

Addressing Europe's Past and Present: The EU's Combatting Antisemitism Policy

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Antisemitism has been the canary in the coal mine for democracy. Centuries of antisemitism culminated in the Holocaust and the genocide of six million Jews across Europe. It was in the name of antisemitism that fascist movements overran Europe and put its democratic order in peril. As Commission Presidents Jean-Claude Juncker and Ursula von der Leyen have stated, the EU was built out of the ashes of the Holocaust (Juncker 2019; von der Leyen 2021). Liberal democracy is the bedrock upon which the EU was forged; it is a club of democracies. The increase of antisemitism across Europe go hand in hand with the rise of the far right and illiberal populism which threaten democracies across Europe. Although antisemitism was on the rise in Europe since 2000, the EU did not seriously address it and at times swept it under the rug (Elman 2015). However, this seems to have changed when on October 5, 2021 the European Commission unveiled its first ever comprehensive strategy to combat antisemitism.

After years of little progress, how did antisemitism emerge onto the EU's agenda, what are the tools the EU has created to address antisemitism and how does combatting antisemitism policy shape our understanding of European integration? The complexity, depth and long history of antisemitism cannot be stopped overnight, likewise adoption of EU mechanisms to address antisemitism emerged slowly overtime. The following examines the incremental process that brought about the comprehensive strategy utilizing institutionalism and neo-functionalism literature as a lens to understand the evolution of this important policy area and examines the tools the EU can use to address antisemitism, which helps to deepen integration within the realm of anti-discrimination policy.

How did antisemitism emerge onto the EU's agenda?

Addressing antisemitism emerged as an issue of greater interest in Europe in part due to 1) the concern over the rise of far-right parties in Europe and democratic backsliding, 2) very public and violent attacks in Europe against Jews (and other related targets) across member states, 3) strong political leadership devoted to addressing antisemitism-particularly from

political leaders in certain member states and key EU officials, 4) EU treaties and directives created the legal underpinnings to deal with antidiscrimination, within which antisemitism is protected and could be addressed at the EU level, 5) influence of international or regional NGO/civil society organizations and the EU Agency for Fundamental Rights (FRA) to define antisemitism and present data highlighting the importance of addressing antisemitism.

Rensmann and Schoeps (2010) argue that the “EU evolved-among other things- as a moral and political counter-model to the antisemitic, totalitarian, ethnic nationalistic legacy that shaped the first half of the European 20th century” (p.3). Checkel and Katzenstein (2009) argued that the EU became an agent for an “inclusive cosmopolitan agenda”. Cosmopolitanism during the Enlightenment referred to “a transnational republican order and today, cosmopolitanism can be seen as a response to the “crisis of the nation-state and the need for global civil society” (Delanty 2009:52). One view of the Jew, is one that is not allegiant to the state and is part of a wandering diaspora (Subotic 2021). Jews are often associated with the concept of cosmopolitanism as Jews are seen as the “‘string pullers’ behind all modernizing dimensions of globalization: cosmopolitan democracy, multi-culturalism, capitalism and international law” (Rensmann and Schoeps 2010: 48). With the rise of the radical right and left populisms, we’ve witnessed a rise of nationalism and with it a discontent of cosmopolitanism, which can be translated or manipulated into antisemitism, which is then used as a political tool to further these radical parties’ political agendas and in many cases undermine democracy (Rensmann and Schoeps 2010).

The EU is premised upon liberal democratic values and with the Charter of Fundamental Rights, equality. Thus, antisemitism coming from both the radical political left and right are problematic for the EU. On the radical political left, anti-EU sentiment related to globalization, capitalism and neo-liberal economic issues were re-awakened during the euro crisis. Some antisemitic narratives characterize Jews as holding the strings of global capitalism, which feeds easily into the radical left’s distrust of capitalism and particularly global capitalism (Rensmann and Schoeps 2010). The radical left also tends to emphasize victimization and has focused on Israel and their perceived victimization of the Palestinians. As a result, the radical left has used the Israeli/Palestinian conflict as a justification for using antisemitism in Europe as a political tool. Although there are political and ethnic tensions around the globe, Israel has been a lightning rod for the radical left, and European Jews have become the target for retaliation for actions

taken by the Israeli government. Blaming European Jews for actions of a foreign government is illogical, but an easy political tool when antisemitism is a strongly held belief across Europe (EU Fundamental Rights Agency 2021; European Union Agency for Fundamental Rights 2018). This type of “new antisemitism” from the radical left emerged after the 2nd Intifada in 2000 and views Israel as the “collective Jew” (Bergman 2010: 84). In this way, world problems are blamed on Israel and European Jews suffer as a consequence (Bergman 2010).

On the other hand, the radical right, supports national protectionism which also runs counter to cosmopolitanism (Rensmann and Schoeps 2010). The rise of the far right, which can be traced back to the 1980s initially finding support among those disaffected by the economy and immigration. Support for the radical right and its nationalistic tendencies was intensified and reinforced across Europe with both the euro crisis of 2008 and migrant crisis of 2015 (Algan et al. 2017; Vachudova 2020).

Extremist Muslims have also adopted both the far right’s definition of the Jew as the corrupt outsider and the left’s anti-Zionism stance, denying the right of the State of Israel to exist and blaming European Jews for the actions of the State of Israel. Although antisemitism is nothing new in Europe, how it is expressed and who is expressing it is somewhat new and more nuanced than the antisemitism of the earlier part of the 20th century.

