

THE POLITICS OF A DEFINITION

How the IHRA Working Definition of Antisemitism
Is Being Misrepresented

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Published by Free Speech on Israel
April 2021

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Foreword

What is touted as the International Holocaust Remembrance Alliance (IHRA) Working Definition of Antisemitism is not a definition, has little to do with antisemitism, and was neither written nor endorsed by IHRA. Such are the findings of this meticulously researched and politically explosive report.

Scholars and legal experts have convincingly argued that IHRA's definition is incoherent, vague, vulnerable to political abuse, and not fit for purpose. It fails even to meet the most elementary requirement of a definition, which is to define. The decisive role of pro-Israel advocacy groups in drafting and promoting the definition has also been established.

This remarkable report reinforces these conclusions. But it also breaks important new ground. Expert criticism and political controversy have focused on a list of 11 highly problematic examples of purportedly antisemitic statements and behaviours. Seven of these 11 examples relate to Israel. All of these examples, according to Israel's supporters, formed an integral part of the IHRA definition.

The report shows that IHRA's decision-making body, the Plenary, in fact decided to exclude all of these examples from its definition. The IHRA definition includes no examples. If there is widespread confusion about this, it is because champions of the examples within and outside IHRA have systematically and methodically misrepresented the Plenary's decision.

The examples, falsely represented as part of the IHRA definition, have been used to delegitimise and censor legitimate criticism of Israel and, more broadly, to curtail free speech on Israel. This shields Israel from accountability for its serious human rights abuses, which consequently continue unchecked.

Meanwhile, the participation of even some IHRA officials in this misinformation campaign compromises the reputation of that organisation. The sad truth is that these officials have been complicit in a deliberate effort to conflate criticism of Israeli policies with antisemitism. IHRA's core mandate — Holocaust remembrance and combating antisemitism — remains as important as ever given the surge of ultra-right populism in Europe and elsewhere. To recover its moral authority, IHRA needs to set the record straight on its confused and confusing definition.

Jamie Stern-Weiner's report demonstrates in irrefutable detail how a definition intended to protect Jews against antisemitism was twisted to protect the State of Israel against valid criticisms that have nothing to do with anti-Jewish racism.

The Politics of a Definition tells for the first time the untold story behind the IHRA definition. It is not only a fascinating chapter of diplomatic history: it also speaks truth

to power. It is therefore of urgent policy relevance. It deserves the widest possible readership, especially among policy-makers.

The report ought to lead any government or organisation that is considering the adoption of the IHRA definition to think again and those that have already signed on to it to reverse their decision.

Avi Shlaim

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22 April 2021

Executive Summary

It has been claimed that the International Holocaust Remembrance Alliance (IHRA) Working Definition of Antisemitism, ‘including its 11 examples’, reflects an international consensus of antisemitism experts. This report, based on my doctoral research at the University of Oxford, exposes that claim as untrue:

- 1) There is **no expert consensus** supporting the Working Definition.
- 2) IHRA’s decision-making body, the Plenary, **did not adopt any examples** of ‘antisemitism’ as part of its Working Definition.
- 3) Senior IHRA officials and pro-Israel groups have **misrepresented the IHRA Plenary’s decision** in order to smuggle into the Working Definition examples that can be used to protect Israel from criticism.
- 4) These examples have been used, in practice, to **censor Israel’s critics**.

There is no expert consensus supporting the Working Definition of Antisemitism.

The Working Definition was principally drafted and negotiated by pro-Israel advocacy groups, not scholars of Jewish history. The initial drafting and negotiation of the Working Definition in 2004-5 was led by the American Jewish Committee (AJC). From early 2014 to May 2016, Mark Weitzman of the Simon Wiesenthal Center (SWC) engineered its adoption by IHRA.

Both the AJC and SWC are **interested, partisan organisations**. They engage, inter alia, in blanket pro-Israel advocacy. The AJC promoted Israel’s line on [Operation Cast Lead](#), the [Goldstone Report](#), the [Free Gaza flotilla](#), [Operation Protective Edge](#) and [UN Security Council Resolution 2334](#) reaffirming the illegality of Israel’s settlements. Even where it disapproves of Israeli Government policy, the AJC [pledged](#) in 2020, ‘the AJC will do what it has always done: explain Israel to the wider world ... We will always be their advocates’. The SWC has urged Israel to [‘reject a return’ to its pre-June 1967 “Auschwitz” borders](#)’ and described European Union (EU) guidelines prohibiting the funding of Israeli institutions established unlawfully in Occupied Palestinian Territory as [‘redolent of the 1930’s Nazi boycott of the Jews throughout the Reich ... which was the prelude to the Holocaust’](#).

In the course of this advocacy, both the AJC and SWC have **conflated legitimate criticism of Israel with antisemitism**. The AJC applies the [‘antisemitism’](#) epithet to [‘anti-Zionism’](#) as well as the [campaign for boycotts, divestment and sanctions](#) (BDS) against Israel. For its part, the SWC in 2018 ranked among the world’s most egregious [‘anti-semitic incidents’](#) a decision by Airbnb to delist Israeli rental properties located in Occupied Palestinian Territory and a German bank’s refusal to cut-off a Jewish

peace group. Its 2016 review branded UNSC Resolution 2334 the world's '[Worst Anti-Semitic/Anti-Israel Incident](#)'. And when the Pre-Trial Chamber of the International Criminal Court ruled that it had territorial jurisdiction in Palestine, in February 2021, the SWC charged this 'kangaroo court' with '[anti-Semitism](#)'.

While the AJC and SWC were the principal drafters and promoters of the Working Definition, they were not objective experts on antisemitism. Meanwhile, [academic](#) as well as legal [experts broadly agree](#) that the IHRA Working Definition is [imprecise, partial and open to political abuse](#).

There is no IHRA consensus for including any examples in the Working Definition of Antisemitism.

In May 2016, IHRA's general Plenary in Bucharest [adopted](#) by consensus a document comprising two distinct parts: a two-sentence **working definition of antisemitism** and a list of **11 examples of potentially antisemitic statements and behaviours**.

This document, in its entirety, has been **inaccurately** referred to as the IHRA Working Definition of Antisemitism.

International, national and civil society bodies have been urged to adopt this so-called IHRA Working Definition on the basis that it reflects a hard-won consensus among IHRA's Member Countries:

[The significance of this definition](#) lies in the international cooperation that led to it ... [I]t was unanimously approved by government representatives from all IHRA Member Countries. Gaining this level of international consensus was no easy feat ... Any 'modified' version of the IHRA definition that does not include all of its 11 examples is no longer the IHRA definition. (*Seven UK delegates to IHRA, August 2018*)

But in reality, **there was no consensus within IHRA** for including the examples in its Working Definition. On the contrary, IHRA's decision-making body **excluded all the examples from the Working Definition** it adopted.

The SWC had presented IHRA with a draft text that did not clearly distinguish between the two-sentence definition and the 11 examples. But after a number of IHRA Member Countries objected to the examples, a revised text was adopted in which **the examples had been separated** from the Working Definition.

An Ambassador who participated in these negotiations testified that IHRA consensus was achieved only when

the original draft text was cut into two, and only the first two-sentence part was to be the working-definition to be adopted, while the other part, the examples, remained what they were: examples to serve as illustrations, to guide the IHRA in its work.

A second delegation head who attended the May 2016 Plenary corroborated this account. Two other members of delegations from different countries also confirmed their understanding that the IHRA Working Definition comprised **only a two-sentence passage without any examples**.

IHRA's [press release](#) about the adoption **clearly distinguished the Working Definition from the illustrative examples** by printing the two-sentence definition in a distinct typeface and demarcating it in a box. Germany followed this same distinction in September 2017, when it [adopted](#) an 'extended version' of the IHRA definition that incorporated **none** of the examples. IHRA [publicly recognised](#) this as an adoption of its Working Definition.

Pro-Israel groups do not value the Working Definition but prize the examples that protect Israel from legitimate criticism.

The IHRA Working Definition reads in full:

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.

Pro-Israel activists attach little value to this definition, which they consider '[neutered \[and\] ... unmoored from any current reality](#)' (SWC).

What pro-Israel activists deem 'essential' is '[the list of examples](#)' (Israel Ministry of Foreign Affairs), which the AJC goes so far as to designate the *real* definition: '[essentially the definition is the examples](#)'.

This is because **fully seven of the 11 examples relate to Israel**. They include criteria which can be used to stigmatise and stifle legitimate criticism of Israel, such as calling Israel a 'racist endeavour' or '[a]pplying double standards' to it.

Such instrumentalization is not a theoretical prospect. The examples have been used, in practice, to delegitimise everything from reports by leading [human rights organisations](#) (including [Israeli human rights organisations](#)) to [the EU's decision](#) to accurately label imports from Israel's illegal settlements.

Supporters of the examples have misrepresented their status.

Supporters of the examples have **misrepresented their status** in respect of IHRA's definition. IHRA Member Countries were able to reach consensus only by *excluding* the examples from the Working Definition. The examples' supporters have **falsely claimed** that there was a consensus for *including* them.

In May 2018, IHRA's Committee on Antisemitism and Holocaust Denial unilaterally proclaimed that 'the definition and the examples constituted the full definition, and that the subject was **not open to further discussion**'. This was prompted by Mark Weitzman, its former Chair and the SWC's Director of Government Affairs.

But the Antisemitism Committee had, and has, **no authority** to rewrite or override a decision of the IHRA Plenary, while the IHRA Plenary has neither revisited nor revised its 2016 decision.

The SWC must know that IHRA's Plenary decided, after heated debate, to exclude the examples from its definition. But the SWC still **falsely asserts** that the '[IHRA Working Definition ... consists of a clear definition of antisemitism along with specific examples](#)'.

Even as IHRA's core mandate is to preserve historical truth, IHRA's own Permanent Office has participated in this **misinformation campaign**. The IHRA website [incorrectly states](#) that the 'Working Definition, including its examples, was reviewed and decided upon unanimously during IHRA's Bucharest Plenary in May 2016'. In June 2020, IHRA's Chair [stated](#):

When IHRA member countries agreed to the text of the working definition, they adopted it in its entirety — the text inside the box, *and* the examples included. So that means, each Member Country stands behind the text of the working definition in its entirety — the text inside the box, *and* the examples included.

This **inaccurate claim** was repeated in a [Handbook](#) co-published in January 2021 by IHRA and the European Commission.

These assertions are **refuted by the documentary record**. In fact, IHRA's Plenary excluded the examples from the Working Definition while multiple IHRA Member Countries have since reiterated and reaffirmed this distinction.

It cannot plausibly be suggested that the misrepresentations sampled here were wholly accidental. In the course of an extended written exchange, IHRA's Permanent Office was repeatedly asked whether, as its spokespeople and publications have repeatedly alleged, IHRA's May 2016 Plenary endorsed the 11 examples as part of the IHRA Working Definition. **Up to the present day, IHRA has refused to answer this question.**

The examples have been used to censor legitimate criticism of Israel.

The list of 11 examples, misrepresented as the IHRA Working Definition, has repeatedly been used and promoted as a **tool for censorship**.

In the UK, [multiple universities](#) and at least one [local council](#) cancelled events because they might breach one or another example. The definition's '[architect](#)' did not object but, on the contrary, **applauded this censorship** as a possible '[turning point](#) in the struggle to curb the demonisation of the Jewish state at universities'.

In 2018, the British Labour Party was pressured into incorporating all 11 examples into its Code of Conduct. The result? When [Israel's leading human rights organisation](#) published a position paper on Israel's 'apartheid regime', Labour members were [forbidden from discussing it](#) because doing so might infringe an IHRA example.

Going forwards, an international [coalition](#) of Jewish organisations along with Israel's Ministry of Strategic Affairs is [calling on social media platforms](#) to use the list of examples to regulate content.

Pro-Israel groups are lobbying governments to [condition NGO funding](#) upon adherence to the examples. The European Commission's IHRA Handbook [recommends](#) that the EU and member States introduce such funding conditionality.

These initiatives have falsely depicted the examples as part of the IHRA Working Definition, thereby mobilising IHRA's moral authority behind an **assault on free speech**. In truth, IHRA's decision-making body excluded the examples from the Working Definition.

Each and all of the claims by Israel's advocates to foist the IHRA definition on the international community are demonstrably false.

Dramatis Personae

Baker, Andrew

- Director of International Jewish Affairs, American Jewish Committee.
- OSCE Chairmanship Personal Representative on Combating Anti-Semitism.

Constantinescu, Mihnea

- November 2018: Died.
- March 2016-March 2017: Romanian Ambassador who served as IHRA Chair.

Klein, Felix

- Federal Commissioner for the Fight Against Antisemitism (*Beauftragter der Bundesregierung für jüdisches Leben in Deutschland und den Kampf gegen Antisemitismus*).
- March 2014-April 2018: Ambassador and Special Representative of the German Federal Foreign Office for Relations with Jewish Organisations and Issues Relating to Anti-Semitism in the German Foreign Office (*Sonderbeauftragter für Beziehungen zu jüdischen Organisationen und Antisemitismusfragen im Auswärtigen Amt*).

Porat, Dina

- Professor Emeritus of Modern Jewish History at Tel Aviv University.
- Head of the Kantor Centre for the Study of Contemporary European Jewry and Alfred P. Slaner Chair for the Study of Contemporary Antisemitism and Racism at Tel Aviv University.
- Chief Historian of Yad Vashem.

