

EU contribution to the report of the Special Rapporteur on freedom of religion or belief for the 55th session of the UN Human Rights Council

Introduction

The European Union would like to thank the UN Special Rapporteur freedom of religion or belief, Ms Nazila Ghanea, for her call for contributions to her upcoming report on exploring the dimension of hatred and its relationship to intolerance, discrimination, and violence based on religion or belief. The contribution from the European Union is comprised of both EU internal and EU external actions and policies (with thanks to DG JUST and DG INTPA of the European Commission and to the European External Action Service). Please, note that we have used the questionnaire to guide our contribution and provide our input for the report.

Legal and policy framework

- **Council Framework Decision 2008/913/JHA** of 28 November 2008 on **combating certain forms and expressions of racism and xenophobia by means of criminal law**.¹ It requires the criminalisation of public incitement to violence or hatred based on race, colour, religion, descent or national or ethnic origin. It also applies when publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes, when likely to incite to violence and hatred. It also requires the criminalisation of ‘Hate crime’, meaning that in the sanctioning of any criminal act (such as assault or vandalism, or setting a fire), the racist or xenophobic motivation shall be considered to be an aggravating circumstance or taken into account in the determination of the amount of the penalties.
- The Framework Decision must be implemented by each Member State, except when there is a situation of opt out. The Framework Decision foresees that a Member State shall take measures in case of intentional conduct of “publicly inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin”.

Relations of hatred based on religion or belief and broader prejudicial attitudes in society

- Regarding anti-Muslim hatred, this subject is being discussed through ongoing informal consultations with a wide range of experts in the EU including the root causes of prejudices and evidence thereof. The literature is abundant on anti-Muslim hatred, but the existence of hatred against Muslims and people perceived to be Muslims itself is not recognized by all actors and citizens, in spite of the results of opinion polls and surveys.

¹ Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, OJ L 328, 6.12.2008, p. 55–58, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008F0913&qid=1699731931990>.

Recognition and address of prejudicial attitudes

- Prejudicial attitudes of state actors or law enforcement actors are generally documented at national level. The rule of law report also provides an opportunity to issue an assessment at EU level and at Member State level for a number of aspects related to the fight against prejudices and hatred, including those based on religion or belief².
- The EU Agency for Law Enforcement Training (CEPOL) has been conducting training on anti-Muslim hatred.
- In response to the EU Anti-racism Action Plan 2020–2025³, the EU Fundamental Rights Agency (FRA) launched the project ‘Addressing anti-racism in policing in the EU: challenges and promising practices’ in 2021 and will publish a report in the second half of 2023 or first quarter of 2024⁴.

Instances and effects of the advocacy of hatred based on religion or belief

- Muslims and people perceived to be Muslims, as some other religious or ethnic minorities are adopting various coping mechanisms. Surveys show that they have limited trust in law enforcement actors and therefore tend not to report incidents of hate crime or hate speech.
- Some may self-censor themselves and try to hide their faith. Reproduction of inequalities or specific choices of career path that will allow practicing the Muslim faith have been documented. Some cases of emigration exist but the extent of the phenomenon is not quantified. Harassment and microaggressions against Muslims can lead to psychological consequences and loss of self-confidence.

Relations of hatred based on religion or belief with other grounds of discrimination

- Council Framework Decision 2008/913/JHA on hate crime and hate speech covers not only the ground of religion but also race, colour, descent or national or ethnic origin. In view of the fact that all these grounds are covered, there is unlikely to be complications or gaps in terms of the grounds (e.g. if the matter is not complicated by the assessment as to whether the incitement was based on religion or rather ethnicity since both are covered.)
- The EU Anti-racism Action Plan 2020-2025 provides further explanation of the overlap of hatred based on religion or belief with other grounds of discrimination

Particular manifestations of hatred based on religion or belief

- Crises often lead to peaks in anti-Muslim hatred. The current Middle East crisis as well as reactions to the desecration of the Quran are no exception to this phenomenon.

