Council of the
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NOTE

From:	Presidency
To:	Council
Subject:	Council conclusions on combating racism and antisemitism = *Approval*

Combating racism and antisemitism is one of the political priorities of the French Presidency of the Council of the European Union as set out by the President of the Republic on 9 December 2021.

To that end, the Presidency prepared draft Council conclusions on combating racism and antisemitism as a follow-up to the Anti-Racism Action Plan and the EU strategy on combating antisemitism and fostering Jewish life adopted by the Commission in 2020 and 2021 respectively.

Building on the work carried out to date by the Council in those areas, the approach chosen by the Presidency is intended to be comprehensive and takes account of the similarities between those two phenomena without denying their respective characteristics.

The draft conclusions were presented to delegations at the meeting of the Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons on 10 January 2022. Subsequently, in the light of delegations' written comments, revised draft conclusions were successively submitted by the Presidency to the Working Party on 28 January and 16 February 2022. The Working Party reached agreement on almost all of the revised text of the conclusions at its meeting on 16 February 2022, with only a few points still under discussion.

At its meeting on 23 February 2022, the Permanent Representatives Committee examined the text of the conclusions set out in 6226/22.

In the light of the above, at its meeting on 3 and 4 March, the Council is invited to approve the text of the conclusions on combating racism and antisemitism as set out in the Annex to this note.

ANNEX

COUNCIL CONCLUSIONS on combating racism and antisemitism

The Council of the European Union

a. **HAVING REGARD** to the Treaty on European Union, and in particular the preamble and Articles 2, 3(3) and 6 thereof;

b. **HAVING REGARD** to the Treaty on the Functioning of the European Union, and in particular Articles 10 and 19 thereof;

c. **HAVING REGARD** to the Charter of Fundamental Rights of the European Union, and in particular Articles 1, 2, 3, 5, 6, 7, 10, 20, 21, 22, 51 and 52 thereof;

d. **HAVING REGARD** to Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;

e. **HAVING REGARD** to Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law;

f. **HAVING REGARD** to Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, which specifically mentions victims of hate crime;

g. **HAVING REGARD** to the Council conclusions of 6 December 2013 on combating hate crime in the European Union;

h. **HAVING REGARD** to the Council declaration of 6 December 2018 on the fight against antisemitism and the development of a common security approach to better protect Jewish communities and institutions in Europe and the Council declaration of 2 December 2020 on mainstreaming the fight against antisemitism across policy areas;

i. **HAVING REGARD** to the European Union Anti-racism Action Plan 2020-2025 presented by the Commission on 18 September 2020;

j. **HAVING REGARD** to the European strategy on combating antisemitism and fostering Jewish life presented by the Commission on 5 October 2021;

k. **HAVING REGARD** to the European Council conclusions of 21 and 22 October 2021 welcoming the EU Strategy on combating antisemitism and fostering Jewish life and noting that the Malmö International Forum on Holocaust Remembrance and Combating Antisemitism on 13 October 2021 is a reminder that no effort must be spared in fighting all forms of antisemitism, racism and xenophobia;

l. **HAVING REGARD** to the Commission communication on 'A more inclusive and protective Europe: extending the list of EU crimes to hate speech and hate crime', presented on 9 December 2021;

m. **SOLEMNLY RECALLING** that the European Union is a union of law founded on shared values including respect for human dignity, freedom, equality, democracy, respect for human rights, including the rights of persons belonging to minorities; Member States have undertaken to guarantee the rights and freedoms enshrined in the Charter for Fundamental Rights of the European Union and in the Convention for the Protection of Human Rights and Fundamental Freedoms for all people within their jurisdiction and to ensure that human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated;

n. **WHEREAS** the European Union promotes a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality prevail; therefore, in defining and implementing its policies and activities, the Union aims to combat any discrimination based on any ground as specified in article 21 of the Charter of Fundamental Rights;

o. **WHEREAS** the Charter of Fundamental Rights of the European Union, which is binding on Union institutions and the Member States when they are implementing Union law, protects inter alia equality, the right to dignity, the right to life, the right to respect for privacy and family life, freedom of thought, conscience and religion, and freedom of expression;

p. **WHEREAS** the values enshrined in article 2 of the TEU constitute the identity of the European Union, the Council of the European Union has a strong stake in them, and it is up to the institutions and bodies of the European Union, as well as the Member States, to fully respect and guarantee these values;