Antisemitism in Europe was in decline until the 1990s (Bergman 2010). Yet, since the 90s, Europe experienced an increase in antisemitism (European Monitoring Centre on Racism and Xenophobia 2003). The terrorist attacks of 9/11 spurred an upward trend of antisemitism as fallacious rumors about Jews plotting the attack spread across Europe (Elman 2015; European Monitoring Centre on Racism and Xenophobia 2003). Antisemitism became the collateral damage as the far left and right pushed their own political agendas using Jews again as a scapegoat. Several scholars have argued that with the rise of radical right populism has emerged an increase in violence against Jews (Mudde 2005); similarly, anti-Zionism and anti-Israel sentiment tied to antisemitism has also emerged from the political left (Rahola 2007; Rensmann and Schoeps 2010). These anti-cosmopolitan, anti-capitalist, and undemocratic ideals, undermine the EU. The radical right with its anti-EU sentiment and anti-democratic values, such as the respect and protection for minorities, has created a challenge to the EU. In particular, European Parliament elections in 2009, 2014 and 2019 highlighted how these far-right parties could even gain ground within EU institutions to attempt to undermine the institution from within.

Moreover, countries like Poland, Hungary and the Czech Republic (until fall 2021) had governing far right governments, which challenge the rule of law in Europe.

The radical right, with its nationalistic and often nativist positions, uses antisemitism as a catch-all for “the other” and as a threat to the nation and the nation-state system (Kovács 2011; Subotic 2021). Nativism puts greater value on those seen as native-born and views minorities as foreign, even if they are native born (Mudde 2007). The radical right also espouses populist views. Populism, as defined by Cas Mudde (2018) as a “thin-centered ideology” that is divided between the “pure people” and the “corrupt elite”. In populist rhetoric, the Jew is the “corrupt elite” and is often used as a scapegoat for the ills of society, the eternal “other”. Antisemitism becomes a political tool to promote populism and the acceptance of illiberal practices in the name of the “good people” (Anti-Defamation League 2021). Again, antisemitism is shaped around anti-cosmopolitan, anti-global ideals. The concern for Europe is that radical right populist parties can influence policy and shape the national debate about key issues, particularly immigration, even if they are not a governing party (Hayes and Dudek 2019). In countries such as Poland and Hungary, the EU has found itself in a battle against governing radical right populist parties that violate the rule of law, threatening the underlying principle of the EU, liberal democracy. The EU recognizes this threat and realizes the link between antisemitism and the radical right. As the radical right pushes to disentangle integration, EU institutions, particularly the Commission, have attempted to push back against these anti-democratic forces coming from the radical right.

Addressing antisemitism in Europe falls under EU antidiscrimination policy and has mostly been addressed within the more general guise of the EU’s efforts to combat racism and xenophobia. R. Amy Elman’s (2015) historical analysis of EU policy toward antisemitism sets out a detailed discussion of how antisemitism has been dealt with at the EU level. She argues that before 2000, there was little attention paid to antisemitism. In 1985, with the rise of the far right across Europe, a European Parliament Committee of Inquiry was formed to research “pan-European fascism and racism” (Elman 2015). From the Inquiry it was determined that “Antisemitism in Europe is a limited phenomenon limited to a small minority” (cited in Elman, 2015:15). In 1995, the issue of antisemitism was taken up again by the European Parliament Resolution on Racism, Xenophobia and Anti-Semitism, and a Commission survey in 1997 on racism was conducted, but racism was not defined to include antisemitism (see Elman, 2015).

Defining antisemitism within a context separate and yet linked to racism has been a challenge for the EU. Much of the EU's inability to address antisemitism was due its lack of legal mechanisms, a definition to adequately define antisemitism and data to demonstrate the significance of antisemitic acts throughout Europe.

For the early part of the 21st century, the EU had not seriously addressed the threat to the Jewish community. In 2002 the European Union Monitoring Commission (EUMC) initiated for the first time an EU wide examination of antisemitism. The highly respected Centre for Research on Antisemitism in Berlin synthesized the information from all member states, 15 at the time, and concluded that violent attacks against Jews and antisemitic acts were being perpetrated not only by the far right, but from across the political spectrum highlighting anti-Zionism and radical Muslim extremists (European Monitoring Centre on Racism and Xenophobia 2003). The report explained that the political left had used their disdain for Israeli politics towards Palestinians as justification for the use of antisemitic troupes. Violent attacks and the desecration of synagogues were often the work of young Muslim extremists, and the report also showed pro-Palestinian demonstrations where Arab-Muslims and leftist groups marched together carrying anti-Semitic signs. The EU Monitoring Commission wanted to bury the report because it implicated Muslims, which were also victims of exclusion and discrimination across Europe (Elman 2015). The Centre for Research on Antisemitism in protest released the report to the press, forcing the EUMC to release a new report reflecting the original findings.

Since the creation of the coordinator to combat antisemitism in 2015, the EU and specifically the Commission has taken significant steps to address antisemitism which has culminated in the creation of the comprehensive strategy to combat antisemitism. The EU has taken a much more aggressive approach to addressing antisemitism, a policy area related to anti-discrimination and usually the realm of member states. The EU's taking up combatting antisemitism as a policy initiative demonstrates the EU further blurring the lines of sovereignty of member states and deepening integration. The EU in its focus and policy aptly named "Promoting our European Way of Life", sees antidemocratic forces such as antisemitism as a threat to Europe's democratic ideals and thus the EU itself. The Commission taking the lead, but with Parliament and Council support has pushed addressing antisemitism as a new policy area and priority for the EU.