² https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2023-rule-law-report_en

³ https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-anti-racism-action-plan-2020-2025_en

⁴ See <http://fra.europa.eu/en/news-and-events/upcoming-products-2023>.

- The question of the headscarf and abaya in some member states, blasphemy or satire, flags related to countries of origin can trigger hatred from the non-Muslim population.

EU measures to counter hatred based on religion or belief

- The EU Anti-racism Action Plan 2020-2025 sets out a number of ambitious measures to tackle racism and discrimination and refers to anti-Muslim hatred and antisemitism.

Combating anti-Muslim hatred⁵

- As part of such comprehensive policy approach, the Commission has established since 2015 a dedicated Coordinator on combating anti-Muslim hatred. Since February 2023, the new Coordinator is Ms Marion Lalisse.
- The Coordinator works to ensure a robust and holistic response across the Commission services: fighting hatred and discrimination against Muslims and people perceived to be Muslims requires efforts in the area of teaching and education, in the area of integration and social inclusion policies, in the areas of employment and non-discrimination.
- The Coordinator is the main point of contact for organisations in the EU working against anti-Muslim hatred.
- At national level, several good practices have been identified in several Member States (German report of group of independent experts on anti-Muslim racism published in 2023; working group on anti-Muslim acts within the Forum of French Islam; action programme in Sweden against Islamophobia, etc.). At local level, the European Coalition of Cities against Racism (ECCAR) published a guidebook on anti-Muslim racism in September 2023.

Combating antisemitism⁶

- In 2015, Ms Katharina von Schnurbein was appointed as the first European Commission Coordinator on combating antisemitism. The Coordinator collaborates closely with Jewish communities and organisations.
- Antisemitism is incompatible with Europe's core values. It represents a threat not only to Jewish communities and to Jewish life, but also to an open and diverse society, to democracy and the European way of life.
- Contemporary antisemitism occurs in many forms: old and new, from online hate speech to hate crimes and attacks on Jewish people, their properties and institutions, or as desecration of cemeteries and memorials.
- In October 2021, the European Union presented the first-ever comprehensive EU strategy on combating antisemitism and fostering Jewish life⁷.

⁵ https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-anti-muslim-hatred_en

⁶ https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-antisemitism_en

⁷ EU Strategy on Combating Antisemitism and Fostering Jewish Life (2021-2030), COM(2021) 615 final, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0615>.

Role for religious and belief actors in countering advocacy to hatred based on religion or belief

- The European Commission pursues a regular dialogue with religious and non-confessional organisations based on Article 17 of the Treaty on the functioning of the European Union. Engagement with the religious and non-confessional organisations present across Europe can play a useful role in fostering fundamental rights and European values. The dialogue has allowed to address issues such as the rise of intolerance in European societies, in particular in the context of terrorist attacks, as well as the role religious and non-confessional organisations can play in the integration of refugees and migrants.

Monitoring of hatred based on religion or belief

- In relation to the collection of hate speech and hate crime data, the European Commission, Member states, international organisation and civil society are working together under the **High Level Group on combating hate speech and hate crime** to support EU and national efforts in ensuring effective implementation on the ground of the Framework Decision, the Code of Conduct on countering hate speech as well as the Antisemitism Strategy. A number of practical guidance tools have already resulted from this work, in key areas such as hate crime training, access to justice, support and protection for victims of hate crime and hate speech and hate crime recording. Work is further organised in four subgroups including a **Working group on improving methodologies for recording and collecting data on hate crime**, through expert discussions carried out under the supervision of the EU Agency for Fundamental Rights (FRA).
- The Database of the FRA on anti-Muslim hatred⁸ provides information on significant international, European and national case law and rulings, UN human rights body decisions, reports, findings by human rights and equality bodies and organisations relating to hate crime, hate speech and discrimination against Muslims, as well as relevant research, reports, studies, data and statistics on these issues. It also provides information on victims' support organisations in the EU Member States. An update will be published on the website shortly.
- The 2019 Eurobarometer allowed to survey the general population in the EU to provide an understanding of the attitude of the population towards religious groups, in the workplace and in a family setting⁹.
- The MIDIS II report¹⁰ of the FRA in 2016 gives an overview of the perception of discrimination by the Muslim population in the EU, with a focus on the population with a migration background. A new report on selected findings on Muslims will be published by the end of 2024.
- Underreporting is a challenge: 79% of Jewish people surveyed did not report their most serious antisemitic incident to any organisation. The European Commission will support organisations and projects to combat and record antisemitic hate speech and