Schnurbein, Katharina von

- European Commission Coordinator on Combating Antisemitism (*Antisemitismusbeauftragte der Europäischen Kommission*).

Stern, Kenneth S.

- Director of the Bard Centre for the Study of Hate.
- 2004-5: As Program Specialist on Anti-Semitism and Extremism for the American Jewish Committee, Stern was lead author of the draft of what became the EUMC Working Definition.

Weitzman, Mark

- Director of Government Affairs and Chief United Nations Representative, Simon Wiesenthal Center.
- 2014-16: Chair of IHRA's Committee on Antisemitism and Holocaust Denial.

Acronyms

AJC	American Jewish Committee
BDS	Boycott, Divestment and Sanctions (campaign against Israel)
EU	European Union
EUMC	European Monitoring Centre on Racism and Xenophobia
FRA	Fundamental Rights Agency (successor to <i>EUMC</i>)
IHRA	International Holocaust Remembrance Alliance
ODIHR	Office for Democratic Institutions and Human Rights at the <i>OSCE</i>
OSCE	Organisation for Security and Co-operation in Europe
SWC	Simon Wiesenthal Center
UNSC	United Nations Security Council

REPORT OF FINDINGS:

How the IHRA Working Definition of Antisemitism Is Being Misrepresented

I. Background

The EUMC Working Definition, 2004-5

1. On 28 January 2005, the European Monitoring Centre on Racism and Xenophobia (EUMC) — an autonomous agency of the European Union — published on its website a draft Working Definition of Antisemitism (EUMC WD).¹ The EUMC WD proved controversial and by 2013 had been abandoned by the EUMC’s successor body, the Fundamental Rights Agency (FRA).² On 26 May 2016, the 31 Member Countries of the International Holocaust Remembrance Alliance (IHRA) adopted a variant of the EUMC WD, subsequently known as the IHRA Working Definition of Antisemitism (‘IHRA Working Definition’).

2. The American Jewish Committee (AJC), in particular through its officials Kenneth Stern and Andrew Baker, led the drafting and negotiation of the EUMC WD in 2004-5.³ Baker persuaded EUMC Director Beate Winkler to become involved ‘as a way of extricating the EUMC from a damaging public controversy over a suppressed, and then leaked, antisemitism report, produced in 2002 by the Centre for Research on Antisemitism, Berlin Technical University’.⁴ From early 2014 to May 2016, Mark Weitzman of the Simon Wiesenthal Center (SWC) engineered the Working

¹ EUMC Working Definition of Antisemitism (28 January 2005).

² Antony Lerman, ‘Weapons in the Labour Antisemitism Wars? The IHRA Working Definition and the Accusation of “Institutional Antisemitism”’, in Greg Philo et al., *Bad News for Labour: Antisemitism, the Party & Public Belief* (London: Pluto, 2019), p. 123.

³ Kenneth S. Stern, ‘Written Testimony to the Hearing on Examining Anti-Semitism on College Campuses’, *U.S. House of Representatives Committee on the Judiciary* (7 November 2017), p. 5; Lerman, ‘Weapons’, pp. 122-23. The AJC’s then-head of antisemitism research, Stern has long been credited as the definition’s ‘lead author’. But after he became a prominent critic of attempts to use the definition to regulate speech, former colleagues alleged that his role had been ‘limited’ to that of go-between. In response, Stern published an email dated 29 October 2004 appearing to show that he had ‘crafted’ the definition. See Andrew Baker et al., ‘Letter to Kathrin Meyer and Katharina von Schnurbein’, *ecaj.org.au* (19 January 2021); Kenneth Stern, ‘We Disagree About the Working Definition. That’s OK. Here’s What’s Not’, *Times of Israel* (10 February 2021).

⁴ Lerman, ‘Weapons’, p. 122. The European Jewish Congress and others alleged that the EUMC had refused to publish the report because it identified Muslim perpetrators as disproportionately responsible for rising antisemitism in Europe.

Definition's adoption by IHRA⁵ while Baker sought to shepherd it through the Organisation for Security and Co-operation in Europe (OSCE).⁶

3. The AJC and SWC are American Jewish organisations that engage, inter alia, in blanket pro-Israel advocacy. The AJC promoted Israel's line on Operation Cast Lead, the Goldstone Report, the Free Gaza flotilla, Operation Protective Edge and UN Security Council Resolution 2334 reaffirming the illegality of Israel's settlements.⁷ Even where it disapproves of Israeli Government policy, the AJC pledged in 2020, the 'AJC will do what it has always done: explain Israel to the wider world ... We will always be their advocates'.⁸ The SWC has urged Israel to 'reject a return' to its pre-June 1967 "Auschwitz" borders⁹ and described European Union (EU) guidelines prohibiting the funding of Israeli institutions established unlawfully in Occupied Palestinian Territory as 'redolent of the 1930's Nazi boycott of the Jews throughout the Reich ... which was the prelude to the Holocaust'.¹⁰

4. In the course of this advocacy, both the AJC and SWC have conflated legitimate criticism of Israel with antisemitism.¹¹ The AJC applies the epithet to 'anti-Zionism'

⁵ Baroness Deech, 'Supplementary Evidence (FSU0102)' to House of Commons and House of Lords Joint Committee on Human Rights, *Freedom of Speech in Universities*, Fourth Report of Session 2017-19, HC 589-HL Paper 111 (27 March 2018), footnote 1. The SWC presents Weitzman as the IHRA Working Definition's 'architect'. See 'SWC Contributes to New EU Handbook for the Practical Use of the IHRA "Working Definition of Antisemitism"', *wiesenthal.com* (8 January 2021).

⁶ Andrew Baker, 'Combating Antisemitism in Europe: Is the OSCE Up to the Challenge?' *OSCE Insights* (February 2020), pp. 9-10; Mark Weitzman, 'Testimony to Hearing on "Anti-Semitism Across Borders"', Committee on Foreign Affairs — Subcommittee on Africa, Global Health and International Organisations, *docs.house.gov* (22 March 2017), p. 9; Israel Ministry of Diaspora Affairs Combating Antisemitism Division, *Report On: Antisemitism in 2016. Overview, Trends and Events* (November 2016), p. 53. This last document was brought to my attention by Ben White, *Cracks in the Wall: Beyond Apartheid in Israel/Palestine* (London: Pluto Press, 2018), chap. 5.

⁷ Richard Sideman (AJC President), Letter to the Editor: 'Israel and Gaza: Which Standards Apply?' *New York Times* (17 September 2009); Gil Stern, 'J Street Under Fire After Attempting to Aid Goldstone', *Jerusalem Post* (3 October 2010); AJC, 'AJC Condemns "Free Gaza" Flotilla for Provoking Tragic Violence', *prnewswire.com* (31 May 2010); AJC, *Impact Report 2014-2015* (September 2015), pp. 7-11; Tweet by @AJCglobal: 'AJC calls on members of the House & Senate to support bipartisan legislation rejecting the damaging anti-Israel UN Security Council Res 2334' (5 January 2017).

⁸ Jason Isaacson, 'Confronting the Challenge of Annexation', *ajc.org* (25 June 2020). Cf. John Shapiro, 'AJC and Israel Together', *Times of Israel* (8 June 2018).

⁹ SWC, 'SWC: Israel Should Reject a Return to 1967 "Auschwitz" Borders', *Simon Wiesenthal Center* (19 May 2011).

¹⁰ SWC, 'Wiesenthal Centre to World Trade Organisation "Condemn EU for Discriminatory and Anti Free-Trade Measures Against Your Member State, Israel"', *wiesenthal.com* (19 July 2013).

¹¹ Jewish officials sceptical of such connotations were reportedly 'excluded' from the EUMC WD drafting process. Antony Lerman, 'The Farcical Attack on the UCU for Voting Against Use of the EUMC "Working Definition" of Antisemitism', *antonylerman.com* (2 June 2011); Lerman, 'Weapons', pp. 122-23. For a contemporaneous complaint to this effect, see Letter from Dror Feiler

as well as the campaign for boycotts, divestment and sanctions (BDS) against Israel.¹² For its part, the SWC in 2018 ranked among the world’s most egregious ‘anti-semitic incidents’ a decision by Airbnb to delist Israeli rental properties located in Occupied Palestinian Territory and a German bank’s refusal to cut-off a Jewish peace group.¹³ Its 2016 review branded UNSC Resolution 2334 the world’s ‘Worst Anti-Semitic/Anti-Israel Incident’¹⁴ while its 2020 survey decried an ‘all-out assault’ by the ‘German elite’ to ‘re-legitimize anti-semitic BDS’.¹⁵ When the Pre-Trial Chamber of the International Criminal Court ruled that it had territorial jurisdiction in Palestine, in February 2021, the SWC charged this ‘kangaroo court’ with ‘anti-Semitism’.¹⁶ What pro-Israel groups tout as the Working Definition is a vehicle for investing such designations with political, regulatory and ultimately legal authority.

5. The Working Definition’s drafters faced a dilemma: the more substantive the text, the more useful it would be, but the more resistance it would generate. The compromise that emerged out of the EUMC deliberations was a document that combined a near-meaningless core ‘definition’ —

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

— with a list of substantive ‘examples’ of purported antisemitism whose relation to the ‘definition’ was not clearly specified¹⁷ and which were preceded by a qualifier

(Chair, European Jews for a Just Peace) to Beate Winkler (EUMC Director), ‘Concerning the “Working Definition of Antisemitism”’ (13 October 2005), on file.

¹² Daniel Schwammenthal, ‘BDS Is Antisemitic’, *ajc.org* (23 September 2019).

¹³ SWC, *2018 Top Ten Worst Global Anti-Semitic Incidents* (1 December 2018), pp. 4-5.

¹⁴ SWC, *2016 Top Ten Worst Global Anti-Semitic/Anti-Israel Incidents* (n.d.), p. 1.

¹⁵ SWC, *Top Ten Worst Global Anti-Semitic Incidents 2020* (29 December 2020), p. 6. This referred to the ‘Initiative GG 5.3 Weltoffenheit’, a statement by eminent German academics and cultural institutions rejecting both BDS and the stifling of discussion in the name of combating it. See ‘Statement by German Cultural Institutions on the Parliamentary BDS Resolution by the Bundestag’, *e-flux.com* (12 December 2020); Itay Mashiach, ‘In Germany, a Witch Hunt Is Raging Against Critics of Israel. Cultural Leaders Have Had Enough’, *Ha’aretz* (10 December 2020); Melissa Eddy, ‘German Cultural Leaders Warn Against Ban on Israel Sanctions Movement’, *New York Times* (11 December 2020).

¹⁶ ICC Pre-Trial Chamber I, *Situation in the State of Palestine*, ICC-01/18 (5 February 2021); Abraham Cooper (SWC), ‘The ICC Opens a New Front in the War Against Israel. Why We Must Fight’, *themedialine.org* (9 February 2021).

¹⁷ The two-sentence passage introduced as ‘Working definition:’ was marked off from the rest of the document by double quotation-marks and a bold-italic typeface. On the other hand, the entire

(each did not necessarily but only ‘could, taking into account the overall context’, constitute antisemitism) that, if taken seriously, divested them of determinative content. The result was a document that was at once technically vacuous and powerfully suggestive.¹⁸

6. Fully seven of the 11 examples related to the State of Israel. These included ‘[d]enying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavour’; comparing ‘contemporary Israeli policy to that of the Nazis’; and ‘[a]pplying double standards’ to Israel ‘by requiring of it a behaviour not expected or demanded of any other democratic nation’.¹⁹

7. The pro-Israel Jewish organisations that crafted the EUMC WD attached little value to the two-sentence passage quoted above, which even the Working Definition’s architects and proponents have dismissed as a ‘preamble’ that ‘doesn’t really say much’ (Stern, AJC), ‘so obvious’ (Community Security Trust), ‘very generalist and vague’ (Campaign Against Antisemitism), ‘totally neutered [and] ... unmoored from any current reality’ (Weitzman, SWC).²⁰ What they prized were the illustrative examples, which enabled legitimate criticism of Israel to be stigmatised as antisemitic. Indeed, Baker of the AJC went so far as to designate these examples the *real* definition:

document was published under the heading, ‘Working Definition of Antisemitism’. See para. 18 below.

¹⁸ ‘[T]he presumption inherent in how the document is drafted is that ... [the examples] *are likely* to be antisemitic; and in the rhetorical use of the document, like the recognition that it is no more than a draft, these qualifications have all but disappeared in practice’ (Richard Kuper); ‘there is a danger that the overall effect will place the onus on Israel’s critics to demonstrate they are not antisemitic’ (David Feldman); ‘the burden of proof lies with critics of Israel, who are constantly asked to prove that they are not anti-Semites’ (Amos Goldberg and Raz Segal). Richard Kuper, ‘Hue and Cry Over the UCU’, *openDemocracy* (1 June 2011); David Feldman, ‘Will Britain’s New Definition of Antisemitism Help Jewish People? I’m Sceptical’, *Guardian* (28 December 2016); Amos Goldberg and Raz Segal, ‘Distorting the Definition of Antisemitism to Shield Israel From All Criticism’, *+972 Mag* (5 August 2019).

¹⁹ EUMC, ‘Working Definition’.

