

## Executive Summary of the Legal Analysis of the European Commission “Handbook” promoting the controversial IHRA Working Definition of Antisemitism

The European Legal Support Center (ELSC) is an organisation that provides legal support and assistance to individuals, groups or NGOs that advocate for Palestinian’s rights in Europe. This document provides an executive summary of the legal analysis of the “Handbook for the practical use of the IHRA Working Definition of Antisemitism” (hereafter: Handbook) published by the European Commission in January 2021.

In the first section, we provide an overview of the main facts that render the Handbook problematic, namely:

- a) the use of the controversial IHRA-Working Definition of Antisemitism (hereafter: IHRA-WDA) Examples to delegitimise criticism of Israeli Government policies;
- b) the false equation of anti-Zionism and antisemitism;
- c) the designation of boycotts and the BDS movement as inherently antisemitic by promoting the parliamentary motions adopted by German and Austrian governments (hereafter: anti-BDS motions);
- d) the promotion of an agenda of defunding organisations and activities perceived as supporting anti-Zionism and/or the BDS movement; and
- e) the use of unreliable, biased and unverifiable sources to report alleged antisemitic incidents.

In the second section, we argue that:

- a) The Handbook’s inaccurate and misleading content equating anti-Zionism and support for BDS with antisemitism **amounts to misinformation** according to the definition adopted by the Commission.<sup>1</sup>
- b) The authors of the Handbook (hereafter: Contributors) **violated the principle of honesty** laid down in the European Code of Conduct of Research Integrity, by providing **biased and inaccurate information** on the use of IHRA-WDA and support of anti-Zionism and BDS movement. Moreover, the Contributors engaged in the **misconduct of falsification** by presenting partial information and **omitting important facts** such as not mentioning that several courts ruled the anti-BDS motions unlawfully limit the fundamental rights to freedom of expression and assembly. The Commission, which as the publisher of the Handbook is equally responsible for the integrity of the research, failed to ensure that the Contributors complied with the European Code of Conduct of Research Integrity and **did not fulfil its duty to identify and prevent research misconduct**.

<sup>1</sup> Misinformation is “*misleading or inaccurate information shared by people who do not recognize it as such.*” See European Commission, A multi-dimensional approach to disinformation, Final report of the High Level Expert Group on Fake News and Online Disinformation, 12 March 2018, available at <https://ec.europa.eu/digital-single-market/en/news/final-report-high-level-expert-group-fake-news-and-online-disinformation>, at p. 10.

c) The publication of the Handbook **contributes to the chilling effect** on advocates of Palestinian rights creating a climate of **intimidation and self-censorship** by deterring them from participating freely in public debates on Israel-Palestine and **fully exercising their right to freedom of expression**. Based on the principle of objectivity laid down in the European Code of Good Administrative Behaviour, the Commission has the **responsibility to correct the negative effects** on the rights and interests of members of the public resulting from its errors. Furthermore, as the publisher of the Handbook, the Commission has the **duty to publish complete and unbiased information** in line with the principles of research integrity and **is entitled** to make modifications to the Handbook and **correct the misleading content**.

In light of the above, we urge the European Commission to:

- a) **Halt all circulation and promotion** of the Handbook and ensure its removal from all official EU websites **until all inaccurate and/or misleading content has been revised**;
- b) **Instruct the Contributors to revise** the Handbook by **correcting all false and misleading content** and by communicating all EU research and policies on antisemitism and the IHRA-WDA **in a transparent, fair and unbiased manner**.