⁸ <https://fra.europa.eu/en/themes/religion-and-belief/database-2012-2020-anti-muslim-hatred>

⁹ https://data.europa.eu/data/datasets/s2251_91_4_493_eng?locale=en

¹⁰ <https://fra.europa.eu/en/publication/2017/second-european-union-minorities-and-discrimination-survey-muslims-selected>

hate crime through the ‘Citizens, Equality, Rights and Values’ (CERV) programme¹¹. The EC will assist Member States in ensuring that integrated and targeted support services are available and accessible to victims of antisemitic hate crime, including through EU funding. The European Commission will enhance support to training programmes and capacity-building activities on tackling antisemitism for justice and law enforcement professionals, including through the European Judicial Training Network (EJTN) and CEPOL.

- 13 EU Member States signed the Vienna Declaration to adopt a harmonized system of recording and reporting of antisemitic incidents.

Examples of initiatives and actions to ensure social inclusion and respect for the rights of all

Legislation

- **Framework Decision on Racism and Xenophobia.**¹² It requires that all Member states penalise the public incitement to violence and hatred targeted at individuals or groups defined by race, colour, religion, descent or national or ethnic origin.
- **Audiovisual media Service Directive.**¹³ The Directive governs EU-wide coordination of national legislation on all audiovisual media — traditional TV broadcasts and on-demand services and contains rules to protect the general public from incitement to violence or hatred directed against a group of persons or a member of a group based on any of the grounds referred to in Article 21 of the Charter.
- **Digital Services Act.**¹⁴ This Regulation provides horizontal due diligence obligations for intermediary service providers to ensure safety of users online while providing strong safeguards to protect fundamental rights.

Policy measures

- **The Code of conduct on countering illegal hate speech online.**¹⁵ The voluntary Code of conduct is built on two pillars: 1) effective systems to quickly review hate speech notices by users, and remove content when necessary; 2) mechanisms of cooperation between IT Companies and civil society organisations to foster partnerships including in areas such as awareness raising and education.

¹¹ https://commission.europa.eu/about-european-commission/departments-and-executive-agencies/justice-and-consumers/justice-and-consumers-funding-tenders/funding-programmes/citizens-equality-rights-and-values-programme_en

¹² See footnote 1.

¹³ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), OJ L 95, 15.4.2010, p. 1–24, as amended by Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities, OJ L 303, 28.11.2018, p. 69–92, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L1808&from=EN>.

¹⁴ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act), OJ L 277, 27.10.2022, p. 1–102, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R2065&qid=1699731763015>.

¹⁵ https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online_en

- **The EU Strategy on combating antisemitism and fostering Jewish life.**¹⁶ The Strategy sets out a series of measures articulated around three pillars: to prevent all forms of antisemitism; to protect and foster Jewish life; and to promote research, education and Holocaust remembrance. The Strategy proposes measures to step up cooperation with online companies to curb antisemitism online, better protect public spaces and places of worship, set up a European research hub on contemporary antisemitism and create a network of sites where the Holocaust happened.
- **The EU Guidelines on freedom of religion or belief.**¹⁷ The Guidelines provide guidance on how the EU will conduct its external policy protecting and promoting freedom of religion or belief, including its positioning against hatred based on religion or belief.