²⁰ Kenneth Stern, *Defining Antisemitism: Freedom of Speech on Campuses and Beyond* (14 December 2020), uploaded to YouTube by Independent Jewish Voices on 15 December 2020; Mark Gardner, ‘What Is the International Holocaust Remembrance Alliance Definition of Antisemitism?’ *Jewish Chronicle* (11 July 2018); CAA, ‘The Labour Party’s Promise to Cast Aside the International Definition of Antisemitism and Come Up with Its Own Better Version Is a Further Insult to the Jewish Community’, *antisemitism.org* (17 May 2018); Mark Weitzman, ‘Plenary Talk’, ‘*An End to Antisemitism!*’ *International Conference in Vienna* (18-22 February). A broad consensus of academic and legal specialists concurs with these judgements; see Foundation for Middle East Peace, ‘Challenging the IHRA Definition of Antisemitism’, *fmep.org* (accessed 21 April 2021; updated regularly).

When the definition was drafted, and still today, we've always said it's a comprehensive whole. There is a core paragraph, which is in a box ... but **essentially the definition is the examples**.²¹

The Working Definition 'is in itself a minimalist definition', a senior official at Israel's Ministry of Foreign Affairs likewise explained. 'What turns it into an essential definition in our eyes is the list of examples'.²²

Misusing and misrepresenting the EUMC definition

8. Once the Working Definition was published, pro-Israel campaigners frequently exaggerated its significance while suppressing its caveats and qualifications. Whereas the EUMC had disseminated the document as a draft, pro-Israel publicists frequently inflated its status to 'the EUMC Working Definition' or even the 'European' or 'European Union' definition.²³ Once the IHRA Working Definition had been adopted, publicists conceded that its predecessor 'never really ... [had] any kind of official status'.²⁴ A more significant misrepresentation concerned the EUMC examples. The

²¹ Andrew Baker, *Israel and Antisemitism: The BDS Movement*, uploaded to YouTube by AJC Dallas on 6 November 2020. Via Ben White, 'The IHRA Censors Palestinians By Design, Not By Accident', *Vashti Media* (23 December 2020). '[T]he brief opening preamble definition', another publicist writes, 'is not really meant to be used ... It is the eleven examples ... that are being taught and applied'. Cary Nelson, 'Accommodating the New Antisemitism: A Critique of "The Jerusalem Declaration"', *Fathom* (April 2021). Cf. Jeffrey Herf, 'IHRA to JDA: Definitions of Antisemitism in 2021', *Times of Israel* (9 April 2021).

²² Noam Katz, Deputy Director General for Public Diplomacy, Israel Ministry of Foreign Affairs, *State Audit Committee*, 23rd Knesset 1st Session, Knesset Protocol No. 33 (28 July 2020), trans. Hebrew. Katz was referring to the IHRA Working Definition.

²³ See, e.g., European Forum on Antisemitism, 'Working Definition of Antisemitism', *european-forum-on-antisemitism.org* (n.d.), 20 February 2013 version accessed via the Wayback Machine; David Matas, 'Assessing Criticism of the EU Definition of Antisemitism', in *The Working Definition of Antisemitism — Six Years After*, Proceedings of the 10th Biennial Tel Aviv University Stephen Roth Institute's Seminar on Antisemitism (2010); Jonny Paul, 'UK Academic Union Rejects EU Definition of Anti-Semitism. UCU Institutionally Racist, Board of British Jews Charges', *Jerusalem Post* (1 June 2011); *Antisemitism Worldwide 2011 — General Analysis* (Tel Aviv: Kantor Center for the Study of Contemporary European Jewry, 2011), p. 3; President's Advisory Council on Campus Climate, Culture, & Inclusion, *University of California Jewish Student Campus Climate Fact-Finding Team Report & Recommendations* (July 2012), p. 8; Executive Council of Australian Jewry, *Report on Antisemitism in Australia, 1 October 2021 – 30 September 2013* (2013), pp. 8, 10, 182; SWC, 'Wiesenthal Centre to British Labour Party Shadow Home Secretary: "Adopt the EU Working Definition of Antisemitism"', *weisenthal.com* (1 July 2016). For further examples, see Ben White, 'Israel Lobby Uses Discredited Anti-Semitism Definition to Muzzle Debate', *Electronic Intifada* (28 September 2012).

²⁴ Mark Weitzman (SWC), *Presentation to Ray Wolpov Institute: Defining Antisemitism and Why It Matters* (25 October 2017), uploaded to YouTube by WWU Libraries on 29 November 2018. Weitzman has elsewhere described the IHRA Working Definition as 'the first definition of antisemitism with any formal status' while no previous efforts 'achieved international status'. Mark

Jewish groups that drafted the Working Definition, led by the AJC, had initially presented the list of examples as straightforwardly and unequivocally antisemitic.²⁵ As discussed, the document's principal value for them was precisely this designation. In negotiations with EUMC officials, the contextual caveat noted above ('could, taking into account the overall context') was inserted to 'allay ... concerns' that 'critics of Israel' would be illegitimately targeted.²⁶ But the EUMC WD provided no guidance as to what 'context' should be considered qualifying. In practice, the caveat was frequently ignored as pro-Israel activists wielded the EUMC WD with what its lead author himself termed 'the subtlety of a mallet' to stigmatise and stifle criticism of Israel.²⁷

The AJC's Baker later recalled, with no reference to any 'contextual' qualifier,

the definition itself goes out of the way to state that criticism of Israel is not antisemitic. But when Israel is demonised, when you equate its activities with the Nazis, when you suggest it doesn't really have a right to exist or that it's a 'racist endeavour', we were very clear: this is not criticism, this *is* a form ... of antisemitism.²⁸

The Israeli historian Dina Porat, credited with the idea for a formal definition of antisemitism,²⁹ herself referred unequivocally to the EUMC WD's 'list of acts and

Weitzman, *LinkedIn.com* (n.d.; accessed 21 April 2021); Robert Williams and Mark Weitzman, 'The First Step to Fighting Antisemitism: Why the IHRA Definition Matters', *Jerusalem Post* (6 March 2021). Cf. note 54 below.

²⁵ This is true of all three draft versions so far published. See: Email from Kenneth Stern to Yehuda Bauer et al., '[D]efinition of antisemitism' (29 October 2004), on file; Kenneth S. Stern, 'Proposal for a Redefinition of Antisemitism', *Antisemitism Worldwide, 2003/4* (Tel Aviv: Stephen Roth Institute, 2005); Kenneth S. Stern, *Antisemitism Today: How It Is the Same, How It Is Different, and How to Fight It* (American Jewish Committee, December 2006), pp. 192-93fn11.

²⁶ Baker et al., 'Letter'.

²⁷ Kenneth S. Stern, 'The Working Definition of Antisemitism — A Reappraisal', *The Working Definition of Antisemitism — Six Years After* (Tel Aviv: Stephen Roth Institute, 2010), p. 5. Cf. Stern, 'Written Testimony'; Kenneth S. Stern, 'I Drafted the Definition of Antisemitism. Rightwing Jews Are Weaponising It', *Guardian* (13 December 2019).

²⁸ Andrew Baker, *Israel and Antisemitism: The BDS Movement*, uploaded to YouTube by AJC Dallas on 6 November 2020. Via Ben White, 'The IHRA Censors Palestinians By Design, Not By Accident', *Vashti Media* (23 December 2020). Emphasis added.

²⁹ Stern, 'Reappraisal', p. 1; Kenneth S. Stern, *The Conflict Over the Conflict: The Israel/Palestine Campus Debate* (Toronto, Buffalo and London: New Jewish Press, 2020), p. 151.

statements that *are* anti-Semitic'.³⁰ The SWC, which orchestrated IHRA's adoption of the Working Definition,

- pressed the EU to cease funding universities that hosted 'Israel Apartheid Week' events, these constituting an 'ipso facto ... violation of the ... Working Definition of Antisemitism'³¹ on the apparent grounds that '[t]he EU definition of antisemitism [*sic*] deems equations between Israel and the former regime in South Africa to be a manifestation of contemporary antisemitism because the juxtaposition seeks to undermine Israel's right to exist';³²
- declared that the Spanish Government's decision to exclude from a sustainable agriculture competition researchers representing Ariel University — established unlawfully by Israel in Occupied Palestinian Territory — 'certainly violates ... the European Union Fundamental Rights Agency Working Definition of Antisemitism ... on the grounds of incitement to hatred';³³
- alleged that a British University and College Union (UCU) vote to boycott Israeli academic institutions manifested 'double standards' and hence 'is clearly characterised ... as a form of antisemitism' by the EUMC WD;³⁴
- condemned a journalist's reference to 'complex political ties that have prevented European countries from holding Israel to account' as arguably a violation of the EUMC WD;³⁵

³⁰ Quoted in Lerman, 'Weapons', p. 123. Original source: Dina Porat, 'What Makes an Anti-Semite?' *Ha'aretz* (28 January 2007). Emphasis added.

³¹ SWC, 'Wiesenthal Centre to European Union Foreign Minister: "Cut EU Funding from Universities Hosting 'Israeli Anti-Apartheid Week'"', *wiesenthal-europe.com* (4 April 2011). Cf. SWC, 'Wiesenthal Centre to French Interior Minister: "Cancel 'Israel Apartheid' Conference at Paris University as Threat to Public Order and a Danger to the Jewish Community"', *wiesenthal.com* (16 February 2012).

³² Benjamin Weinthal, 'Wiesenthal Center Blasts Dutch University's Apartheid Event', *Jerusalem Post* (10 April 2011).

³³ SWC, 'Wiesenthal Centre to OSCE/ODIHR Warsaw Meeting: "Condemn Spain for Exclusion of Israeli Scientists, in Violation of Its Commitments to OSCE"', *wiesenthal.com* (7 October 2009).

³⁴ SWC, 'Read Correspondence Between SWC and President of International Association of University Presidents', *wiesenthal.com* (4 June 2007). Cf. Manfred Gerstenfeld's suggestion that the EUMC WD was 'inconvenient for the EU as it lists the use of double standards against Israel as anti-Semitic. This would effectively label the EU as a perpetrator of anti-Semitic acts'. Manfred Gerstenfeld, 'Europe's Feeble Fight Against Anti-Semitism', *Jerusalem Post* (15 October 2015).

³⁵ SWC, 'Wiesenthal Centre to Irish Prime Minister: "Economic Meltdown Cannot be Camouflaged by Anti-Semitism"', *wiesenthal.com* (24 November 2010).

... and so forth.³⁶ This political instrumentalisation of the EUMC WD could scarcely have been avoided; the purpose of the EUMC WD was precisely to redefine statements and behaviours encompassed by the examples as antisemitic, while, as noted, to take seriously the document's contextual qualifier would have rendered it near-meaningless. The 'definition' was either censorious or it was nothing.

9. Such misuses and misrepresentations of the EUMC WD stimulated mounting criticism. The EUMC and its successor body publicly clarified that the document was merely a work-in-progress, had been adopted neither by the EUMC nor by the EU, had no official status and had not to their knowledge been applied in practice by any public authority within the EU.³⁷

From EUMC to IHRA

10. When it became clear, in 2013, that the FRA had removed the EUMC WD from its website, American and European Jewish organisations as well as the Government of Israel were highly critical³⁸ and resolved to act. The SWC warned that '[t]he absence of an accurate definition of anti-Semitism, which includes the vilification of Israel and falsely comparing Israel to the Nazis, will only encourage our enemies all over the world to intensify their efforts to delegitimise the Jewish state'.³⁹

³⁶ Cf. SWC, 'Wiesenthal Centre to Belgian Prime Minister: "Denounce Bogus 'Israeli' Highstreet Assault on Local Arabs as Public Disorder and Subliminal Inculcation of Jew-Hatred"', *wiesenthal.com* (29 May 2008); SWC, 'Simon Wiesenthal Centre to European Broadcasting Union: "Investigate Reports of Swedish Anchor's Anti-Semitic Discourse"', *wiesenthal.com* (6 February 2012); SWC, 'Wiesenthal Centre to British Deputy Prime Minister: "Expel M.P. David Ward from Liberal Democrat Party for Offense to Holocaust Survivors and Legitimization of Terrorism"', *wiesenthal.com* (29 January 2015); SWC, 'Wiesenthal Centre to Spanish Foreign Ministry: "Stop Subsidizing Anti-Semitic Forums"', *wiesenthal.com* (5 January 2015).

³⁷ See Letter from Beate Winkler (EUMC Director) to Dror Feiler (Chair, European Jews for a Just Peace), 28 November 2005, on file; and EUMC/FRA statements cited in Ben White, 'Discredited Definition of Anti-Semitism No Longer In Use, Says BBC', *Electronic Intifada* (30 October 2013); SWC, 'SWC to EU Baroness Ashton: "Return Anti-Semitism Definition Document to EU Fundamental Rights Agency Website"', *wiesenthal.com* (6 November 2013); Shimon Samuels (SWC), 'EU Disowns the "EU Working Definition of Anti-Semitism"', *Times of Israel* (3 December 2013); Ben White, 'Israel Lobbyists Finally Concede that EU Has Ditched Anti-Semitism "Definition"', *Electronic Intifada* (5 December 2013); Sam Sokol and Lahav Harkov, 'Israel Urges EU Human Rights Body to Return "Anti-Semitism" Definition to Website. European Jewish Congress President Moshe Kantor Says Move Sends "A Troubling Message"', *Jerusalem Post* (6 December 2013); "'Working Definition" of Anti-Semitism Abandoned by Europe', *European Jewish Press* (14 December 2013).