q. **DEPLORING** the alarming rise of racist and antisemitic incidents in European Union Member States, as well as the exacerbation of racist and antisemitic hate crimes and hate speech, Holocaust denial and distortion, and conspiracy myths, online and offline, notably in the context of the Covid-19 pandemic;

r. **DEPLORING** that racism and antisemitism may lead and have led to forms of violent extremism and terrorism;

s. **HAVING REGARD** to the work carried out by the Council of Europe's European Commission against Racism and Intolerance (ECRI), in particular the General Policy Recommendation No. 1 on combating racism, xenophobia, antisemitism and intolerance adopted on 4 October 1996, and the General Policy Recommendation No. 9 on preventing and combating antisemitism adopted on 25 June 2004 and revised on 1 July 2021;

t. **HAVING REGARD** to the UN Resolution on the promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers through transformative change for racial justice and equality of 13 July 2021, and the UN Resolution on Holocaust denial of 20 January 2022;

u. **NOTING** that, while the internet and social media offer new spaces for freedom of expression, they can also be used to enable the dissemination of racist and antisemitic content, allowing for new forms of individual and group persecution and incitement to physical and psychological violence while offering their perpetrators anonymity and therefore a sense of impunity;

v. **WELCOMING** the initiatives of the European Commission presented in its EU Antiracism Action Plan namely, the creation of the Subgroup for the national implementation of the EU Anti-racism action plan 2020-2025 bringing together the Member States representatives and the EU permanent forum for anti-racism civil society organisations;

w. **WELCOMING** the initiatives of the European Commission presented in its European strategy on combating antisemitism and fostering Jewish life, namely, the creation of a permanent structure bringing together the Member States, representatives of the Jewish communities and relevant interested parties in the form of a working group on how to implement the strategy on combating antisemitism and fostering Jewish life, and the organisation of an annual civil society forum on antisemitism;

x. **WELCOMING** the work of the European Union Agency for Fundamental Rights to collect data on racism and antisemitism and notably its annual Overviews of antisemitic incidents recorded in the European Union and its report 'Being Black in the EU' published on 28 November 2018*;*

y. **CONSIDERING** that despite their undeniable distinct characteristics, racism and antisemitism are phenomena denying equality between individuals; they are equally threatening our societies and both require firm political responses that should take into account their respective specificities as well as their commonalities;

z. **ENDEAVOURING** to ensure the appropriate and regular follow-up by the Council taking into account the Commission's monitoring reports and inputs by Member States as foreseen by the European Union Anti-racism Action Plan and the European Strategy on combating antisemitism and fostering Jewish life.

The Council of the European Union, bearing in mind the principle of subsidiarity, invites Member States to:

1. **DEVELOP** national action plans and/or strategies, and endeavour to do so by the end of 2022 as envisaged in the EU Anti-racism Action Plan adopted by the European Commission on 18 September 2020 and the EU Strategy on combating antisemitism and fostering Jewish life adopted by the European Commission on 5 October 2021;

2. **ENDORSE AND USE** the non-legally binding working definitions of antisemitism and of Holocaust denial and distortion adopted by the International Holocaust Remembrance Alliance as useful guidance for education and training purposes, including for law enforcement and judicial authorities;

3. **RAISE AWARENESS** among their population on the fight against all forms of racism and antisemitism, by upholding the duty to remember the victims of racist and antisemitic violence and hate crimes including educating on the historic and contemporary expressions of racism, slavery as well as on the Holocaust, and how antisemitism led to it;

   In this respect, commemorate relevant dates concerning racism and antisemitism, such as the International Holocaust Remembrance Day, the European Roma Holocaust Memorial Day, the International Day against Racial Discrimination or the International Day for the Abolition of Slavery, promote places of remembrance and encourage initiatives to commemorate the victims of such racist and antisemitic acts;

4. **PROMOTE**, including financially, education, research and knowledge of Jewish life, antisemitism and the Holocaust, as well as of racism and slavery;

5. **CONSIDER DEVELOPING,** within the Commission's High-Level Groups on hate speech and hate crime and the one on non-discrimination, equality and diversity, and in cooperation with the Agency for Fundamental Rights, a common methodology for quantifying and qualifying racial and antisemitic incidents and comparing them both over time and between Member States;

6. **ENSURE** that national coordinators or coordination mechanisms for combating racism and antisemitism, public bodies and institutions, equality bodies, as well as relevant stakeholders, such as the social partners, civil society organisations and groups involved work closely together in developing preventive measures and evaluating the effectiveness of such measures;