Programmes

- **The Citizens, Equality, Rights and Values (CERV) Programme.** It provides funding to tackle hate speech and hate crime, and specifically initiatives to combat online hate speech.
- **European Instrument for Democracy and Human Rights (EIDHR).**¹⁸ In the period 2007-mid 2018, the estimated EIDHR support for civil society in promoting freedom of religion or belief (FoRB) amounted to more than EUR 22 Million. Comparing the explicit funding going to FoRB prior to the adoption of the EU Guidelines (2007-2012) and after the adoption, a significant increase in funding (+350 %) can be noted. As a result of the last call of the EIDHR with a specific focus on FoRB in 2017, six civil society projects have been funded in the Middle East and South and South Asia with a support amounting to EUR 5.18 Million. In addition, under the Development Cooperation Instrument, three regional projects were implemented in the Middle East and Africa with more than EUR 5 Million. The projects typically support activities that facilitate dialogue processes and intercultural understanding between different communities, the promotion of anti-discrimination and awareness-raising and advocacy about this fundamental freedom, improve monitoring, research and documentation, and strengthen capacity-building of civil society and human rights defenders working in this field. A new call has been launched in October 2023.

Projects

- **GERIS**¹⁹ was a two-year project (2020-2022) of societal capacity building and social media engagement, with the aim of facilitating the spread of best practices for promoting respect for one another and fostering social inclusion by creating a transnational network of actors from wider civil society and different faith traditions. It also helped these actors acquire new skills, scale up their activities and reach out to a larger audience, thus promoting global conversation on diversity, coexistence and social inclusion.

¹⁶ https://ec.europa.eu/info/sites/default/files/eu-strategy-on-combating-antisemitism-and-fostering-jewish-life_october2021_en.pdf

¹⁷ <https://www.eeas.europa.eu/sites/default/files/137585.pdf>

¹⁸ Now, it is a thematic programme under the Global Europe: Neighbourhood, Development and International Cooperation Instrument (NDICI). See https://international-partnerships.ec.europa.eu/policies/peace-and-governance/human-rights_en.

¹⁹ https://capacity4dev.europa.eu/projects/global-exchange-on-religion-in-society-geris_en

Efforts to understand the structural and systematic basis of hatred based on religion or belief

- The EU has taken the lead in ensuring comparable data on antisemitic experiences and perceptions. The FRA survey on Jewish people’s experiences of antisemitism will be repeated in 2023 and at regular intervals thereafter. The Eurobarometer on perceptions of antisemitism among the general public will be conducted for the second time in 2024 and then every 5 years. To further facilitate evidence based policymaking, more research into antisemitic prejudices among the general population is needed. The EC will foster, in cooperation with the Member States and the research community, the creation of a European research hub on contemporary antisemitism and Jewish life and culture. The EC will fund an EU-wide survey on antisemitic prejudices in the general population of all Member States, including among young people (taking place in 2024).
- Ongoing consultations on anti-Muslim hatred will contribute to improving this understanding. A study on structural racism will also be carried out on broader forms of racism.

Mechanisms to support targets of hatred, intolerance and discrimination based on religion or belief

- **The EU Victims’ Rights Directive.**²⁰ It includes the right to access information, the right to support and protection, in accordance with victims’ individual needs, and a set of procedural rights. To underpin this Directive, the European Commission adopted on 24 June 2020 its first-ever ‘EU strategy on victims’ rights (2020-2025)’²¹. The main objective of this strategy is to ensure that all victims of all crime, no matter where in the EU or in what circumstances the crime took place, can fully rely on their rights. To that end, it outlines actions that will be conducted by the European Commission, Member States and civil society. In respect of the specific group of hate crime victims, the High Level Group on combating hate speech and hate crime has also put in place a subgroup tasked with dealing with hate crime victims support.

Collaboration with the UN to counter hatred based on religion or belief

- The European Commission is collaborating with the UN to tackle online hate speech. The UN representatives are regularly attending the High Level Group on combating hate speech and hate crime meetings and, on 30 June 2023, we co-organised a Joint EU and UN virtual seminar “A human rights centred approach to tackling hate speech”.

²⁰ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315, 14.11.2012, p. 57–73, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1421925131614&uri=CELEX:32012L0029>.

²¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0258>