³⁸ Sokol and Harkov, 'Israel Urges'; 'European Lawmakers Urge E.U. to Reinstate Anti-Semitism Definition', *Jewish Telegraphic Agency* (31 January 2014). The president of the Conseil Représentatif des Institutions Juives de France (CRIF) sounded a discordant note: 'The EU never adopted the definition nor did its authors ask them to'; '[t]o continue bleating about the definition is not relevant'. Sokol and Harkov, 'Israel Urges'.

³⁹ Sokol and Harkov, 'Israel Urges'.

The Chairman of Israel's Knesset Committee for the Struggle Against Anti-Semitism urged a 'push for the adoption of an internationally accepted definition of anti-Semitism'.⁴⁰ This was reiterated at the Fifth Global Forum for Combating Antisemitism (GFCA) convened by Israel's Ministry of Foreign Affairs and Ministry of Jerusalem and Diaspora Affairs in May 2015, which recommended that European institutions and governments '[a]dopt a formal definition of antisemitism' that 'should include unambiguous reference to attacks on the legitimacy of the State of Israel and its right to exist'.⁴¹ The GFCA's Working Group on Law, Legislation and Enforcement in Combating Antisemitism, co-chaired by Dina Porat, recommended 'that the [EUMC] Working Definition of Antisemitism ... be reintroduced into the international arena with the aim of giving it legal status'. Its Working Group on Antisemitism in the EU and Western Europe Region recommended that the EU 'appoint a Special Envoy on antisemitism among whose tasks should be to work towards a definition of antisemitism'. And its Working Group on the Role of International Organisations in Combating Antisemitism, co-chaired by Baker (AJC) and Weitzman (SWC), advised that 'one should not underestimate the value of international resolutions and commitments as tools for encouraging action', citing as an example the 'EUMC Working Definition' which 'offered a comprehensive definition of antisemitism ... including as it relates to the State of Israel'. The Working Group recommended 'engage[ment] with ambassadors and national representatives who serve on these international bodies (e.g., UN, OSCE, IHRA)' and 'foster[ing] efforts to increase the use of the EUMC working definition of antisemitism'.⁴²

11. By this point, Weitzman — Chair of IHRA's Committee on Antisemitism and Holocaust Denial ('Antisemitism Committee') as well as Director of Government Affairs at the SWC — had already put this recommendation into practice. In 'early 2014' — shortly after the SWC had publicly criticised the FRA for having disavowed the EUMC WD⁴³ — the Antisemitism Committee endorsed a proposal by Weitzman

⁴⁰ Shimon Ohayon, 'Defining Anti-Semitism In Order to Fight It', *Jerusalem Post* (2 January 2014).

⁴¹ Israel Ministry of Foreign Affairs and Israel Ministry of Diaspora Affairs, *The Action Plan for Combating Antisemitism 2015 and Beyond and Final Statement* (2015), p. 3. This illuminating document was brought to my attention by White, *Cracks in the Wall*, chap. 5.

⁴² Israel Ministry of Foreign Affairs and Israel Ministry of Diaspora Affairs, *Action Plan 2015*, pp. 14, 17, 23-24. Katharina von Schnurbein became the first European Commission Coordinator on Combating Antisemitism in December 2015. One of her first acts was to attend a planning meeting for the Working Definition's adoption by the IHRA and OSCE; see para. 12 below.

⁴³ SWC, 'SWC to EU Baroness Ashton'; Samuels, 'EU Disowns'.

that IHRA adopt a version of the EUMC WD.⁴⁴ In December 2014, at an IHRA Plenary meeting in Manchester, Weitzman met and ‘obtained the support of’⁴⁵ Romanian Ambassador Mihnea Constantinescu, who ‘agreed to make the Definition one of his primary goals during the Romanian [IHRA] Chairmanship of 2016’.⁴⁶ For Weitzman this was a ‘key step’, enabling the Working Definition to be presented as a European rather than a parochially Jewish, Israeli or Anglo-American initiative and increasing the prospects of it being adopted.⁴⁷

12. In January 2016, a meeting of Holocaust-related special envoys and representatives of the OSCE and IHRA was convened at the Czech Foreign Ministry.⁴⁸ Participants included the new European Commission Coordinator on Combating Antisemitism Katharina von Schnurbein;⁴⁹ Constantinescu, as incoming Chair of IHRA; and an envoy from the OSCE Office for Democratic Institutions and Human Rights (ODIHR) — presumably, Baker.⁵⁰ The ‘definition of antisemitism’ was on the agenda.⁵¹

13. On 5 April 2016, IHRA Chair Constantinescu informed the Antisemitism Committee that IHRA and the OSCE — then chaired by Germany — had determined ‘to seek adoption of the EUMC Working Definition of Antisemitism’.⁵² He requested

⁴⁴ Mark Weitzman, ‘The IHRA Working Definition of Antisemitism’ in Armin Lange et al. eds., *Comprehending and Confronting Antisemitism: A Multi-Faceted Approach* vol. 1 (De Gruyter 2019), p. 465.

⁴⁵ Mark Weitzman, quoted in Manfred Gerstenfeld, ‘To Fight Anti-Semitism, You Have to Define It’, *Israel National News* (5 March 2018).

⁴⁶ Weitzman, ‘The IHRA Working Definition’, p. 466; Weitzman, ‘Plenary Talk’. Cf. IHRA, *Plenary Session Bucharest, 26 May 2016: Annotated Agenda* (n.d.), Annex 13, p. 3, on file.

⁴⁷ ‘There is a quid pro quo’, Weitzman explained, such that ‘when countries are Chairs, they have pet projects that they make their priorities and other countries generally try to go along with it so that they in turn will get support when they take the Chairmanship’. Weitzman, ‘Plenary Talk’.

⁴⁸ Tweets by @SitlerJiri: ‘@SEASForman @kschnurbein The idea was born at the envoys# meeting at @CzechMFA in January’ (5.54pm, 26 May 2016); ‘Happy to hear that. The idea was born at envoys’ meetin[g] at @CzechMFA in January’ (26 May 2016). Jiří Šitler was the Czech Ambassador to Sweden.

⁴⁹ Letter from Ambassador Mihnea Constantinescu (Chair, IHRA) to IHRA Antisemitism Committee (5 April 2016), on file. A Working Group of Israel’s May 2015 Global Forum on Combating Antisemitism had recommended the creation of Schnurbein’s position in order to ‘work towards a definition of antisemitism’; see note 42 above.

⁵⁰ Baker had served since 2009 as the Personal Representative of the OSCE Chairperson-in-Office on Combating Anti-Semitism. Also participating were the Special Envoys of Greece, Germany, France, the United States, Macedonia and Israel, along with the outgoing IHRA Chair. See UK Foreign and Commonwealth Office (FCO), ‘Brief for Meeting of Post-Holocaust Issues Envoys, Prague, 12 January 2016’ (n.d.), on file.

⁵¹ UK FCO, ‘Brief’.

⁵² Constantinescu, ‘Letter to Antisemitism Committee’.

that members of the Antisemitism Committee ‘help me argue this challenging case’ at IHRA’s upcoming 23-26 May Bucharest Plenary and delegated to Weitzman the coordination of this effort. In the meantime, experts were to ‘open up the dialogue on this issue within your delegations and particularly with your Heads of Delegation’.⁵³

14. On 26 May 2016, IHRA’s Plenary adopted a Working Definition of Antisemitism. Observing that the IHRA Working Definition was ‘essentially the same text’ as the EUMC WD, the Louis D. Brandeis Centre kvelled that ‘because the IHRA has adopted it, the definition has now officially been given the international status that it was previously lacking’.⁵⁴ This was celebrated as a significant achievement for those ‘Israeli representatives, individuals and organisations, Jews and non-Jews’ who, since the EUMC WD’s removal from the FRA website in 2013, had ‘been endeavouring to restore awareness of the definition as well as its use’.⁵⁵ But pro-Israel activists’ IHRA victory was more apparent than real.

II. Controversy in Bucharest

15. On 26 May 2016, the IHRA general Plenary in Bucharest adopted by consensus this ‘non-legally binding working definition of antisemitism’:

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.⁵⁶

It was reproduced verbatim from the EUMC WD.

16. To help ‘guide IHRA in its work’, the Bucharest Plenary also endorsed the EUMC WD’s 11 illustrative ‘examples’ of statements and behaviours which ‘could,

⁵³ Constantinescu, ‘Letter to Antisemitism Committee’.

⁵⁴ Quoted in White, *Cracks in the Wall*, p. 109. Original source: Aviva Vogelstein, ‘IHRA Adopts Definition of Anti-Semitism’, *brandeiscenter.com* (1 June 2016).

⁵⁵ Quoted in White, *Cracks in the Wall*, p. 109. Original source: Israel Ministry of Diaspora Affairs, *Antisemitism in 2016*, p. 52. According to an unnamed Israeli official responding to the IHRA decision, Israel had ‘requested the definition’. ‘Comparing Israel to Nazis Is Anti-Semitic, 31 Western States Declare’, *JTA* (2 June 2016). Dina Porat also presents the IHRA initiative as a response to the FRA’s distancing from the EUMC WD: ‘A few years ago the definition was removed from the website of that EU monitoring body ... Since then, leading personalities and organisations, Jewish and non-Jewish, have been trying hard to reinstitute it’. Dina Porat, ‘Definition of Anti-Semitism Is a Threat to No One but Anti-Semites’, *Ha’aretz* (20 December 2016).

⁵⁶ IHRA, ‘Working Definition’.

taking into account the overall context’, constitute antisemitism. As in the EUMC WD, seven of these related to Israel.

17. As discussed, the EUMC WD had combined a vacuous core definition with a list of substantive examples, but left unclear the relationship between these elements.⁵⁷ The status of the examples also became the central controversy in the IHRA negotiations: Did the IHRA Working Definition include the 11 examples, or not? For the pro-Israel groups behind the definition, the implications were significant. If IHRA adopted as its Working Definition only the two-sentence passage quoted above, such groups would find it more difficult to promote the list of examples as the ‘gold standard’,⁵⁸ i.e., the product of a broad consensus.

18. The text drafted in 2004 by the AJC and likeminded Jewish groups did not distinguish between the two-sentence ‘definition’ and the examples that followed.⁵⁹ (Fig. 1) But in the 2005 EUMC draft, the ‘[w]orking definition’ was distinguished from the accompanying examples by double-quotation marks and a bold-italic typeface. (Fig. 2)

Antisemitism is hatred toward Jews because they are Jews and is directed toward the Jewish religion and Jews individually or collectively. More recently, antisemitism has been manifested in the demonization of the State of Israel.

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 include, but are not limited to:

- Calling for aiding or justifying the killing or harming of Jews in the name of a radical

Fig. 1. AJC Proposed Working Definition (2004)

Working definition: ***“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.”***

In addition, such manifestations could also target the state of Israel, conceived as a Jewish collectivity. 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

Fig. 2. Draft EUMC Working Definition (2005)

⁵⁷ Cf. Kuper, ‘Hue and Cry’; Lerman, ‘Weapons’, p. 123.

⁵⁸ AJC, ‘AJC Praises Biden Administration Support for IHRA Working Definition of Antisemitism’, *prnewswire.com* (2 February 2021).

⁵⁹ See note 25 above.

On the other hand, the entire EUMC document was headed, ‘Working Definition of Antisemitism’. As a result, the examples were sometimes treated as part of the definition⁶⁰ and sometimes not.⁶¹

19. Ahead of IHRA’s 2016 general Plenary in Bucharest, the Antisemitism Committee, headed by the SWC’s Weitzman, circulated a draft Working Definition and recommended that IHRA’s Plenary adopt it.⁶² It was the EUMC WD, with two modifications whose common effect was to erode any distinction between definition and examples: the two-sentence opening passage now appeared in Roman typeface and was no longer separately introduced as the ‘Working definition:’. (*Fig. 3*)

WORKING DEFINITION OF ANTISEMITISM

“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.”

In addition, such manifestations could also target the state of Israel, conceived as a Jewish collectivity. 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

Fig. 3. IHRA Antisemitism Committee proposal (2016)

20. Alleging that a ‘surge’ in antisemitism had raised ‘[e]xistential questions ... about the viability of continued Jewish life in Europe’, the Antisemitism Committee implored delegates to unite behind the existing EUMC WD as there wasn’t time to negotiate a new one:

It is our opinion that for the IHRA to remain a credible and relevant organisation, given the gravity of the situation and the urgent need for action, that [*sic*] we

⁶⁰ Porat, ‘Threat to No One’.

⁶¹ OSCE ODIHR, *Combating Anti-Semitism: Current Trends and Challenges in the OSCE Region* (Vienna: 17 March 2009), p. 10n6.

