

## EUROPEAN COMMISSION “HANDBOOK” ENTRENCHES CONTROVERSIAL IHRA DEFINITION OF ANTISEMITISM

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### INTRODUCTION

On 26 May 2016, the International Holocaust Remembrance Alliance (IHRA) [adopted](#) a “non-legally binding working definition of antisemitism” – known since then as the “IHRA definition”. This definition, already developed in 2004, consists of two sentences: “*Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.*”

As documented in a 11.11.11 [report](#) published in January 2020, the Israeli government and organizations affiliated with it have **seized the IHRA definition as a tool to delegitimize and defund actors that criticize the Israeli government for its grave violations of international law, by conflating legitimate criticism of Israeli policies with antisemitism**. In doing so, they rely on eleven “contemporary examples of antisemitism” attached to the IHRA definition, seven of which relate to Israel.

Serious concerns and criticisms about the instrumentalization of the IHRA definition to shield the Israeli government are rapidly [growing](#) around the world. In fact, the lead author of the IHRA definition, Kenneth Stern, has publicly [criticised](#) how it is being “weaponized” to delegitimize criticism of Israeli policies. Many Jewish experts have also criticized how such instrumentalization is actually [undermining](#) the important and urgent fight against antisemitism.

Since 2016, the IHRA definition has been adopted by European governments and is promoted by the European Commission. On 7 January 2021, the European Commission released a “[Handbook for the practical use of the IHRA Working Definition of Antisemitism](#)”. This Handbook entrenches the IHRA definition across many policy areas and facilitates the political instrumentalization of it.

**The publication of the Handbook is yet another indication of how Europe has turned into a battlefield of persistent efforts to delegitimize advocacy and activism for Palestinian rights and respect for international law.** More specifically, the Handbook raises a number of important concerns, which are outlined below:

#### 1. NOT PREPARED BY THE COMMISSION

While the European Commission published the [Handbook](#) under its own name and logo, it didn't prepare the Handbook itself, but outsourced it to a German organisation: [RIAS](#) (Federal Association of Departments for Research and Information on Antisemitism). **This is problematic, considering the Handbook effectively develops and directs EU policy on a highly sensitive topic.** The totality of steps and measures promoted on p. 38-39 of the Handbook entrenches the IHRA definition as a major policy instrument across many areas.

Adding to this concern is the fact that RIAS is [funded](#) by the office of Felix Klein, the German antisemitism coordinator, who has faced [harsh criticism](#) for politically instrumentalizing the fight against antisemitism in Germany, resulting in [calls](#) for his resignation, including by Jewish and Israeli scholars.

While the European Commission published the Handbook with its official logo squarely on the front cover and is listed as a “corporate author” on its [website](#), it placed a strict disclaimer in the fine print on the Handbook's inside cover: “*The information and views set out herein are those of*

the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this document. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for any use of the information provided here." This adds to the ambiguity about the status of the Handbook as an official EU document and who is responsible and accountable for its content.

## 2. INVOLVEMENT OF CONTROVERSIAL STAKEHOLDERS

RIAS prepared the Handbook with the help of nine "contributors", several of whom are deeply entangled with the instrumentalization of the IHRA definition. One of them is Mark Weitzman, Director for Government Affairs at the Simon Wiesenthal Center (SWC). The SWC has been a driving force behind what is often summarized as the "weaponization of antisemitism". When the Obama Administration didn't use its veto in December 2016 to block a UN Security Council [resolution](#) that condemned Israel's settlement policy, the SWC [denounced](#) this as the "most anti-Semitic incident of 2016". It did so in its [annual list](#) titled "Top 10 Worst Anti-Semitic Events".

The SWC has also targeted European governments, diplomats and the EU through this list. In [2015](#), the SWC accused the European Union of antisemitism, after the EU had committed to labelling Israeli settlement products. In [2016](#), France was listed for the same reason. In [2019](#) and [2020](#), the SWC framed two senior German diplomats as anti-Semites, one of whom is the German UN Ambassador Christoph Heusgen. Weitzman's active involvement in the Handbook effectively rewards the Simon Wiesenthal Center and legitimizes its deeply offensive tactics.

Another contributor to the Handbook is Kim Robin Stoller, Chair of the Board of Directors of IIBSA (International Institute for Education and Research on Antisemitism). In November 2018, IIBSA published a [report](#), which, on the basis of the IHRA definition, aggressively framed the BDS Movement for Palestinian rights as antisemitic.

## 3. FALSELY PRETENDS "CONTEMPORARY EXAMPLES" ARE PART OF THE IHRA DEFINITION

The IHRA definition has been criticized for its lack of clarity and demarcation. However, most concerns and criticism relate to eleven "contemporary examples of antisemitism" attached to it, seven of which relate to Israel. Formally, these examples aren't part of the definition itself. They were separated from the definition as IHRA [adopted](#) it in May 2016. When the EU negotiated its [Council Declaration](#) on the fight against antisemitism in December 2018, the examples were deliberately [omitted](#) from the text.