Antisemitism Policy and EU Integration

Institutionalists argue that EU institutions have taken on a life of their own (Peters 1992; Sbragia 1992). In particular, the Commission has used its bureaucratic policy making as a way to push forward particular issues that can be potentially politically salient and challenging to legislate (Peters 1992). However, in the early 2000s the Commission did very little to address the rise of antisemitism or the rise of the far right. In fact, in the early 2000s, one might conclude liberal intergovernmentalism defined how the EU dealt with antisemitism (Moravcsik 1993). Liberal intergovernmentalism asserts, member states have been able to assert their priorities in shaping EU policies. Many member states addressed antisemitism as they saw fit, often even ignoring the issue, and the EU had not picked up the policy in any significant way. The ignoring of antisemitism helped to lead to the rise of political leaders like Jörg Haider and other members of the Freedom Party in Austria and Jean Marie le Pen in France, whom trivialized the Holocaust and made antisemitic statements (France 24 2021b; Reuters Staff 2018). Germany has been quite outspoken about addressing antisemitism, especially considering its Nazi past and its internal actions to rebuild the Jewish community and create very visible Holocaust memorials. Yet one member state is not able to shape the EU agenda regarding antisemitism. Antisemitism, for the most part, remained an issue to be dealt with at the national level, if at all, and not the EU level.

Liberal intergovernmentalism may have been able to explain why antisemitism, although an issue across several European states, did not find political space at the EU level, particularly since member states did not want to tackle it either. However, how do we explain the Commission's new comprehensive strategy to address antisemitism? One could argue that with the rise of antisemitism across Europe, a "spill-over" effect. Neo-functionalists argue that with regional integration would emerge "spill over" or the idea that policy areas would seep into other policy areas and that political elites and interest organizations would organize at the EU level to also promote greater policy activity at the supranational level; thus, promoting greater integration (Haas 1958).

In the case of antisemitism policy, crises and data, along with the willingness of leaders within institutions to tackle the policy area helped to create the kind of spill-over that neo-functionalists conceptualize. One of the major critiques of neo-functionalism is that it does not explain where the initial impetus emerges to promote integration or pushing issues to the European level. In the case of antisemitism, it seems that a crisis, violent attacks on Jews in more

than one country and a wider slower moving “crisis”, the rise of the far-right, helped to explain why antisemitism began to emerge as a policy issue at the European level. Crisification literature can help to fill in the gap of neo-functionalism, and institutionalist literature helps to frame the mechanisms by which this spill-over occurred.

Scholars suggest that crises can push issues onto the EU agenda and have pushed integration forward in many, but not all instances (Börzel and Risse 2018; Rhinard 2019). Börzel and Risse (2018:3) assert that related to the migrant crisis there was an “absence of a transnationalized and liberal/cosmopolitan ‘communicative discourse’ of the elites ” (Schmidt 2010). In the case of antisemitism, liberal/cosmopolitan elites across borders and at the European level recognized the need for policy to address antisemitism as a way to preserve liberal values in Europe, address security of European citizens and push back against far-right activities in member states. Crises that cross EU borders, create a situation that pushes EU institutions and particularly the Commission to create “policy innovations” and promote “policy entrepreneurship” (Mazey and Richardson 2001; Stone Sweet, Fligstein, and Sandholtz 2001). Rosenthal et. al. (1989) defines crises as “threats to core values or essential societal structures” (cited in Rhinard 2019: 2). Initially, the rise of the far right and in particular the creation of a coalition government in Austria with Jörg Haider’s Freedom Party (FPO) created a crisis for a democratic Europe that rejects fascism (Givens and Case 2014). However, that initial crisis was focused on how the far right vilifies immigrants, not necessarily how the far right uses antisemitism. There certainly is a link between Muslim hate, anti-immigration, antisemitism and other forms of hate as intersectionality literature demonstrates, but antisemitism is just one piece that contributes to the far-right’s rhetoric and sources of support.

The crisis that would bring the issue of antisemitism to the fore, was the January 2015 attacks at satirical newspaper Charlie Hebdo in Paris where twelve people were killed and at a Kosher supermarket where four Jews were killed and the February attacks less than a month later in Copenhagen where the perpetrator shot one person at an art event and a young Jew on security at a bat mitzvah outside a synagogue—both crimes were perpetrated by European citizens that were Muslim second-generation immigrants. These double events, brought urgency to the plight of the Jewish community, threatening core values of security and the right to live peacefully. Although other violent and deadly attacks against Jews had occurred in Europe, such as the 2012 deadly attack in Toulouse at a Jewish day school killing three children and a rabbi and the 2014

shooting at the Belgian Jewish museum killing four, it would be the double events in 2015, within a short time span, that would catapult the issue of antisemitism to the fore of the Commission's agenda (member of A Jewish Contribution to an Inclusive Europe 2022).