⁶² IHRA, *Annotated Agenda*, Annex 17, on file.

simply cannot take another five years (or longer) to have such a tool.⁶³

21. According to a confidential internal report by an Ambassador to IHRA, this ‘haste that suddenly emerged came as something of a surprise’. Sweden and Denmark proposed deferring the issue until the following Plenary meeting in November 2016. They objected to flaws in the procedure (it was being rushed through) as well as to ‘the examples added to the definition’. Supporters of the definition insisted that, while improvements to the text were doubtless possible, it was only ‘a working definition’ that could ‘be further refined later if necessary’. In an effort to reach consensus, Constantinescu ‘allowed a compromise proposal to be worked on and to present it to the Plenary meeting’.⁶⁴

22. The revised text⁶⁵ was presented by Constantinescu to the Bucharest Plenary on 26 May. The definition ‘had been shortened to two sentences’ as ‘the examples that had perturbed’ Sweden and Denmark ‘were no longer together with the definition, but rather [appeared] separately after the two-sentence definition’.⁶⁶

23. Germany, Austria, Canada, Hungary, Romania, Lithuania, Spain, Belgium, Switzerland, Hungary, Slovakia, Serbia, the United Kingdom and the United States ‘supported the new text’. Sweden held out for ‘more time’ and for ‘the definition’ to be still ‘more clearly differentiated from the examples’; however, ‘they did not want to be the country that brings the process to a halt’. Denmark ‘wanted to put the examples in a separate appendix’ and objected to the ‘excessive haste’. They requested ‘time until the next Plenary meeting ... to work out’ a revised text. Constantinescu then ‘started applying pressure’.⁶⁷ ‘Many member states expressed regret that the examples stand separately from the definition’ but were prepared to support it regardless; committee heads then took turns giving ‘emotional speeches on how important it was to immediately adopt the definition’. Discussion turned to other matters to give Denmark, Sweden and Ireland time to consult their capitals.⁶⁸ In the meantime, a ‘sentence was ... added’ to the document emphasising ‘that this working definition of antisemitism is for use by IHRA experts and does not provide

⁶³ IHRA, *Annotated Agenda*, Annex 16, p. 2.

⁶⁴ Ambassador of [] to IHRA, ‘Summary of the IHRA Plenary Meeting in Bucharest, 25-26 May 2016’ (n.d.), on file. Translated from [].

⁶⁵ IHRA.ROC.PL1.CRP.1, on file.

⁶⁶ Ambassador of [] to IHRA, ‘Summary’.

⁶⁷ The Ambassador reported that ‘nobody mentioned the “elephant in the room”, neither those applying pressure nor those who were subjected to pressure’. This presumably referred to the sudden urgency from proponents of the Working Definition. Ambassador of [] to IHRA, ‘Summary’.

⁶⁸ There ‘were no diplomats in the SE [Sweden] and DK [Denmark] delegations’. Ambassador of [] to IHRA, ‘Summary’.

recommendations or place political obligations on any member state'.⁶⁹ Discussion resumed after lunch and the document was adopted at approximately 3.23pm.⁷⁰

24. As will be discussed, it subsequently became a subject of controversy whether IHRA's Bucharest Plenary had considered the illustrative examples *part of* and *integral to* the Working Definition. On this critical point, the Ambassador's account is unequivocal: IHRA consensus was achieved only when

the original draft text was cut into two, and only the first two-sentence part was to be the working-definition to be adopted, while the other part, the examples, remained what they were: examples to serve as illustrations, to guide the IHRA in its work.⁷¹

It was only by excluding the examples from the Working Definition that the IHRA Plenary was able to reach consensus and adopt the latter.

Assessment and corroboration

25. The Ambassador's account is highly credible.

25.1 The account was set out in a confidential report to their own capital. They had personally witnessed, and had no conceivable motive to misrepresent, what transpired.

25.2 Much of the Ambassador's report can be independently corroborated. The Ambassador's description of the urgency conveyed by the initiative's advocates is confirmed by the Antisemitism Committee's memorandum circulated to delegates ahead of the Plenary.⁷² Another IHRA delegate, from a different country, similarly recalls that her delegation first heard about the upcoming decision on the definition only a few weeks before the Plenary. 'All of a sudden, it was urgent'.⁷³ The

⁶⁹ Ambassador of [] to IHRA, 'Summary'.

⁷⁰ The Heads of Delegation of the UK and Canada both tweeted at 3.23pm EEST (26 May 2016) to announce that the Working Definition had been adopted.

⁷¹ Email from Ambassador [] (24 August 2018), on file. Emphases in original. This email was first quoted in a book chapter published in September 2019. No public refutation has been forthcoming. IHRA's Permanent Office was invited to comment for an article published in February 2021 which reproduced the quote; it declined to do so. Lerman, 'Weapons', p. 127; Jamie Stern-Weiner, 'British Universities Must Stand Firm Against Government's "Antisemitism" Ultimatum', *Middle East Eye* (9 February 2021).

⁷² IHRA, *Annotated Agenda*, Annex 16. See para. 20 above.

⁷³ Interview with [], 11 February 2021.

Ambassador noted that Sweden and Denmark had objected to this ‘excessive haste’, wanted ‘the definition’ to be ‘more clearly differentiated from the examples’ and proposed deferring the issue to the following Plenary meeting in November.⁷⁴ Real-time updates posted to Twitter by a delegate from the European Shoah Legacy Institute similarly reported that Sweden and Denmark objected to the definition,⁷⁵ that the illustrative ‘examples’ provoked ‘heated debates’ which were ‘prevent[ing] passing of def[inition] by consensus’, that Denmark requested deferral of the issue, and that the Plenary’s morning session accordingly ‘failed to pass’ the document.⁷⁶ The Ambassador related how, shortly before the text was adopted, ‘a sentence was ... added’ stating ‘that this working definition of antisemitism is for use by IHRA experts’.⁷⁷ Email records indeed show that approximately 45 minutes before the text was adopted, a revised draft was circulated in which the sentence immediately following the definition was amended from, ‘The following text and examples are meant to illustrate some of the forms antisemitism can take’, to, ‘*To guide IHRA in its work*, the following examples may serve as illustrations ...’.⁷⁸

26. The Ambassador’s key observation — that to achieve consensus a separation was effected between definition and examples — can also be corroborated.

26.1 The separation is evident in the resolution adopted by IHRA (*Fig. 5*) as well as IHRA’s press release announcing it. (*Fig. 6*) Whereas the text proposed by the Antisemitism Committee ahead of the Bucharest Plenary did not clearly

⁷⁴ Ambassador of [] to IHRA, ‘Summary’.

⁷⁵ There is one apparent discrepancy between the Ambassador’s report and the European Shoah Legacy account: the former lists Norway among the supporters of the definition, whereas the latter puts Norway among the opposition.

⁷⁶ Tweets by @ShoahLegacy: ‘#Denmark refuses to accept the nonbinding definition and urges to return to the definition at the next Plenary Session #IHRAinBucharest’ (10.47am EEST, 26 May 2016); ‘#Sweden joins Denmark, doesn’t support adoption of working definition of anti-Semitism b/c of examples provided by #IHRAinBucharest’ (10.49am EEST, 26 May 2016); ‘E.g. of anti-SEmitism definition raising heated debates & prevent passing of def by consensus #IHRAinBucharest’ (1.01pm EEST, 26 May 2016); ‘#IHRAinBucharest | IHRA failed to pass non-binding legal definition of anti-Semitism. Currently, no internationally accepted definition’ (1:53pm EEST, 26 May 2016). This delegate was not present for the afternoon session when a revised text was adopted.

⁷⁷ Ambassador of [] to IHRA, ‘Summary’.

⁷⁸ IHRA.ROC.PL1.CRP.1 (older draft); IHRA.ROC.PL1.CRP.1a (revised and final draft). Emphasis added. Both on file. Version CRP.1a was sent to the Denmark’s Head of Delegation by the IHRA office at approximately 2.40pm EEST; see email from IHRA Permanent Office to Denmark Head of Delegation, ‘Version 1a’ (26 May 2016, 2.40pm EEST), on file. The documents were also published on Twitter: the older draft by delegate @ShoahLegacy (1.01pm EEST 26 May 2016) and the revised draft by UK Head of Delegation @EricPickles (3.29pm EEST, 26 May 2016). Cf. Weitzman’s recollection that he, together with Dina Porat and Ambassador Constantinescu, ‘were jointly editing the document during the lunch break of the Plenary meeting’. Weitzman, ‘The IHRA Working Definition’, p. 465.

distinguish between the definition and the examples,⁷⁹ (Fig. 4, reproducing Fig. 3 above) the final draft had the ‘working definition’ cordoned off by a rectangular box from the surrounding text, from which it was additionally distinguished by a bold typeface and double-quotation marks. In a departure from the EUMC WD, the IHRA Working Definition was explicitly ‘non-legally binding’⁸⁰ while IHRA’s examples were prefaced by the caveat that their limited function was to ‘guide IHRA in its work’.

WORKING DEFINITION OF ANTISEMITISM

“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.”

In addition, such manifestations could also target the state of Israel, conceived as a Jewish collectivity. 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

Fig. 4. IHRA Antisemitism Committee proposal (2016)

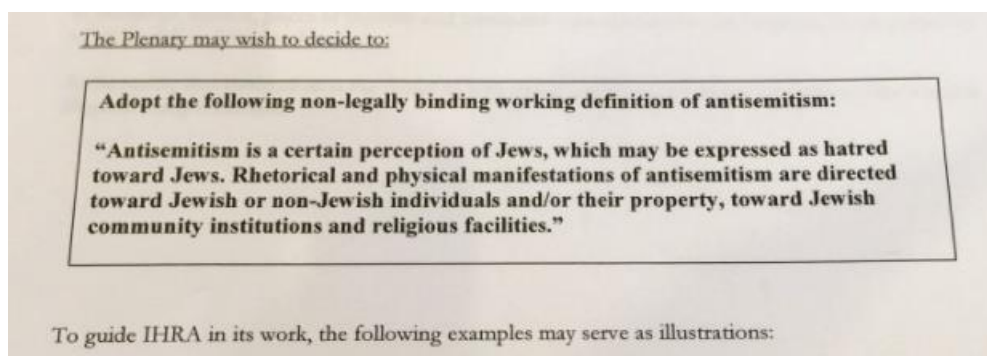


Fig. 5. IHRA decision (2016)

⁷⁹ Cf. Lerman, ‘Weapons’, p. 129.

⁸⁰ Denmark’s Head of Delegation noted that, in Bucharest, ‘we, among other things, codified’ the Working Definition ‘as not legally binding’. Denmark Head of Delegation, *Reporting, IHRA, Plenary Session Geneva, 29 June 2017* (n.d.), on file. Translated from Danish.

On 26 May 2016, the Plenary in Bucharest decided to:

Adopt the following non-legally binding working definition of antisemitism:

“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.”

To guide IHRA in its work, the following examples may serve as illustrations:

Manifestations might include the targeting of the state of Israel, conceived as a

Fig. 6. IHRA press release (2016)

26.2 The fact that the examples were separated from the Working Definition was confirmed by a second Head of Delegation present at the Bucharest Plenary who did not wish to be named.⁸¹

26.3 Two additional members of delegations from different countries, both present at the 2016 Plenary, likewise affirmed that ‘[i]n a formal sense, ... only the bracketed part [i.e., the text-in-the-box] is the definition’ and that IHRA’s Working Definition was the ‘text in a box’.⁸²

26.4 In September 2017, IHRA’s Permanent Office itself clarified, in response to a query from a Brussels-based Palestine advocacy group, that:

The working definition is the text in the box and the examples may serve as illustrations to guide the IHRA in its work and to illustrate how antisemitism could manifest itself.⁸³

⁸¹ Head of Delegation [] (February 2020), on file.

⁸² Email from IHRA delegate [], on file; Email from IHRA delegate [], on file.

⁸³ Email from IHRA Permanent Office to European Coordination of Committees and Associations for Palestine (ECC Palestine; 12 September 2017), on file. Emphasis added. Cf. ECC Palestine and Free Speech on Israel, *The “IHRA Working Definition of Antisemitism”* (7 December 2017).

26.5 Shortly after the Bucharest Plenary, Denmark's Ministry of Foreign Affairs placed on record its position in an email addressed to IHRA Chair Constantinescu along with all IHRA Heads of Delegation:

Denmark supports the definition of antisemitism as written down in the decision of the Plenary Meeting of the IHRA in Bucharest, but does not consider the examples as being an integral part of the definition.⁸⁴

During IHRA's November 2018 Plenary, in Ferrara, Sweden reiterated its reservations regarding the illustrative examples and urged that the definition be distinguished from the examples 'in all contexts'.⁸⁵ Slovenia 'supported [Sweden's] ... interpretation of the definition' as well as its reservations about the examples' 'implications for freedom of expression'.⁸⁶ IHRA Plenary '[d]ecisions are taken by consensus'.⁸⁷ The internal IHRA record after Bucharest, corroborates the internal IHRA record from Bucharest, that no such consensus existed for including the examples in the Working Definition.

26.6 Finally, only these mutually corroborating accounts are consistent with the public record in the months following the Bucharest Plenary. This is clearest in the case of Germany, which, as OSCE Chair and the principal lobbyist along with Baker, Weitzman and Constantinescu for the Working Definition, was well-positioned to understand its content.⁸⁸ A June 2017 Bundestag Motion proposed,

⁸⁴ Email from Head of Department, International Law and Human Rights, Ministry of Foreign Affairs, Denmark to IHRA, 'IHRA - Working Definition on Antisemitism, Danish Position' (16 June 2016), on file. Belgium reportedly sent an email to the same effect.

⁸⁵ Utrikesdepartementet - Sweden, *Arbetsgrupps- och plenarmöte i International Holocaust Remembrance Alliance (IHRA), Ferrara 27-29 November* (n.d.), p. 7, on file. Translated from Swedish.