However, the Handbook says (bold added): *"To provide a better understanding of antisemitism, the IHRA Working Definition of Antisemitism **includes** eleven examples of how antisemitism can manifest itself."* This looks like a backdoor attempt to establish and entrench the examples as being part of the definition.

## 4. COMPLETELY IGNORES CONCERNS AND CRITICISM

As mapped in [this article](#) and a [database](#) compiled by the Foundation for Middle East Peace (FMEP), concerns and criticism about the weaponization of the IHRA definition to shield the Israeli government are growing around the world.

In fact, the lead author of the IHRA definition, Kenneth Stern, has publicly [criticised](#) how it is being weaponized to delegitimise criticism of Israeli policies. In recent years, many academics, Israel Prize laureates, Jewish and Israeli organisations and Palestinian and Arab intellectuals have all denounced the weaponization of the IHRA definition. This includes, among others, 1400+ lawyers and academics from around the world; 460+ Canadian academics; 244 UK academics; 127 Jewish and Israeli academics; 56 scholars who specialize in antisemitism, Jewish and Holocaust history and the Israeli-Palestinian conflict; and 35 prominent Jewish history scholars and Israel Prize laureates.

Several important academics and lawyers have offered strong critiques of the definition, including Jewish and Holocaust Studies professors David Feldman, Amos Goldberg, Raz Segal and Barry Trachtenberg; legal scholars Reem Bahdi and Faisal Bhabha; Oxford philosopher Brian Klug; Israeli human rights scholar Neve Gordon; Canadian sociologists and anthropologists Mark Ayyash, Jeffrey Sachs, Sheryl Nestel, Greg Bird, Jasmin Zine and Sara Mathews; German sociologist Peter Ullrich; scholars Azeezah Kanji and David Palumbo-Liu; and prominent UK lawyers Sir Stephen Sedley and Hugh Tomlinson.

Moreover, criticism has also been expressed by Jewish and Israeli organizations and figures, including an open letter by 40+ Jewish organizations; US advocacy groups J Street and Americans for Peace Now; Rabbi Jill Jacobs of the rabbinical human rights group T'ruah; former Israeli minister Yossi Beilin; Jewish Voice for Labour in the UK; and former director of the UK-based Institute for Jewish Policy Research Antony Lerman. In November 2020, a group of 122 Palestinian and Arab academics, journalists and intellectuals also [expressed](#) serious concerns about the IHRA definition.

The Handbook, however, acknowledges and addresses **none** of such concerns and criticisms.

## 5. DOESN'T CLARIFY WHAT'S LEGITIMATE

The Handbook doesn't explain where to draw the line between legitimate criticism of Israel and antisemitism. This increases the risk that the former is being disqualified as the latter. In particular, the Handbook fails to adequately address the Boycott, Divestment and Sanctions (BDS) Movement for Palestinian rights. Without mentioning BDS a single time, the Handbook promotes two anti-BDS resolutions as "Good practice example". The first is a June 2020 [resolution](#) of the parliament of the Balearic Islands, which endorsed the IHRA definition and referred to BDS as an antisemitic movement. The second is a December 2019 [resolution](#) of the Austrian parliament, which also associated BDS with antisemitism.

While promoting these resolutions, the Handbook **omitted any reference to the fundamental June 2020 ruling "Baldassi and Others v. France" of the European Court of Human Rights**, as well as to the December 2020 [legal analysis](#) by the Scientific Service of the Bundestag, both of which confirmed activists' right under freedom of speech to engage in BDS. This deliberate ambiguity plays into the hands of those who associate legitimate criticism and activism directed at Israel with antisemitism.

## 6. PROMOTES IHRA-BASED FUNDING CONDITIONALITY

The Handbook recommends prioritizing funding by governments and international actors for "initiatives and organisations that base their actions on the IHRA Working Definition of Antisemitism". In addition, it recommends that donors use the IHRA definition "to avoid funding for antisemitic groups and projects". The Handbook thus urges the EU and its member states to introduce positive and negative funding conditionality based on the IHRA definition.

Since the Handbook treats the "contemporary examples of antisemitism" as part of the IHRA definition, **this recommendation amounts to a call to use the eleven examples as funding criteria – including the controversial and ambiguous examples relating to Israel**. Implying: groups and projects not endorsing the IHRA definition (and the examples) would get less access to EU funding; and groups and projects perceived as matching the examples would be excluded from EU funding.