The 2015 terrorist attacks on Jewish sites in 2015 alone may not have caused the Commission to take up the issue of antisemitism. There is also the need as Stone Sweet et al. (2001) explain for "skilled social actors" (p. 12). Frans Timmermans was Vice-President of the Commission with the portfolio responsibility of Better Regulation, Inter-Institutional Relations, Rule of Law and the Charter of Fundamental Rights. October 1st and 2nd of 2015, Timmermans office in the Commission organized the Annual Colloquium on Fundamental Rights on "Tolerance and respect: preventing and combating antisemitic and anti-Muslim hatred in Europe." At this conference Frans Timmermans would establish the positions of both a coordinator to combat antisemitism and a coordinator on addressing anti-Muslim hate. Timmermans' addresses prior to becoming a member of the Commission alluded to his deep understanding of antisemitism and a sense of responsibility to address it (Timmermans 2013). Moreover, Timmermans' policy style was to bring in stakeholders and to promote dialogue and consultation (Naftaniel 2022). Timmerman's appointment of Katharina von Schnurbein as the coordinator for combatting antisemitism would ensure that policy innovation and entrepreneurship would continue. Since its inception, the Commission office for combatting antisemitism has held many working group meetings which include representatives from member states working in this area and civil society organizations including both Jewish and non-Jewish organizations across Europe.

The outcome of this working group was the creation of the comprehensive strategy to combat antisemitism and to promote Jewish life in Europe. Katharina von Schnurbein is very engaged with many Jewish organizations and has been recognized by these organizations as someone who has championed their cause (Naftaniel 2022). Her ability to connect and cooperate with many civil society organizations has played an important role in facilitating progress to create the comprehensive strategy. Unfortunately, the anti-Muslim hate coordinator did not have the same level of success and there have already been two coordinators and currently there is none. Leadership may not be the only explanatory variable, but it is an important one, especially at the EU level and trying to bring together various stakeholders.

The current President of the Commission, Ursula von der Leyen has also demonstrated a commitment to the policy. In the past European leaders would show up at the requisite Holocaust Remembrance events, but little more would be done to address antisemitism. Von der Leyen has been very vocal about the serious nature of antisemitism and has spoken publicly in different political fora about the troubling rise of antisemitism and what it means for Europe (von der Leyen 2021). In fact in 2021, both Ursula von der Leyen and Margaritis Schinas, Commissioner for Promoting our European Way of Life, publicly lit the Chanukah menorah as part of an annual Euro-Chanukah celebration. Although a public Chanukah menorah lighting had taken place for years in Brussels, this was the first time a high-level EU official attended. The speeches and ceremonies could be seen as window dressing. However, Timmermans and von Schnurbein demonstrate that their political and policy skills helped also to promote institutional change with not only the EU picking up the torch to address antisemitism and Jewish life in Europe, but also to connect with various civil society organizations around the issue and to begin to infuse EU actions around this theme.

Defining Antisemitism, Data, Political Will and Legal Underpinnings

The creation of a coordinator for combating antisemitism and the appointment of Katharina von Schnurbein for the position signaled a real change. Yet changes outside of the EU helped to formulate and define the Commission's actions. In particular the Commission's adoption in 2017 of the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism allowed the EU to better address and identify antisemitism in its many forms. The IHRA definition includes not just the hatred and discrimination against Jews, and Holocaust denial, but also the incorrect linkage of European Jews to the state of Israel or the idea that Israel is a "collective Jew" (Bergman 2010; IHRA 2020). Having a definition of antisemitism aided the Commission to formulate policy and to assist those member states that adopted the definition to measure better the phenomenon. In particular, one of the challenges is that member states had poor or non-existent data on antisemitism and those that did have data, used different definitions to measure antisemitism.

In 2016, the IHRA adopted an official definition of antisemitism. The IHRA definition does not have legal standing and has been considered controversial, nonetheless the definition has found support internationally (Gould 2020). Thirty countries across the globe, including the

US, and UN Secretary General Antonio Guterres and UN Special Rapporteur for freedom of religion and belief Ahmed Shaheed, the EU Council, Parliament and Commission, the Organization of American States Secretary General, and the Council of Europe's European Commission against Racism and Intolerance have all adopted the definition (IHRA 2020).

The initial definition of antisemitism emerged from the EU agency the European Monitoring Center on Racism and Xenophobia posted to their website in 2005 (EUMC) (Elman 2015; Gould 2020). The IHRA, created in 1998 and initiated by former Swedish Prime Minister Göran Persson, is currently composed of 34 countries, most of which are European.

The IHRA basic definition of antisemitism is:

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.

The IHRA goes on to provide possible examples, which are the following:

Manifestations might include the targeting of the state of Israel, conceived as a Jewish collectivity. However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for "why things go wrong." It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.

- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel (International Holocaust Remembrance Alliance 2016).

Although the IHRA definition is not legally binding, since 2017 the Commission and European Parliament began to utilize the IHRA definition in its policy design and legislative work (Directorate-General for Justice and Consumers (European Commission) et al. 2021). The Council of the EU as part of its Declaration to fight antisemitism called on member states to adopt the IHRA definition as “ a useful guidance tool in education and training, including for law enforcement authorities in their efforts to identify and investigate antisemitic attacks” (Directorate-General for Justice and Consumers (European Commission), International Holocaust Remembrance Alliance, et al. 2021: 6). Several, but not all EU members have adopted the IHRA definition. Austria, Belgium, Bulgaria, Cyprus, Czech Republic, France, Germany, Greece, Hungary, Italy, Lithuania, Luxembourg, Netherlands, Romania, Slovakia, Slovenia, Spain and Sweden have all adopted the IHRA definition¹.