⁸⁶ Utrikesdepartementet - Sweden, *Ferrara 27-29 November*, p. 7. Trans. from Swedish. Denmark's Head of Delegation to IHRA reported from the Ferrara Plenary that one delegation, identity redacted, 'emphasised that the IHRA's definition is not legally binding and that it does not agree with the attached examples of anti-Semitism, which run counter to freedom of expression'. Denmark Head of Delegation to Denmark Ministry of Foreign Affairs, 'Feedback from IHRA Plenary Session in Ferrara' (n.d.), on file. Translated from Danish.

⁸⁷ *Working Rules of the International Holocaust Remembrance Alliance (IHRA)* (2020), article 20.2. Weitzman has noted that the Plenary 'requires consensus to officially adopt any proposal', a point confirmed in an email to this author by the IHRA Permanent Office: '[w]ithin the IHRA Plenary ... all decisions are always made in consensus'. Weitzman quoted in Gerstenfeld, 'To Fight Anti-Semitism'; Email from IHRA Permanent Office, 'RE: Question: Voting Procedure, IHRA Working Definition' (30 April 2019), on file.

⁸⁸ Germany sought to use its 2016 OSCE chairmanship to have that body adopt the IHRA Working Definition. This effort failed primarily due to the objection of Russia. See German Federal Foreign Office, 'Arbeitsdefinition Antisemitismus (AS)' (June 2017), on file, and note 6 above. Constantinescu repeatedly praised Germany's diplomatic efforts to promote the Working Definition;

inter alia, that the Federal Republic adopt the IHRA Working Definition; this was quoted as the text-in-the-box, with no mention of the examples.⁸⁹ On 20 September 2017, the Federal Government adopted by Cabinet decision an ‘extended version of the IHRA definition’ — ‘extended’ because, in addition to the text-in-the-box, it incorporated one sentence on Israel-related antisemitism from the EUMC WD (as translated into German by the AJC).⁹⁰ *This ‘extended version’ did not include any illustrative examples.* Internal correspondence between German Foreign Office, Chancellery and other government officials confirms their understanding that the IHRA Working Definition adopted in Bucharest comprised only the short text-in-the-box: ‘The consensus to also include the extended sentence on Israel-related antisemitism failed due to the resistance of Sweden, Norway, Denmark, and the Netherlands’.⁹¹

27. In sum, the coordinated ‘push’ by pro-Israel groups and supportive governments to have the EUMC WD ‘reintroduced into the international arena’ through the OECD and IHRA met with only limited success. At the OSCE, Baker (AJC) and German Foreign Minister Walter Steinmeier were thwarted by a Russian

see Ambassador Mihnea Constantinescu, ‘Address to the Meeting of the OSCE Permanent Council’ (26 January 2017); Ambassador Mihnea Constantinescu, ‘Speech on the Occasion of the International Holocaust Remembrance Day’ (Brussels, 8 February 2017); Ambassador Mihnea Constantinescu, ‘IHRA Handover Speech at the Swiss Embassy’ (Berlin, 7 March 2017).

⁸⁹ ‘Antisemitismus Entschlossen Bekämpfen’, Antrag Bündnis 90/Die Grünen, Drucksache 18/12784, *Deutscher Bundestag* (20 June 2017), footnotes I and II.I.

⁹⁰ ‘Regierungspressekonferenz vom 20. September’, *bundesregierung.de* (20 September 2017). Cf. ‘IHRA Verabschiedet Antisemitismus-Definition—Update: Die Definition Wurde Offiziell von der Bundesregierung Übernommen’, *Israel Embassy in Berlin* (20 September 2017); ‘Antisemitismus Entschlossen Bekämpfen’, Antrag CDU/CSU, SPD, FDP, Bündnis 90/Die Grünen, Drucksache 19/444, *Deutscher Bundestag* (17 January 2018), II. The Chancellery supported inclusion of the ‘extended’ sentence on Israel-related antisemitism; see ‘Email from Katja Pohlmann (BK), “AW: Kabinettsbeschluss Definition von Antisemitismus – Bitte um Rückmeldung bis morgen, 12.9. 12.00 Uhr”’ (12 September 2017, 2.38pm), on file. The IHRA document included a near-identical sentence on Israel-related antisemitism, but the German Cabinet decision’s wording was taken from a German translation by the European Forum on Antisemitism (itself an AJC initiative) of the EUMC WD, via a 2017 report by the Independent Expert Commission on Antisemitism. See Unabhängiger Expertenkreis Antisemitismus, *Bericht Des Unabhängigen Expertenkreises Antisemitismus*, Drucksache 18/11970 (7 April 2017), p. 23; Joseph Croitoru, ‘Was Ist Antisemitismus?’ *Süddeutsche Zeitung* (20 July 2020); ‘IHRA-Definition’, *antisemitismusbeauftragter.de* (n.d.); accessed 22 November 2020.

⁹¹ Email by Nikola Gillhoff (2-zbV) to Katja Pohlmann (BK), ‘AW: dringende Rückfrage’ (20 September 2017, 9.37am), on file. Original text: ‘*Der Konsens, auch den erweiterten Satz zum israelbezogenen Antisemitismus aufzunehmen, scheiterte am Widerstand von Schweden, Norwegen, Dänemark und den Niederlanden*’. Gillhoff was Deputy Special Representative for Relations with Jewish Organisations in the office of Ambassador Felix Klein, Special Representative for Relations with Jewish Organizations and Issues relating to Anti-Semitism. In May 2018, Klein was appointed Federal Government Commissioner for Jewish Life in Germany and the Fight against Anti-Semitism. The identification of Denmark and Sweden as opponents of the definition further corroborates the Ambassador’s Report; see para. 23 above.

veto.⁹² The efforts of Weitzman (SWC) and Constantinescu at IHRA were more fruitful as, in May 2016, the IHRA Plenary adopted by consensus a Working Definition of Antisemitism.⁹³ But this definition *excluded* what was, for such pro-Israel groups as the AJC and SWC, the EUMC WD's valuable element: the list of 11 examples.

III. Misrepresentation

28. In 2018, prominent supporters of the examples within and outside IHRA began to misrepresent the IHRA Plenary's May 2016 decision. Whereas IHRA Member Countries were able to reach consensus only by *excluding* the examples from the Working Definition, the examples' supporters falsely claimed that there was a consensus for *including* them. The aspect thus misrepresented was neither trivial nor obscure, but, on the contrary, had been the subject of a 'heated' controversy that nearly derailed the whole initiative.⁹⁴ These actors misrepresented the outcome of that controversy and effectively smuggled into the IHRA Working Definition the list of highly problematic examples.

29. Before 2018, IHRA's Permanent Office distinguished between '[t]he working definition', which 'is the text in the box', and 'the examples' that 'guide the IHRA in its work'.⁹⁵ This distinction faithfully reflected the decision of IHRA's Plenary in Bucharest. The same distinction was evident in, for example, the Government of Israel's announcement on 26 January 2017 that 'in addition to the [IHRA working] definition' it had 'also adopted the accompanying illustrations',⁹⁶ as well as Germany's adoption of an 'extended version' of the Working Definition that incorporated *none* of the examples in September 2017.⁹⁷

30. In the first half of 2018, Weitzman made several public interventions that muddied to the point of obscuring this distinction. In early 2017, the IHRA Working Definition had been mobilised to shut down a number of pro-Palestine events on UK

⁹² Cf. notes 6 and 88 above. The IHRA and OSCE Working Definition initiatives were 'coordinate[d]'. See Constantinescu, 'Letter to Antisemitism Committee' and para. 12 above.

⁹³ IHRA, 'Working Definition of Antisemitism', *holocaustremembrance.org* (26 May 2016).

⁹⁴ Tweet by @ShoahLegacy (26 May 2016); cf. note 76 above. Weitzman recalls 'the examples that related to Israel' as '[t]he major sticking point' in negotiations over the Working Definition. Weitzman, 'The IHRA Working Definition', p. 466.

⁹⁵ Para. 26.4 above.

⁹⁶ Israel Ministry of Foreign Affairs, 'January 27: The World Marks International Holocaust Remembrance Day', *mfa.gov.il* (26 January 2017).

⁹⁷ See para. 26.6 above.

campuses,⁹⁸ to Weitzman and the SWC's express approval.⁹⁹ When a British academic and activist concerned about the IHRA Working Definition's deployment to curtail free expression incorrectly claimed that the illustrative examples had not been adopted in Bucharest,¹⁰⁰ Weitzman and Constantinescu, 'at the request of some Jews in the UK',¹⁰¹ issued this mystifying 'clarification' in January 2018:

We can confirm that the definition itself (as stated in the text of the adopted definition) is part of the entire document, including examples, that was officially adopted (as one piece) by the IHRA Plenary on 26 May 2016. There is no question about that and any assertion otherwise is absolutely false or misleading.¹⁰²

Further obfuscatory formulations followed:

[T]he BDS Movement, along with antisemitic anti-Zionists, have focused on the definition and attempted to discredit [it] by various means... . [T]hey have recently tried a new attack, claiming that the text in the box (which does not mention Israel) was the only officially adopted part ... and the rest was just illustrations that have no standing. This would in effect decouple the text from anything directly related to Israel and thus create a totally neutered definition

⁹⁸ Free Speech on Israel and Palestine Solidarity Campaign, 'Selected Cases of Interference with Free Expression, 2017', *freespeechonisrael.org.uk* (11 December 2017). Cf. Rosa Doherty, 'University Cancels Israel Apartheid Week Event', *Jewish Chronicle* (21 February 2017); Rebecca Ruth Gould, 'Legal Form and Legal Legitimacy: The IHRA Definition of Antisemitism as a Case Study in Censored Speech', *Law, Culture and the Humanities* (18 August 2018). For further examples of the IHRA Working Definition's application to chill political speech, see Matthew Offord MP, 'Matthew Joins Protest Outside Parliament to Condemn Israel Apartheid Week', *matthewofford.co.uk* (28 March 2018); Barnet Council, 'Administration Motion in the Name of Cllr Brian Gordon: Boycott the Antisemitic BDS Movement', *barnet.moderngov.co.uk* (31 July 2018); Antony Lerman, 'I Warned'; CAA, 'CAA to Write to Exeter University and General Medical Council after Outspoken Activist Ghada Karmi Publishes Article Making Numerous Antisemitic Statements', *antisemitism.org* (22 April 2020).

⁹⁹ SWC, 'Wiesenthal Center- Other Universities Should Follow British University's Cancellation of "Israel Apartheid Week"', *wiesenthal.com* (21 February 2017).

¹⁰⁰ Jonathan Rosenhead, 'Oral Evidence' to House of Commons and House of Lords Joint Committee on Human Rights, *Freedom of Speech in Universities*, Fourth Report of Session 2017-19, HC 589-HL Paper 111 (17 January 2018).

¹⁰¹ Weitzman, 'Plenary Talk'.

¹⁰² Weitzman and Constantinescu, quoted in Mike Whine, 'Applying the Working Definition of Antisemitism', *Justice* 61 (Fall 2018), p. 14. Whine references the quote to 'IHRA response to the Government of Latvia' (p. 15n34). But in her written evidence to the UK parliamentary Joint Committee on Human Rights, Baroness Deech sources it to an email from Mark Weitzman to Jonathan Turner of UK Lawyers for Israel, while, as noted, Weitzman himself has said that the joint statement was issued 'at the request of some Jews in the UK'. Deech, 'Supplementary Evidence', footnote 1; Weitzman, 'Plenary Talk'. Cf. 'False Speech on Israel', *JVL Watch* (18 January 2018).

unmoored from any current reality that includes references to Israel.¹⁰³

[I]n May 2016 at the Bucharest Plenary, the IHRA adopted a definition of anti-Semitism very similar to the previous EUMC version, which included a number of examples.¹⁰⁴

31. It is not difficult to state plainly, as did the Government of Israel in January 2017 and IHRA's Permanent Office in September 2017, that IHRA adopted the text-in-the-box as the Working Definition alongside a list of illustrative examples to guide its own work. If Weitzman resorted instead to such convoluted circumlocutions as '*the definition itself ... is part of the entire document, including examples, that was ... adopted (as one piece)*', this was manifestly in order to convey the false impression that the Working Definition '*included*' the examples.

32. From early May 2018, the IHRA Working Definition figured prominently in a UK political controversy over alleged antisemitism in the British Labour Party. On 17 July 2018, Labour's ruling body adopted a Code of Conduct for Antisemitism which incorporated the IHRA Working Definition as well as most of the examples.¹⁰⁵ The Party was criticised for deciding not to adopt all of the examples verbatim; the dispute over this decision was escalated by Labour's critics into a protracted national controversy that culminated in Labour's capitulation.¹⁰⁶

33. In the course of this confrontation, the IHRA Working Definition was at times misrepresented by its advocates in just the manner of the EUMC WD before it. Perhaps the most significant misrepresentation concerned the definition's content. Labour's leadership maintained that the Party had adopted the Working Definition while adapting so as to improve upon the list of examples.¹⁰⁷ Its critics contended that the examples constituted an integral part of the definition (sometimes referred to, in emphasis of this, as the 'full' or 'original' definition); to reject or revise any of the examples was ipso facto to reject the definition. (*Table 1*)

¹⁰³ Weitzman, 'Plenary Talk'.

¹⁰⁴ Weitzman, quoted in Gerstenfeld, 'To Fight Anti-Semitism'.

¹⁰⁵ Lee Harpin, 'Read Labour's New Definition of Antisemitism That Has Caused So Much Anger', *Jewish Chronicle* (5 July 2018).