7. **SET UP** national human rights institutions in compliance with the Paris principles, and support robust equality bodies, adopt a legislative framework enabling them to carry out their role independently, and provide them with the adequate resources to carry out their tasks effectively;

8. **PROMOTE**, in accordance with the right to freedom of expression, a culture characterised by tolerance, inclusiveness and mutual respect, online and offline, in particular by fostering a culture of understanding and by discouraging the use of stereotypical negative representations of individuals and groups and conspiracy myths, on the grounds of their belonging, whether real or perceived, to ethnic or religious groups;

9. **URGE** the various media, notably social media, technology and communications sectors to implement codes of conduct agreed at European level and enshrining their commitment to respect the principles of equality and non-discrimination, as well as the right to freedom of expression and information, and urge them to develop and adopt solutions enabling them to rapidly detect, assess and remove illegal online hate speech of a racist and antisemitic nature amongst others;

10. **STRENGTHEN** the ability of national investigative and judicial authorities to prosecute illegal online racist and antisemitic hate crimes and hate speech, in compliance with freedom of expression including by establishing measures such as national online monitoring centres and platforms where people can report hateful content;

11. **INCREASE THEIR EFFORTS TO ENSURE** the security of persons belonging to groups affected by acts of racism and antisemitism, as well as around religious institutions, places of worship and confessional schools, including during cultural or religious events;

12. **CONDEMN** all forms of discrimination based on real or perceived ethnic origin or religious beliefs; ensure an adequate judicial response in compliance with Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law;

13. **INCLUDE**, as appropriate, in the initial and ongoing training given to law enforcement and judicial authorities, both at national and EU level, content on combating discrimination based on real or perceived ethnic origins, religious beliefs or cultural background, and develop best practices for identifying and supporting victims, drawing, among others, on the work of the Agency for Fundamental Rights and CEPOL where necessary;

14. **ENCOURAGE** victims and witnesses of all racist and antisemitic incidents to report those incidents and to lodge a complaint, including through the use of digital means, whilst facilitating the associated process by setting up specific information and awareness campaigns, and offer assistance, including psychological, social and material support, where necessary as well as ensure that such reports are investigated;

15. **TAKE** all appropriate measures to ensure adequate compensation for the harm suffered by the victims of racist and antisemitic incidents which are criminalised in Member States;

16. **PROVIDE**, including financially, support for civil society initiatives assisting the victims of these incidents during the reporting and compensation processes;

The Council of the European Union,

17. **WELCOMING** the Commission's initiatives and in particular:
    - the appointment in December 2015 of a Coordinator on combating antisemitism and a Coordinator on combating anti-Muslim hatred, and, in 2021, of a Coordinator on combating racism;
    - the creation of an EU High Level Group on combating hate speech and hate crime;
    - the creation of an EU High Level Group on non-discrimination, equality and diversity;
    - the creation of the Subgroup on the national implementation of the EU Anti-racism action plan;
    - the creation of a working group for implementing the EU strategy on combating antisemitism and fostering Jewish life;
    - the European Union Code of Conduct on countering illegal hate speech online.

INVITES the Commission to:

18. **UPHOLD** the fight against all forms of racism and antisemitism as priorities of the European Union and support Member States in order to ensure the development of standards that offer comprehensive protection against racism and antisemitism;

19. **ENSURE** that the Coordinator on combating racism, the Coordinator on combating antisemitism and fostering Jewish life and the Coordinator on combating anti-Muslim hatred are given sufficient human and financial resources to carry out their roles in full, and that regular dialogue is held with the stakeholders;

20. **PROPOSE** more funding opportunities, within the limits of the Multiannual Financial Framework, to help national human rights institutions, equality bodies and other public bodies and institutions, develop expertise on the application of the EU Charter of Fundamental Rights at national level, in line with the Strategy to strengthen the application of the Charter of Fundamental Rights in the EU;

21. **SUPPORT**, including financially, the capacity building of local authorities and relevant civil society organisations in the fight against racism and antisemitism in particular by encouraging them to develop projects aimed at increasing social cohesion such as mediation, conflict resolution and interfaith dialogue;

22. **PROVIDE** updates on the progress of the implementation of the EU Anti-racism Action Plan and of the Strategy on combating antisemitism and fostering Jewish life, and on related national initiatives in this regard, by publishing interim reports containing analysis and results.