The EU, and in particular the European Commission, has used the IHRA definition as a basis to study and measure antisemitism and these studies have informed recent EU initiatives to address antisemitism, within the EU’s broader goal of addressing democratic backsliding within the EU and anti-discrimination.

Moving addressing antisemitism to the EU level could not have been possible without the crisis of violent attacks across member states, political elites advocating to address antisemitism within EU institutions, an accepted definition of antisemitism, and legal bases in EU law to address the issue. Article 13 of the Amsterdam Treaty, created the legal foundation for the EU to engage in the issue of antisemitism, although Article 13 does not explicitly refer to antisemitism. Article 13 states,

Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. (Treaty

¹ Poland has not adopted the definition and although Hungary has adopted the definition, its prime minister, Viktor Orban has publicly made antisemitic comments as a political tool.

establishing the European Community (Amsterdam consolidated version)#Part One 1997)

Following Article 13, was the creation of the Racial Equality Directive (RED), which was to create a “framework for combating discrimination on the grounds of racial or ethnic origin, with a view to putting into effect in the Member States the principle of equal treatment.” (Council Directive 2000/43/EC of 29 June 2000). Directive 2000/43/EC, *implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*, lays down a framework to protect against discrimination. European Jews, as an ethnic minority have protection under this directive. Givens and Case (2014) explain that the RED came about due to racist anti-immigration sentiment and as a response to the rise of the radical right, in particular the 2000 election in Austria which brought Jörg Haider’s radical right Freedom Party into a coalition government.

Although racism and xenophobia, particularly as it related to immigration was the focus of subsequent directives (see Geddes and Guinardon 2004), nonetheless, Article 13 and the RED created legal groundwork, although not explicitly, to address antisemitism, allowing the opportunity for the issue of antisemitism to be pushed to the EU level. It is important to keep in mind that the EU is not primarily a human rights organization, it is a common market. Thus, most anti-discrimination directives and EU action compelling member states to address anti-discrimination have been related to employment, and particularly with a focus on gender equality in the work place.

In addition to Article 13 and the RED, the Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law also established standards by which Jews, as a religion and “race” could be protected under EU law and thus the 2008 Framework became a basis for further EU policy related to antisemitism, as is cited in future Council decisions (Council of the European Union 2008, 2018).

Furthering protections against antidiscrimination, of which antisemitism could be understood, was codified in the Charter of Fundamental Rights, which became enshrined in the Lisbon Treaty in 2009 and reinforced the EU’s legal responsibility regarding anti-discrimination with the following articles:

Article 1: “Human dignity is inviolable. It must be respected and protected.”

Article 3: “Everyone has the right to respect for his or her physical and mental integrity.”

Article 21: “Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.”

With these legal underpinnings in the EU Treaties, including the Charter of Fundamental Rights, the RED, and Council Framework Decision 2008/913/JHA, the EU could claim policy space to address anti-discrimination and specifically antisemitism. Key European leaders such as Frans Timmermans and later Ursula von der Leyen would push to address the issue of antisemitism as Jewish NGOs organized across Europe would also push the EU to address the rise of antisemitism that they were experiencing since 9/11. Antisemitism is transnational and Jewish organizations such as the World Jewish Congress, the European Jewish Congress (EJC), and B’nai B’rith International have organized across borders and have specifically set up offices in Brussels to work with the EU and especially the EU Commission. These groups and others have not stopped operating within member states. Yet, these organizations have made a concerted effort to function at the EU level and to work with the European Parliament and Commission. In fact, in the case of the European Parliament, the EJC and B’nai B’rith run and organize the European Parliament’s Working Group on Antisemitism (WGAS). In 2013, “EJC contributed to the establishment of the European Parliament Working Group Against Antisemitism and continues to be an integral and active part of the group in its capacity as its Secretariat and leading member of the Advisory Board”(EP Working Group on Antisemitism (WGAS) n.d.). In this instance there is interest group organization spill-over whereby interest groups organize at the European level and seek to work with EU institutions, in this instance the European Parliament to address a policy concern. The Commission has likewise worked with and consulted international umbrella and pan-European Jewish organizations in formulating its policy formation of antisemitism.

As Mazey and Richardson (2001) assert “1) bureaucracies seek to establish stable relations with interest groups to create a “stable environment” 2) interest groups see bureaucracies as a means to influencing policy and 3) interest groups look for new opportunities, like the Commission Working Group on antisemitism, to affect policy” (p.71-72). Strong leadership from the Commission, notably Frans Timmermans to hold the Colloquium on

Fundamental Rights on “Tolerance and respect: preventing and combating antisemitic and anti-Muslim hatred in Europe” and the presence and advocacy of Jewish organizations such as EJC and B’nai B’rith at the Colloquium and at other times helped push the plight of the Jewish Community to the fore and to create a network of civil society NGO and advocacy groups to work with the Commission to define the problem of antisemitism and propose policy ideas. Once Katharina von Schnurbein, coordinator to combat antisemitism was appointed, she too had actor agency and leadership to bring together Jewish organizations and other non-Jewish groups to create a Working Group on antisemitism. Von Schnurbein and her office informally seek input from various NGOs that deal with antisemitism and formally meet on a regular basis with NGOs and member state representatives through the Working Group. The Working Group on combating antisemitism has been made a permanent structure in the 2021 comprehensive strategy to combat antisemitism, which brings together member states representatives, Jewish communities’ representatives, LGBTQI and Muslim groups as well that share similar challenges. (European Commission 2021a; member of A Jewish Contribution to an Inclusive Europe 2022).