Such conditionality would be susceptible to political arbitrariness and to exploitation by the Israeli government and organizations affiliated with it. In fact, NGO Monitor quickly seized the opportunity and published a [policy paper](#) on 26 January 2021, titled "Implementing the IHRA Definition of Antisemitism for NGO Funding". A September 2018 [report](#) by the Israeli Policy Working Group identified NGO Monitor as a catalyst for shrinking civic space and a driving force behind coordinated campaigns to defund Palestinian NGOs and other organizations criticizing the Israeli government.

While support for civil society in general and the protection of human rights defenders in particular are policy priorities for the Commission and the EU at large, the Handbook is **giving a strong tailwind to such harmful campaigns**.

## 7. PROMOTES THE IHRA DEFINITION LEGALLY

The Handbook references the legal status of the IHRA definition several times – it’s “non-legally binding”. However, this doesn’t discourage its authors from promoting the definition in terms of its legal effect. The Handbook argues that the IHRA definition (according to the authors *including* the examples attached to it) can help law enforcement “to better recognise” antisemitism and antisemitic crimes, to “record” antisemitic crimes in a systematic manner and to “analyse and categorise” antisemitic crimes in political and/or hate crime reports. Such monitoring, analysis and registration of incidents and crimes is of course important and urgent, but turns problematic when directed by the IHRA definition and its examples.

In fact, the Handbook goes further, when presenting legislation in Romania that “prosecutes antisemitic crimes based on the IHRA Working Definition of Antisemitism” as a “Good practice example”. Even more so, it recommends adding “references” to the IHRA definition in “hate crime legislation and/or legislation against antisemitism” (see table with “Good practices” on p. 38).

The Handbook is clearly **edging towards giving legal effect to the IHRA definition and the examples attached to it**. This serves the agenda of the [International Legal Forum](#), an Israeli “lawfare” organization working to shrink civic space for advocacy and activism in support of Palestinian rights.

## 8. SOWS CONFUSION ABOUT THE APPLICABILITY AND SCOPE OF THE “CONTEMPORARY EXAMPLES”

Under each of the eleven “contemporary examples of antisemitism” attached to the IHRA definition, the Handbook presents “antisemitic incidents” for illustration purposes. In view of the gravity of accusations of antisemitism and the controversy surrounding the contemporary examples, one would hope and expect that the authors of the Handbook exclusively present clear and compelling incidents that illustrate specific examples beyond any doubt. However, that is not the case. **Some of the incidents don’t apply to the example under which they are listed, while others don’t offer clear evidence for antisemitism**. This ambiguity is a major source of confusion, likely to be exploited by actors weaponizing the IHRA definition. Controversial “contemporary examples” in this regard include examples 7, 8 and 10:

**Example 7** says: “Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavour.”

One of the two “antisemitic incidents” the Handbook offers for illustration concerns [advertisements](#) appearing in 2018 at bus stops around London, saying “Israel is a racist endeavour”. However, without additional evidence to suggest anti-Semitic intent, this campaign statement on its own, directed at a state, is not antisemitic.

When confronted with such provocative statements, the European Commission should be guided by what the Handbook only notes in passing, without reference to the IHRA definition: that protection of the right to freedom of expression extends also to information and ideas “that offend, shock or disturb the State or any sector of the population”.

**Example 8** says: “Applying double standards by requiring of Israel a behaviour not expected or demanded of any other democratic nation.”

One of the two “antisemitic incidents” included for illustration concerns a British Member of Parliament who, as the BBC [summarized](#), “was suspended after a 2014 Facebook post emerged in which she shared a graphic of Israel’s outline superimposed on to a map of the US under the headline: Solution for Israel-Palestine Conflict - Relocate Israel into United States, with the

comment: 'Problem solved'." Whether antisemitic or not, this incident doesn't illustrate Example 8. Citing it there encourages the arbitrary use of Example 8.

It should also be noted that the Handbook amplifies the problematic comparison of Israel with "any other democratic nation". In militarily occupying another people for 53 years and in colonizing its land, Israel is unique and not comparable to other democratic nations. The latest [position paper](#) of Israel's leading human rights organization B'Tselem, titled "A regime of Jewish supremacy from the Jordan River to the Mediterranean Sea: This is apartheid", testifies to the exceptional context in Israel/Palestine. This on its own renders Example 8 misguided and unsuitable for official and operational use.

**Example 10** says: *"Drawing comparisons of contemporary Israeli policy to that of the Nazis."*

One of the two "antisemitic incidents" included for illustration concerns an [op-ed](#) in the Belgian newspaper De Standaard, saying (translated from Dutch): "The dead do not speak. So the millions of Jews murdered by the Nazis do not protest when they are used to justify another injustice: a regime that has chiselled discrimination and apartheid into law." Because this statement doesn't compare Israel to the Nazis, it doesn't illustrate Example 10.