¹⁰⁶ 'Labour Adopts Full Anti-Semitism Definition', *BBC News Online* (4 September 2018). Cf. Lerman, 'Weapons'.

¹⁰⁷ The party had endorsed the two-sentence definition in December 2016. Peter Edwards, 'Corbyn Backs Official Definition to Stamp Out "Repugnant" Anti-Semitism', *LabourList* (12 December 2016).

Table 1. 'Inseparable' and 'Not Negotiable'

Prime Minister Theresa May	The Conservative party has [adopted the IHRA Working Definition of Antisemitism 'without amendments or omissions'] ¹⁰⁸ ..., but sadly the Labour Party does not agree. The Labour Party is trying to redefine anti-Semitism to allow people to say that Israel is a racist endeavour. ¹⁰⁹
Jewish Labour Movement (JLM)	The Jewish community, and the Jewish Labour Movement, believe that the best working definition of antisemitism is the full IHRA definition, including its examples. ¹¹⁰
Board of Deputies of British Jews (BoD) and Jewish Leadership Council (JLC)	Labour needs to accept the International Holocaust Remembrance Alliance definition with all its examples. ¹¹¹
Board of Deputies of British Jews	[Labour was right to eventually] adopt the International Holocaust Remembrance Alliance working definition of Antisemitism in full with all of its illustrative examples ¹¹²
Community Security Trust (CST)	The definition is a single document, but Labour treats it as having two parts ¹¹³ [T]he IHRA definition ... includes 11 examples of potentially antisemitic speech ¹¹⁴

¹⁰⁸ This was apparently inaccurate. See Georgina Lee, 'Conservative Party Rulebook Doesn't Mention Antisemitism', *Channel 4 FactCheck* (20 July 2018).

¹⁰⁹ Prime Minister Theresa May, *House of Commons Debates*, c402 (18 July 2018). The internal quote ('without amendments or omissions') is from Helen Whately MP, to whose question May was responding. *House of Commons Debates*, c401 (18 July 2018).

¹¹⁰ Letter from the JLM to Jennie Formby (General Secretary of the Labour Party), 4 July 2018, on file. Cf. JLM, 'Statement', published on Twitter at 7.13pm, 3 August 2018: '[The Code of Conduct] rejected the full IHRA definition of antisemitism'.

¹¹¹ Marie van der Zyl (President, BoD) and Jonathan Goldstein (Chair, JLC), 'Jeremy Corbyn Must Remember that Inaction in the Face of Racism is Complicity', *New Statesman* (5 August 2018).

¹¹² Marie van der Zyl, 'Statement', published on Twitter at 7.10pm, 4 September 2018.

¹¹³ Gardner (CST), 'What Is'.

¹¹⁴ Dave Rich (CST), 'Jeremy Corbyn Needs to Do Much Better to Convince Jews He Acts in Good Faith', *Guardian* (5 August 2018). Cf. Dave Rich, 'Labour's Antisemitism Code Exposes a

	<p>[Labour has] rewritten (and therefore rejected) the widely recognised IHRA definition of antisemitism... . The chair of IHRA at the time the definition was adopted has made it clear that the definition is one document. It is not a pick and mix selection of components. To adapt it is to reject it... . It is not, as many have argued, a core paragraph with optional examples to then be selected from.¹¹⁵</p>
68 British Rabbis	<p>[W]e urge the Labour Party to ... adopt the full and unamended International Holocaust Remembrance Alliance (IHRA) definition of antisemitism including its examples¹¹⁶</p>
Campaign Against Antisemitism (CAA)	<p>[Labour officials seem to imply] that they can adopt the very generalist and vague opening paragraph of the definition and reject the examples that form part of it. However, the definition, including its examples, is a single document, as confirmed by its authors, who state that the examples are not merely optional guidance but are an inseparable part of the definition itself... . [T]he Labour Party cannot claim to have adopted the definition whilst also seeking to discard part of it. It is not negotiable as an entity. It does not represent an à la carte menu of choices.¹¹⁷</p> <p>The full International Definition of Antisemitism, including its examples ('the Definition'), has been adopted by the International Holocaust Remembrance Alliance, governments around the world including the British Government ... In defiance of the Jewish community and its</p>

Sickness in Jeremy Corbyn's Party', *Guardian* (18 July 2018): 'The full IHRA definition includes 11 illustrative examples...'

¹¹⁵ Gardner, 'IHRA and the Labour Code of Conduct'.

¹¹⁶ 68 British Rabbis, 'Letter: Labour Party Must Listen to the Jewish Community on Defining Antisemitism', *Guardian* (16 July 2018).

¹¹⁷ CAA, 'Further Insult'.

	own MPs, the Party has instead rejected the Definition ¹¹⁸
Antisemitism Policy Trust (APT)	IHRA adopted a working definition of antisemitism that includes 11 examples as illustrations ¹¹⁹ Accompanying the definition and integral to it are 11 examples ¹²⁰
Hope Not Hate	Labour should listen to the Jewish organisation within its own party and adopt the full International Holocaust Remembrance Alliance (IHRA) definition ... it must adopt the IHRA in full. ¹²¹

34. In this context, the Weitzman-Constantinescu statement was repeatedly cited as proof positive that, by declining to adopt certain IHRA examples, Labour had thereby rejected the Working Definition.¹²² And in 2020, Weitzman himself presented the statement this way:

Some opponents falsely allege that examples citing Israel were not part of the IHRA definition. As stated by the IHRA Chair Ambassador Constantinescu and myself, the definition and illustrative examples form a single text that was officially adopted by the IHRA Plenary in Bucharest.¹²³

Weitzman now explicitly, and falsely, claims that the IHRA Working Definition ‘consists of a clear definition ... along with specific examples’.¹²⁴

¹¹⁸ Letter from the CAA to the Equality and Human Rights Commission, *antisemitism.org* (31 July 2018), p. 3.

¹¹⁹ APT, *IHRA Working Definition of Antisemitism* (19 September 2019), p. 1.

¹²⁰ APT, *A Guide to the International Holocaust Remembrance Alliance Working Definition of Antisemitism* (2020), p. 4.

¹²¹ Nick Lowles (CEO, Hope Not Hate), ‘Labour and Antisemitism: The Way Back from This New Low’, *hopenothate.org.uk* (27 July 2018).

¹²² CAA, ‘Further Insult’; Whine (CST), ‘Applying the Working Definition’, p. 14; APT, *IHRA Working Definition*, p. 3. Indirectly referenced in Mark Gardner (CST), ‘IHRA and the Labour Code of Conduct’, *cst.org.uk* (23 July 2018).

¹²³ Mark Weitzman, *A Watershed in Fighting Antisemitism: The IHRA Working Definition of Antisemitism* (SWC, 2020), p. 6.

¹²⁴ Weitzman, *A Watershed*, p. 2.

35. The joint statement by Weitzman and Constantinescu was ‘not an official IHRA statement’, obtaining which would, Weitzman explained, ‘take more time’¹²⁵ — in the event, approximately four months. The decisive shift in IHRA’s public position on the Working Definition took place during its May 2018 general Plenary meeting in Rome, which convened about one month into the public dispute in the UK around Labour and the IHRA Working Definition.¹²⁶ The Rome Plenary reached no new decision on the Working Definition.¹²⁷ But at Weitzman’s prompting, IHRA’s Antisemitism Committee independently proclaimed the examples part of ‘the full definition’ and declared the subject closed to ‘further discussion’:

The [Antisemitism] Committee discussed the status of adoptions/endorsements of the Working Definition of Antisemitism. Mark Weitzman (US) noted that there were some attempts by civil society organisations in some IHRA member countries to suggest that the definition had not been adopted by the IHRA in its entirety at the Bucharest Plenary. The Committee noted that the IHRA adopted the definition in its entirety (including with working examples) at the Bucharest Plenary and voted unanimously to affirm that the definition and the examples constituted the full definition, and that the subject was not open to further discussion’.¹²⁸

35.1 A representative of IHRA’s Permanent Office confirmed in an email to this author that, since its May 2016 meeting in Bucharest, ‘there have not been any further decisions taken on the working definition’ by the IHRA Plenary.¹²⁹ The Plenary is ‘the central body of the IHRA’ responsible for ‘decisions’; the role of

¹²⁵ Weitzman quoted in Deech, ‘Supplementary Evidence’, footnote 1.

¹²⁶ Lee Harpin, ‘Labour Wants to Develop New Definition of Antisemitism Claims Shadow Minister’, *Jewish Chronicle* (30 April 2018); CAA, ‘It’s Not Easy to Keep Track of What the Labour Party and Momentum Say Constitutes Antisemitism’, *antisemitism.org* (7 May 2018); CAA, ‘Further Insult’ (17 May 2018).

¹²⁷ Sweden Head of Delegation to IHRA, *Plenarmöte I International Holocaust Remembrance Alliance (IHRA), Rom 31 Maj 2018* UD/2018-06-01/1435 (1 June 2018); Germany Head of Delegation to IHRA, *Vermerk: IHRA Plenarsitzung Rom Mai* (8 June 2016), on file. IHRA’s Bern Plenary meeting (November 2017) also saw ‘[n]othing new about’ the Working Definition. Utrikesdepartementet - Sweden, *Plenarmöte I International Holocaust Remembrance Alliance (IHRA), Bern 27-30 November* UD/2017-12-02-1927 (2 December 2017). Translated from Swedish. Cf. IHRA, *Summary Report: Bern Plenary, 27-30 November 2017* (12 December 2017), on file. A report from the IHRA Plenary session in Geneva (June 2017) also makes no mention of a Plenary decision revising the content or scope of the Working Definition. Denmark Head of Delegation, *Plenary Session Geneva*.

¹²⁸ IHRA, *Summary of Discussions: Committee on Antisemitism and Holocaust Denial Meeting Dates, 29-30 May 2018 Rome, Italy* (15 November 2018), on file.

¹²⁹ Email from IHRA Permanent Office to Jamie Stern-Weiner, ‘Re: Academic Article – IHRA Working Definition’ (23 November 2020), on file.

Committees is to ‘provide facts and analyses, as well as recommendations *for consideration by the Plenary*’.¹³⁰ The Antisemitism Committee had, and has, no authority to revise or rewrite the decision of the May 2016 Bucharest Plenary.

35.2 Once the reader is aware of what is going on, it becomes almost an amusing past-time to spot the rhetorical sleights deployed in order to contrive the impression, without explicitly stating, that IHRA’s Bucharest Plenary adopted the examples as part of the Working Definition. In this case, mark the innovative construction, ‘*including with*’.

36. The Antisemitism Committee’s decision was not made public but was immediately publicised by Eric Pickles, the UK’s Special Envoy for Post-Holocaust Issues and Head of Delegation to IHRA:

To remove any cover to bigots @IHRA_news meeting in Rome restated it’s definition of Antisemitism in FULL including EVERY part. Each week brings news of countries and institutions adopting the definition. Reed it here [link]¹³¹

Pickles’ tweet was false on at least two counts: it was not ‘IHRA’, but IHRA’s Antisemitism Committee, which had determined the examples ‘part’ of the Working Definition; and this was not a ‘restate[ment]’ of, but an ultra vires attempt to revise and override, the decision of IHRA’s Plenary.

37. On 12 July 2018, Weitzman publicly condemned the Labour Party’s ‘refusal to accept’ the IHRA Working Definition as ‘a clear signal of the party’s refusal to deal with the reality of anti-Semitism in its ranks’. The SWC additionally described this alleged ‘refusal to endorse the IHRA Working Definition of Antisemitism’ as ‘an open invitation to anti-Semites’ and ‘a slap in the face to the UK’s Jewish community’.¹³² The SWC would go on to rank Corbyn’s leadership of the Labour

¹³⁰ *IHRA Working Rules*, articles 7.1, 10.1. Emphasis added.

¹³¹ Tweet by @EricPickles (11.57am, 31 May 2018). An accompanying link directed to the IHRA Working Definition webpage. This was retweeted in quick succession by European Commission Coordinator Schnurbein, who commented ‘Yes’ (12.10pm, 31 May 2018); Community Security Trust official Dave Rich, who characterised it as ‘[a]n important clarification’ (12.13pm, 31 May 2018); and Olivia Marks-Woldmann, a UK delegate to IHRA and Chief Executive of the Holocaust Memorial Day Trust (12.16pm, 31 May 2018).

¹³² ‘Wiesenthal Center: Labour’s Rejection of Antisemitism Definition-Open Invitation to Anti-Semites’, *wiesenthal.com* (10 July 2018). Cf. Ben Welch, ‘Labour Has Shown “Utter Disregard for Anglo-Jewish Community”, Says Antisemitism Definition Architect’, *Jewish Chronicle* (12 July 2018).

Party the world's fourth-worst 'anti-semitic incident' of 2018 and 'worst anti-semitic and anti-Israel incident' of 2019.¹³³

38. At the height of the Labour Party furore, on 7 August 2018, IHRA published on its website a joint statement by seven UK delegates to IHRA that was received as a 'damning rebuke' to Labour.¹³⁴

Any 'modified' version of the IHRA definition that does not include all of its 11 examples is no longer the IHRA definition.¹³⁵

39. At approximately the same time, an explanatory article about the Working Definition on the IHRA website was amended inter alia to introduce what amounted to the same false assertion:

The Working Definition, including its examples, was reviewed and decided upon unanimously during the IHRA's Bucharest Plenary in May 2016.¹³⁶

¹³³ SWC, *2018 Top Ten*, p. 2; SWC, *2019 Top Ten Worst Global Anti-Semitic and Anti-Israel Incidents* (December 2019), p. 1. In a 2019 submission to the United Nations, the SWC characterised Corbyn as 'a conduit for antisemitism' citing, by way of evidence, his alleged attempt to 'limit the adoption' of the IHRA Working Definition. SWC, *Simon Wiesenthal Center Report on Antisemitism 2019*, submitted to Dr Ahmed Shaheed, UN Special Rapporteur on Freedom of Religion or Belief (n.d.), p. 3.