As in other policy areas, interest groups have organized at the EU level and have formulated “regularized and institutionalized relations” with the Commission (Mazey and Richardson 2001:71) These groups have found a symbiotic relationship as the Commission uses the Working Group to shape policy and to give the policy credibility and interest groups are able to provide suggestions to address their needs and concerns. Moreover, these organizations, such as A Jewish Contribution to an Inclusive Europe (CEJI) have provided policy guidance. The Commission seeks out ideas from organizations like CEJI and CEJI has also become an organization that is implementing programs related to and funded by the EU to promote the goals of the strategy (member of A Jewish Contribution to an Inclusive Europe 2022; Rights, Equality and Citizenship Programme (2014-2020) of the European Union 2022). Antisemitism is a transnational issue and in accordance with subsidiarity it makes sense for it to be tackled at both the EU and national levels and for NGOs to work with the Commission and member states to ensure a robust policy creation and implementation.

In addition to NGOs organizing at the EU level and providing technical expertise to the Commission and European Parliament in the area of antisemitism, the Fundamental Rights Agency and its use of data also helped strengthen the cause to address antisemitism. Its precursor the EUMC created the initial studies on antisemitism that began to raise concern, particularly the

2003 report, but the more recent FRA studies on antisemitism raised greater awareness and urgency to the issue. Without data, the Commission and other EU institutions would not have been able to substantiate the urgency nor formulate policy without fully understanding the depth of antisemitism. In particular the FRA 2018 survey of the perception of European Jews raised considerable attention within the EU. Striking findings included: 89% of European Jews surveyed felt that antisemitism increased in their country in the five years before the survey; 85% consider it to be a serious problem and 28% of respondents experienced antisemitic harassment at least once during the year prior to the survey (Fundamental Rights Agency 2018). FRA and its predecessor EUMC have conducted 17 reports on antisemitism in the EU. The most recent tracking antisemitism between 2010-2020, which was published in 2021. More recent reports have demonstrated the increased intensity of antisemitism and the FRA has also published reports on the increase of antisemitism related to the covid pandemic (Fundamental Rights Agency 2021). These kinds of reports gave credibility to the Commission's actions and provided data to address antisemitism. With a definition, political will and leadership, and data, what mechanisms has the EU created to address antisemitism?

EU Mechanisms to Address Antisemitism

Pushing addressing antisemitism to the EU level was a process as neo-functionalists and institutionalists suggest. The issue and interests spilled-over to the EU level of policymaking and EU institutions, namely the Commission, saw taking up the issue at the EU level as a way to further integration and protect the democratic values of the EU across member state. Once the EU was to address antisemitism, policies and mechanisms have been created to address antisemitism in an actionable way and to push member states to adopt the EU's goals regarding the policy area.

One area where antisemitism is particularly problematic is on-line. Social media platforms have allowed antisemitism to spread and the EU in 2016 with the "code of conduct" began to address the spread of hate and misinformation, with a focus on antisemitism as well as other forms of racism and xenophobia. The EU Commission presented to major IT or social media platforms, Facebook, Microsoft, Twitter, and YouTube² "The code of conduct on

² Four other companies have since joined including: Instagram, Dailymotion, Snapchat and Jeuxvideo.com

countering illegal hate speech online.” The goal of the “code of conduct” is to press IT companies to quickly remove content that is flagged as illegal. “When a request is made companies are to “assess this request against their rules and community guidelines and, where necessary, national laws transposing EU law on combatting racism and xenophobia”(European Commission 2020:1). Companies are to review these requests within 24 hours and to remove the content immediately when necessary (Directorate General for Justice and Consumers 2016; European Commission 2020).

As part of the code, the EU has also put into place a monitoring mechanism to determine how quickly and effectively companies respond to requests related to illegal content. The first monitoring process took place for six weeks between October 10th-November 18th, 2016. Twelve civil society organizations reported a sample of 600 notifications in the following Member States: Austria, Belgium, Denmark, France, Germany, Italy, The Netherlands, Spain, United Kingdom. The largest percentage of hate speech found was antisemitic in nature 23.7% (Directorate General for Justice and Consumers 2016). It should be noted that three out of the twelve organizations specialized in detecting antisemitism, but within this sample, such hate speech against Jews is quite evident. In 2018, 39 organizations from 26 member states, with a total of 4392 notifications relating to hate speech deemed illegal were brought to the attention of IT companies during a period of 6 weeks, 10.1% with antisemitic content and in 2019, 39 organizations from 23 Member States (and the United Kingdom) flagged 4364 notifications relating to hate speech also over 6 weeks and 7.1% of the flagged content dealt with antisemitism (Directorate -General for Justice and Consumers 2019; 2020). These numbers suggest that online dissemination of antisemitism is certainly an issue. The volume of posts, however, does not necessarily address the impact of these posts. With the recent passage of the Digital Services Act, there will be even more oversight of disinformation and hate on-line.

