

## **Anti-Semitism - A problem of Public International Law\***

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### **Abstract**

*In the diachronicity of the phenomenon at international level, anti-Semitism has undergone real paradigm metamorphoses, being able to talk today about a concept with a variable geometry. One can discern between the old type anti-Semitism and the one of the new types, each of the two types having in common the unjustified hatred against the Jews but nevertheless a different basic motivation.*

*Relevant and worrying, at the same time, is the degree of virulence of the forms of expression both in the real (physical) environment and in the virtual environment, where there is an alarming increase in the intensity of the phenomenon. If in the real environment, in the sphere of physical reality, certain legislative solutions have been found that somewhat diminish and temper the galloping evolution of anti-Semitism on a global level, then things are not the same in terms of legislative solutions for the virtual environment.*

*In order to make the methods of counteracting the anti-Semitism more efficient, both at national and international level, experts from different fields of activity are trying to identify the best solutions. We join the efforts of the significant majority by trying to configure and bring to public awareness a new academic discipline, namely, Jewishology. We believe that this new discipline will create the real possibility of modern structural configuration of some ways and means made to facilitate the uselessness of new type anti-Semitism. These means and methods can be used without fear of error, in the service of the concept of diplomacy of Jewishology, which we consider a real tool for the prevention of anti-Semitism.*

**Keywords:** *Public law; International Law; Jewishology; Neo-jewishology;*

### **Introduction**

The international situation regarding the issue of anti-Semitism is seen as alarming due to the presence of particularly violent actions against Jews or against persons considered and perceived to be Jews. These facts endanger the fundamental values of free societies and democracies around the world, especially in the OSCE member states.

## 1. The issue of anti-Semitism in the vision of the Organization for Security and Co-operation in Europe (OSCE)

The acts of anti-Semitism, materialized even by crimes, taking place in major capitals of OSCE member countries, where there is a high degree of culture and civilization, have prompted OSCE to react strongly by identifying effective solutions to combat anti-Semitism.

In this regard, in 2014 was adopted by the OSCE Ministerial Council the Declaration on Enhancing Efforts to Combat Anti-Semitism which mandates the OSCE Bureau for Democratic Institutions and Human Rights (ODIHR) to provide advice and support countries in combating this antisocial phenomenon.<sup>1</sup> Prior to this, in the same note, the Kiev OSCE Ministerial Decision No. 3/13 on the freedom of thought, conscience, religion or belief was taken.<sup>2</sup>

In order to materialize the ideas from the documents presented above, the OSCE through the Bureau for Democratic Institutions and Human Rights (ODIHR) has published a Practical Guide for "Understanding Anti-Semitic Hate Crimes and Addressing the Security Needs of Jewish Communities."<sup>3</sup>

This guide talks about the impact of crimes and threats motivated by anti-Semitic hatred on victims in a specific way, but also about their interference with the daily lives of Jewish communities. At the same time, it was stated that the states have not only the duty but also the obligation to prohibit by law, at national level, any skidings based on hatred generated by religious reasons, which have the purpose of discrimination, hostility or violence<sup>4</sup> This obligation arises from the essence of international law on human rights.

Particularly important is the fact that the OSCE member states have declared their commitments regarding "the effort to prevent and protect against attacks, persons or groups of persons, which are based on a certain thinking, conscience, religion or belief."<sup>5</sup>

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<sup>1</sup> Hate Crime Data Collection and Monitoring: A Practical Guide, OSCE, 29 September 2014 <https://www.osce.org/odihr/datacollectionguide>

<sup>2</sup> Accessed November 1, 2019 at <https://www.osce.org/mc/109339>

<sup>3</sup> Accessed November 1, 2019 at <https://www.osce.org/odihr/317166?download=true>

<sup>4</sup> See Summary Report of the expert conference on addressing the security needs of Jewish communities in the OSCE region: Challenges and good practices, OSCE / ODIHR, June 13, 2013, p. 5, accessed on November 1, 2019 at <http://www.osce.org/odihr/105253?download=true>

<sup>5</sup> 10th Anniversary of the OSCE's Berlin Conference on Anti-Semitism: High-Level Commemorative Event and Civil Society Forum <https://www.osce.org/odihr/126168>

At the Berlin + 10 Conference, the OSCE Swiss Presidency urged "law enforcement bodies to deal responsibly with threats that are very real to the security of the Jewish community." This is why the concept of security of the Jewish communities is imperative and worthy of consideration. We believe that from a European perspective, in some countries, the degree of risk to the security of the Jewish communities has been exceeded, thus entering the area of danger and threats.