¹³⁴ Lee Harpin, 'IHRA's UK Delegation Warns Labour Against Altering Its Antisemitism Definition', *Jewish Chronicle* (7 August 2018). Cf. Kate Ferguson, "'The New Style of Politics Is Bullying': Labour MP Margaret Hodge Says Corbyn's Allies Are Trying to Purge His Critics from the Party", *MailOnline* (8 August 2018); Matthew Robinson, 'Labour Blasted for "UNDERMINING" Anti-Semitism Fight as Corbyn Faces Fresh Controversy', *Express Online* (8 August 2018); Robert Philpot, 'As Labour "Considers" IHRA Anti-Semitism Rules, It Practices a Sleight of Hand', *Times of Israel* (31 August 2018). See also Tweet by @DanHodges: 'What the IHRA [*sic*] says about the definition: "Any 'modified' version that does not include all of its 11 examples is no longer the IHRA definition. Adding or removing language undermines the months of international diplomacy and academic rigour that enabled this definition to exist"' (4 September 2018).

¹³⁵ 'Statement by Experts of the UK Delegation to the IHRA on the Working Definition of Antisemitism', *holocaustremembrance.org* (7 August 2018). Not every UK delegate signed; see UK Ministry of Housing, Communities & Local Government, *Response to FOI Request 10576785* (13 April 2021). When questioned about this statement, one signatory replied, 'I had not yet joined the UK delegation at that date and so was not present at the meeting. I therefore cannot tell you how agreement was met, nor what negotiations, compromises or disagreements took place'. Whence, then, her confidence that '[a]ny "modified" version of the IHRA definition that does not include all of its 11 examples is no longer the IHRA definition'? Email from Dr Gilly Carr to Andrew Hornung (20 November 2018), on file.

¹³⁶ IHRA, 'Working Definition of Antisemitism', *holocaustremembrance.com* (19 July 2018). The Internet Archive (archive.org) reveals that the page was revised at some point between 27 July 2018 and 15 August 2018. The UK delegates' intervention was published on 7 August 2018.

According to IHRA's Executive Secretary, this amended article was drafted 'as advised by the IHRA Chair and the Chair of the Committee on Antisemitism and Holocaust Denial'.¹³⁷

40. Both the UK delegates' statement and the revised IHRA article were publicised in IHRA's August 2018 newsletter.¹³⁸

41. On 11 September 2018, IHRA's Executive Secretary emailed colleagues noting that 'the IHRA Working Definition has been much discussed in the UK and beyond' and referring to both the UK delegates' statement and the revised IHRA article as 'guidance and background information on the matter':

One of the most frequently asked questions is about the IHRA adoption and the article clarifies that the Working Definition, including its examples, was reviewed and decided upon unanimously during the IHRA's Bucharest Plenary in May 2016.¹³⁹

42. Alex Maws, a signatory of the UK delegates' untrue statement, claimed that the definition and examples

form one cohesive document & it was not the intention that institutions might cherrypick their favourite parts.

We commonly call this document 'the IHRA definition' for short. I also don't know if anyone else has adopted a modified version of it. If they did, they probably wouldn't have told us about it, because it won't have been the IHRA definition.¹⁴⁰

¹³⁷ Ambassador Sandro de Bernardin (Italy) and Robert Williams (U.S.), respectively. See Kathrin Meyer, 'Enquiries about Working Definition of Antisemitism' (11 September 2018), on file.

¹³⁸ IHRA, *Newsletter* No. 10 (16 August 2018). Cf. tweet by @TheIHRA: 'Our monthly newsletter is out with background on the IHRA Working Definition of #Antisemitism, a statement by the experts of our UK Delegation and information on #Luxembourg's first monument honoring the victims of the #Holocaust' (16 August 2018).

¹³⁹ Meyer, 'Enquiries'.

¹⁴⁰ Tweets by @AlexMaws: 'There is a bit that reads like a definition & a bit that reads like examples. I honestly have no idea if one is "part of" the other. All I am trying to say is that they form one cohesive document & it was not the intention that institutions might cherrypick their favourite parts' (4 September 2018); 'We commonly call this document "the IHRA definition" for short. I also don't know if anyone else has adopted a modified version of it. If they did, they probably wouldn't have told us about it, because it won't have been the IHRA definition' (4 September 2018).

43. These assertions are impossible to reconcile, not only with IHRA's internal record,¹⁴¹ but also with IHRA's own public statements.

43.1 *The UK delegates claimed, in a statement published, circulated and endorsed by IHRA, that '[a]ny "modified" version of the IHRA definition that does not include all of its 11 examples is no longer the IHRA definition'. But when Germany endorsed a modified ('extended') version of the Working Definition that included none of the examples, IHRA recognised and applauded this 'endorsement of the Working Definition of Antisemitism'.*¹⁴²

43.2 *The UK delegates claimed, in a statement published, circulated and endorsed by IHRA, that '[a]ny "modified" version of the IHRA definition that does not include all of its 11 examples is no longer the IHRA definition'. But when the French parliament endorsed the Working Definition in a form that 'excluded the examples', IHRA publicly recognised this adoption.*¹⁴³

43.3 *The UK delegates claimed, in a statement published, circulated and endorsed by IHRA, that '[a]ny "modified" version of the IHRA definition that does not include all of its 11 examples is no longer the IHRA definition'. But IHRA welcomed the Council of the European Union's 'endorsement' of the IHRA Working Definition,¹⁴⁴ notwithstanding that a reference to the 'illustrating examples' had explicitly been removed from an earlier draft¹⁴⁵ while the French*

¹⁴¹ Documented above.

¹⁴² IHRA, 'Germany Endorses Working Definition of Antisemitism', *holocaustremembrance.com* (20 September 2017); IHRA, 'Fact Sheet: Working Definition of Antisemitism', *holocaustremembrance.com* (23 June 2020), para. 10. Quote from Weitzman. Cf. Ullrich, *Expert Opinion*, p. 7; Aleida Assman, 'A Spectre is Haunting Germany: The Mbembe Debate and the New Antisemitism', *Journal of Genocide Research* (2020), pp. 5-6. The SWC also praised Germany's adoption; see SWC, 'Wiesenthal Center Praises Germany's Adoption of Anti-Semitism Definition', *wiesenthal.com* (20 September 2017).

¹⁴³ Assemblée Nationale, 'Proposition de Résolution Visant à Lutter Contre l'Antisémitisme', No. 2403, tabled 12 November 2019 and adopted 3 December 2019; Sylvain Maillard, 'L'Assemblée Nationale Adopte Notre Résolution de Lutte Contre l'Antisémitisme', *sylvainmaillard.fr* (3 December 2019); IHRA, 'Working Definition of Antisemitism', *holocaustremembrance.com* (n.d.), accessed 12 February 2021. The French Deputy who introduced the resolution to endorse the IHRA Working Definition himself clarified that the examples were 'excluded' from it. Cf. Association France Palestine Solidarité, 'Résolution Maillard : 7 Secondes Dont Il Faudra se Souvenir', *france-palestine.org* (4 December 2019).

¹⁴⁴ Ambassador Sandro de Bernardin (IHRA Chair), 'IHRA Chair's Statement on Adoption of Declaration on Antisemitism by the Justice and Home Affairs Council', *holocaustremembrance.com* (6 December 2018).

¹⁴⁵ Council of the European Union, *Draft Council Declaration on the Fight Against Antisemitism and the Development of a Common Security Approach to Better Protect Jewish Communities and Institutions in Europe* 12116/1/18 REV 1 (Brussels: 29 October 2018), on file.

Ambassador to the EU reportedly confirmed that the examples had been rejected.¹⁴⁶

43.4 As of 12 February 2021, IHRA listed 34 countries as having adopted its Working Definition.¹⁴⁷ According to a senior official in Israel's Ministry of Foreign Affairs, speaking on 28 July 2020, only 10 countries had also adopted the examples.¹⁴⁸

44. In June 2020, IHRA's Chair, Ambassador Michaela Küchler, falsely stated:

When IHRA member countries agreed to the text of the working definition, they adopted it in its entirety — the text inside the box, and the examples included. So that means, each member country stands behind the text of the working definition in its entirety — the text inside the box, and the examples included.¹⁴⁹

45. In January 2021, IHRA co-published with the European Commission a Handbook on the IHRA Working Definition. Weitzman contributed to and Baker reviewed it. It claimed, inaccurately, that 'the IHRA Working Definition of Antisemitism includes eleven examples'.¹⁵⁰

46. In March 2021, Robert Williams and Mark Weitzman, respectively the Chair and former Chair of IHRA's Antisemitism Committee, asserted that 'the IHRA definition includes 11 examples' that were '[b]uilt on agreement by multiple groups of

¹⁴⁶ Association France Palestine Solidarité, 'France Delivers an Official Blow to Israel's Manipulation of the Definition of Anti-Semitism', *france-palestine.org* (21 December 2018).

¹⁴⁷ IHRA, 'Working Definition', accessed 12 February 2021.

¹⁴⁸ Noam Katz, Deputy Director General for Public Diplomacy, Israel Ministry of Foreign Affairs. Translated from Hebrew. Katz stated that 29 countries had adopted the IHRA Working Definition. This was apparently a misstatement; the correct figure, at the time he spoke, was 27. Cf. Israel Ministry of Foreign Affairs, 'Israeli Delegation Attends IHRA Plenary Meetings', *mfa.gov.il* (2 July 2020). The extreme secrecy and cultivated ambiguity surrounding the IHRA Working Definition has made it impossible to corroborate these numbers. But an internal Canadian Government briefing on the IHRA Working Definition similarly reported 'a differentiation between countries adopting the definition and its illustrative examples, and those adopting solely the definition'. Email from Giuliana Natale (Director, Inclusion and Religion Freedom, Global Affairs Canada), 'Update on the International Holocaust Remembrance Alliance (IHRA) Working Definition of Antisemitism' (15 May 2019), on file.

¹⁴⁹ Ambassador Michaela Küchler presenting to *An Accelerated Push to Tackle Antisemitism: The Double German Presidency* [22 June 2020], online webinar uploaded to YouTube by European Jewish Congress on 23 June 2020. Contrast with the sources in note 148 above.

¹⁵⁰ European Commission, *Handbook for the Practical Use of the IHRA Working Definition of Antisemitism* (January 2021), pp. 4, 9.

experts and diplomats’ before ‘adoption by the IHRA’. As documented, IHRA’s Plenary in fact excluded these examples from the Working Definition.¹⁵¹

47. Contacted by this author in October 2020, IHRA’s Permanent Office in Berlin disavowed its statement of September 2017 — which accurately characterised the ‘working definition’ as the two-sentence ‘text in the box’¹⁵² — as ‘incorrect information’:

[I]t would be incorrect to say that the examples are separate from the working definition. When the IHRA’s Member Countries agreed to adopt the working definition of antisemitism, they did so by consensus and adopted the text in its entirety, the text in the box and the examples included. There was only one decision taken at the Bucharest Plenary in 2016 on the working definition. The working definition is therefore in the IHRA’s view the entirety of the agreed-upon text.¹⁵³

The reader, by now fluent in IHRA double-speak, will doubtless notice the evasions and weasel-words. The passage strains to convey, without expressly stating, that *the IHRA Plenary in 2016* adopted the examples *as part of* the Working Definition.

48. In the course of a subsequent written exchange, IHRA’s Permanent Office was repeatedly asked whether, as IHRA spokespeople and publications have repeatedly alleged, IHRA’s May 2016 Plenary had endorsed the 11 illustrative examples as part of the Working Definition. *Up to the present day, IHRA has refused to answer this question.*¹⁵⁴

49. IHRA’s core mandate is the preservation of historical truth.¹⁵⁵ Yet, this same IHRA has misrepresented the truth about a key decision of its own Plenary. It has done so in order to smuggle into the Working Definition examples of purported antisemitism that were manifestly designed, and have in practice been used, to protect

¹⁵¹ Williams and Weitzman, ‘The First Step’.

¹⁵² See para. 27.4 above.

¹⁵³ Emails from IHRA Permanent Office to Jamie Stern-Weiner, ‘Academic Article - IHRA Working Definition’ (15 October 2020, 26 October 2020).

¹⁵⁴ Emails between IHRA Permanent Office and Jamie Stern-Weiner, ‘Re: Academic research assistance’ (25 February 2021, 10 March 2021, 18 March 2021).

¹⁵⁵ ‘Standing up for the truth – the truth of what happened in the past, the truth of what is happening today – remains essential. The contribution of the IHRA to this end remains crucial’. Ambassador Sandro de Bernardin (IHRA Chair), ‘Handover Address’ (5 March 2018), p. 2. Emphasis in original.

Israel from legitimate criticism. It is deeply regrettable that an organisation committed to Holocaust remembrance would misrepresent the historical record in order to shield Israel from accountability for its egregious human rights violations.