In 2017, the European Parliament passed a resolution on combatting antisemitism in reaction to the actions the Commission had already taken and the data FRA provided (European Parliament 2017). The Council would follow in 2018 with its declaration to address antisemitism and security of the Jewish Community (Council of the European Union 2018). The 2018 Council declaration set up the European Commission Working Group on combating antisemitism, officially established in 2019, bringing together civil society organizations, including Jewish and non-Jewish organizations, relevant international organizations and representatives from member

states. The 2018 declaration would be followed with another one in 2020, the Council declaration on mainstreaming the fight against antisemitism across policy areas, which was an initiative under the German Presidency. The 2020 Council Declaration pushed for member states to adopt national strategies and to transpose EU laws related to antisemitism and hate crimes both on and off line into national laws. In particular, the 2020 Council Declaration also recognized the increase of antisemitism related to the pandemic both on and off-line.

With the ongoing covid pandemic fallacious claims online assert that Jews created and spread the virus and also created the vaccine to make money, a new conspiracy based off of old stereotypes and falsities attributed to Jews (AP 2021; Directorate-General for Justice and Consumers et al. 2021). The European Commission contracted a report with the Institute for Strategic Dialogue examining online content in French and German. Some key findings include:

- Within a dataset of over four million posts collected from these accounts, over 180,000 posts (around one in forty) were flagged as containing antisemitic references by the keyword annotators.
- antisemitic content on Facebook was engaged with through likes, comments and shares over half a million times during 2020 and 2021, and received over three million retweets and likes on Twitter. In Germany, antisemitic content on Telegram has been viewed over two billion times in total. German and French accounts had a combined followership of almost 4.5 million (while the number of unique followers is likely to be much lower).
- There was a considerable growth in the use of antisemitic keywords during the pandemic. Comparing the first two months of 2020 (pre-pandemic) and 2021 (during the pandemic), a seven-fold increase in antisemitic posting could be observed on the French language accounts, and over a thirteen-fold increase in antisemitic comments within the German channels studied (Directorate-General for Justice and Consumers et al. 2021).

This kind of data the Commission has funded has demonstrated the “crisis” nature of the rise of antisemitism in Europe and its cross-border nature, particularly when it is on social media platforms. However, not only have antisemitic conspiracy theories been spreading on line, but they have also been present at public protests regarding lockdowns, mask and vaccine mandates related to covid. In Germany and France, protesters against covid restrictions used Holocaust imagery as part of their protest, drawing false comparisons between health restrictions and vaccines and the Holocaust, a distortion and trivialization of the Holocaust (a form of

antisemitism), or claiming that Jews were the ones who spread the virus (AP 2021; France 24 2021a, 2).

Even before the data on the rise of antisemitism related to the pandemic had been published, in the December 2020 Council Declaration the Council explicitly invited the Commission “to advance the fight against antisemitism (...) by bringing supporting measures together in a comprehensive European strategy on combating antisemitism.”(European Commission 2021b). Prior to the release of the comprehensive strategy, The Commission coordinator for combatting antisemitism, along with the Working Group created a *Handbook for the practical use of the IHRA working definition of antisemitism* (Directorate-General for Justice and Consumers (European Commission) et al. 2021). The Handbook could assist member states to understand all of the forms of antisemitism so that they could better address it in their national strategies. Following the publication of the Handbook, the Commission created its first ever comprehensive strategy to combat antisemitism, which was released on October 5, 2021.

The comprehensive strategy is a ten-year program that covers various facets to protect the Jewish community and to promote Jewish life in Europe. There are three main pillars to the comprehensive strategy: (1) Preventing and combating all forms of antisemitism; (2) Protecting and fostering Jewish life in the EU; and (3) Education, research and Holocaust remembrance (European Commission 2021a). Part of pillar one is to make the Working Group permanent, thus institutionalizing the spill-over of interests and organizations at the EU level. Thus, civil society organizations will continue to work closely with the Commission bureaucracy to both formulate and implement the comprehensive strategy. NGOs like CEJI are already carrying out programs that the EU is funding such as The Networks Overcoming Antisemitism (NOA), which is training teachers, educators, activists and youth. Through the Working Group the Commission has established a symbiotic relationship with civil society organizations, which has further helped the Commission achieve its goals to address antisemitism across member states. This form of spill-over demonstrates how the Commission and civil society have worked to push antisemitism on the EU’s agenda and work in coordination to achieve policy goals related to addressing antisemitism across Europe.

The comprehensive strategy has a budget to support the policy initiative and there is a clear goal to push member states to finally adopt national strategies by 2022. Although the Council unanimously decided that member states should adopt national strategies only seven

member states have created a stand-alone policy, and only seven more members out of the 27 have created general policies to address racism, xenophobia, and discrimination. The lack of transposition in member states implies there is an implementation gap. State sovereignty and the lack of strong mechanisms at the EU level to achieve compliance helps to explain this gap between the Council Declaration and member state compliance. Moreover, the FRA will assistance and supply expertise to member states, as well as provide oversight following the strategy implementation. Thus, the FRA will provide an oversight function. As part of the first pillar, the “code of conduct on countering illegal hate speech online” will be strengthened and the New Digital Services Act appears to be the framework in which that can occur.

One other component of the first pillar is to push member “to transpose EU anti-discrimination laws related to antisemitism into national law” (European Commission 2021a). Thus, the strategy tries to address the implementation gap and lack of transposition in several ways. One mechanism the Commission can and has used to push member states to comply with addressing antisemitism and specifically Holocaust denial or trivialization is the use of the infringement procedure. The Commission has launched thirteen infringement proceedings against countries that have not transposed the 2008 Directive that does not allow the public condoning, denying or trivializing of genocides like the Holocaust and other types of hate speech, which must be treated like a crime (Wax 2022).

