-old stereotypes, fuels resentment against all Jewish persons.<sup>2</sup> ECRI has noted in its Annual Reports that surges of antisemitic hatred are frequently witnessed across many European countries in the wake of renewed violence in the Middle East. In the ensuing public discourse, insufficient emphasis is placed on the need to distinguish between criticism of the actions of Israel and the public expression of hatred of Jewish people and racism towards them in general.<sup>3</sup> Jewish institutions, such as synagogues, community centres and cemeteries, are often vandalised, also in reaction to events in the Middle East. The view that attacks on Jewish persons and property could be considered as justifiable reactions to policies or actions of the Israeli government is, regrettably, widespread and not only held by members of extremist groups.<sup>4</sup>
8. Keeping in mind the above observations, ECRI welcomes the non-legally binding IHRA Working Definition of Antisemitism in the sense that it aids and promotes a better understanding of antisemitism. Notably, the Working Definition is based on a concept that also includes various contemporary forms of antisemitism without trying to delegitimise criticism of Israel to the extent that the latter is held to the same standards as any other state. While not being a definition contained in an international treaty, or meant to be used in court proceedings, nor representing a universally approved academic definition, ECRI considers that it can be a positive tool and encourages Council of Europe member states to take it into account, in particular in the areas of data collection, education and awareness-raising.

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<sup>1</sup> See also [ECRI Annual Report 2018](#): § 17.

<sup>2</sup> [ECRI Annual Report 2019](#): § 14.

<sup>3</sup> [ECRI Annual Report 2014](#): § 13.

<sup>4</sup> [ECRI Annual Report 2018](#): § 16.