Infringement proceedings are an important tool to assure member state compliance with EU law and is a way for the Commission to be a “guardian of the Treaty” and EU law (Prete and Smulders 2010). The Commission using infringement proceedings related to antisemitism demonstrate the institutions’ ability to seek to promote integration and likewise promote its own policy initiative, which in this case is related to upholding democratic values and stopping discrimination and hate speech, which undermines democracy. Infringement proceedings have not always achieved changes on the ground, as the recent infringement proceedings and financial penalties placed upon Poland, however, focusing infringement proceedings on rule of law or fundamental rights has been a more successful tactic for the Commission (Bonelli 2022). In the cases of Sweden and the Netherlands, both countries have started changing their laws following the start of infringement proceedings (Wax 2022).

In addition, to ensure member states properly address antisemitism as a hate crime, education and training will be conducted via the European Union Agency for Law Enforcement

Training (CEPOL) to ensure that police and judges understand what antisemitism is and its manifestation. In the past antisemitic acts were not tried as such. For instance, in 2014 following a firebombing of a synagogue in Wuppertal, the judge ruled the attack as an act of criminal arson, but not antisemitic. The three perpetrators that threw Molotov cocktails into the synagogue were Palestinian-born German residents that wanted to “call attention to the Gaza conflict” (Zeuthen 2018). As von Schnurbein points out, the judge needed to understand better the forms of antisemitism and “that as Europeans, we do not allow violence in Europe for a conflict elsewhere in the world” (Zeuthen 2018). With more education and a budget to facilitate it, the hope is that adjudication of antisemitic acts will be done properly in member state, thus ensuring transposition.

The second pillar of the strategy will provide “funds to protect public spaces and places of worship, research radicalization trends and ways to respond, and support member states and Jewish communities by providing training on security measures” along with cooperation with Europol to address “incitement online of antisemitic terrorism and violent extremism”(European Commission 2021a).

The third pillar ensures the continuation of a focus on antisemitism with its creation of a “European research hub on contemporary antisemitism and Jewish life and culture” and “an education program to teach about Jewish life and traditions as well as the tragedy of the Holocaust”(European Commission 2021a).

Conclusions

The policy to address antisemitism provides a case study with important theoretical and policy implications. The creation of a coordinator to address antisemitism facilitated the ability of NGOs to find political space to be active in Europe. Moreover, Katharina von Schnurbein, has had the political leadership to bring together various NGOs and to promote a policy that has found traction in other EU institutions. The combatting anti Muslim hate coordinator has not been as successful and the most recent coordinator stepped down after his term and there is not as of yet a replacement. Leadership does matter.

The relationship between NGOs and the Commission is a case of what neo-functionalists and institutionalists argues would develop with European integration. NGOs have organized at the EU level and the Commission has pushed addressing antisemitism to the EU level and

together they have created a policy to have member states legislate and create policies to likewise protect and foster Jewish communities at home. The Working Group which is composed of national representatives, Jewish organizations, relevant international organizations, non-Jewish organizations with similar issues, has become a permanent structure which created the comprehensive strategy to combat antisemitism and will continue to shape the policy's formation, thus, institutionalizing spill-over of antisemitism policy to the EU level both as a policy and also as a place for interest articulation.

Antisemitism remained outside the EU agenda even though it was on the rise since 9/11 and even after violent attacks in France (2012) and Belgium (2014). However, since 2015, the EU has put combatting antisemitism as an important policy area and has developed policies and mechanisms to address it. What put antisemitism as an important policy was the rise of the far right and the concern the EU had with how the far right could undermine EU core democratic values and the foundation of the EU. However, that alone was not enough for the EU to engage in addressing antisemitism. Crisis would force the EU to face the Jewish communities' concerns following the 2015 terrorist attacks across two member states within a month. Terrorist attacks had happened before, but there was also the need for political leadership to take up the torch to address antisemitism. Frans Timmermans began to lead the efforts to address both antisemitism and Muslim hate.³ Out of the Colloquium on Fundamental Rights on "Tolerance and respect: preventing and combating antisemitic and anti-Muslim hatred in Europe" emerged the creation of a coordinator who took the reins and brought groups together to address the issue. However, none of this would have been possible without articles within the Treaties and Directives that addressed anti-discrimination and bias against religious and ethnic groups. Also, without defining antisemitism and EU initiatives to measure the extent and forms of antisemitism, policy formation would have remained dormant or insufficient.

The EU strategy is a significant and meaningful step in addressing the festering antisemitism in Europe. It may be impossible to end antisemitism, but it is important to set up the legal and practical applications that can lessen it. On March 2, 2022 the French Presidency prepared draft Council conclusions which strongly supported continued promotion and funding

³ Unfortunately, there has been less movement on the front to address Muslim hate. In part this is because there has not been steady leadership in the coordinators position and the Muslim community is very diverse making it difficult for them to organize. The stalemate on addressing Muslim hate is a concern and organizations like CEJI are working within civil society to promote dialogue and training.

to address the policy prescriptions laid out in the comprehensive strategy, thus suggesting continued and sustained support to address antisemitism in Europe on the part of the EU (Council of the European Union 2022). Rabbi Jonathan Saks stated in 2016 in an address to the European Parliament, “We make a great mistake if we think antisemitism is a threat only to Jews. It is a threat, first and foremost, to Europe and to the freedoms it took centuries to achieve” (European Commission 2021a).

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