In support of the above, and to support the idea of responsibility of governmental bodies with regard to the security of the Jewish communities in each country, we should also consider the statements of Rabbi Andrew Baker<sup>6</sup>, the Personal Representative of the current OSCE Presidency on combating anti-Semitism:

Governments have a basic obligation to provide for the security of their citizens. They also affirm a bedrock commitment to the free exercise of religion. And yet the security needs and the financial burdens that many Jewish communities now face seriously call these principles into question. So it is that these quite elemental challenges of a decidedly practical nature ultimately pose an existential threat to the future of Jewish life in the OSCE region.

All of the above, clearly demonstrate and support the fact that anti-Semitism is a problem that must be treated from the perspective of international human rights law as a specific division of public international law.

At the national level, Romania, as one of the countries with complex legislation in the field of defense and protection of the rights of the Jewish minority, transposed the aspects explained above in the body of Law no. 157/2018 regarding some measures to prevent and combat anti-Semitism, adopted in 2018.<sup>7</sup> Thus, through this law both a definition of what anti-Semitism is and represents today and at the same time, certain criminal facts were criminalized, as offenses based on anti-Semitism.

We will not enter into the analysis of the content of the provisions of law 157/2018, because this is not the purpose of the present scientific approach. We mentioned the law in question, considering it a very important step for combating this international phenomenon in Romania, of particular importance to the security of the Jewish communities around the world.

Understanding the scale of the challenge, it can be said that anti-Semitism is a complex of crimes based on hatred against Jews motivated by certain prejudices. The offense which is based on certain prejudices with a pronounced anti-Semitic character, may also be superimposed on other prejudices of a racist

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<sup>6</sup> Rabbi Andrew Baker, Personal Representative of the OSCE Chairperson-in-Office on Combating Anti-Semitism, <https://www.osce.org/odihhr/317166?download=true>

<sup>7</sup> Law No.157/2018 on several measures to prevent and combat anti-Semitism, republished in the Official Journal of Romania, Part I, no. 561 from 4th of July 2018.

or sexual nature. In any event, the facts that are part of the anti-Semitic offenses can sometimes have a strong character and obvious hatred against Jews, and at other times, a special, nuanced understanding of anti-Semitic stereotypes and codes may be required, in this situation involving the condition of a thorough knowledge of Jewish history, culture and civilization.

We consider effective the adoption of legislation to combat anti-Semitism both internationally and nationally, but we firmly believe in identifying complementary solutions to form a coherent whole and to act both as prevention methods as well as a method of rehabilitation of the subjects who have committed crimes with on an anti-Semitic basis. These complementary solutions must be supported by education and knowledge.

### **1.1. Jewishology and the Diplomacy of Jewishology as means and methods of prevention**

Anti-Semitism has a terminological conceptual age of more than a century old<sup>8</sup>, during which both fundamental and formal transformations took place, but one cannot yet speak about its disappearance. The variables according to which the concept of anti-Semitism has been cataloged throughout history first had the religion and the prejudices founded on religion, and later the movements in the Middle East, with a reaction to the actions of the young state of Israel, formed only in 1948. In addition to these variables, there was constant and permanent hatred against the Jews, culminating in the Holocaust atrocities.

However, regardless of the genesis of the variables of anti-Semitism, no one and nothing can justify such an attitude against some of our fellow who, worldwide, have made a significant contribution in elevating the history, culture and civilization of mankind.

We do not want to leave even the impression that we are against incriminating anti-Semitism acts as specific crimes, we even strongly support the need to transpose this initiative into as many national laws as possible, but experiences in the field of criminal law have highlighted that prevention and later reintegration, are just as important as criminal liability.

To methods of effective combating, the methods of prevention must precede them and the methods of social reintegration must succeed them, because even after criminal liability and atonement of punishment, life continues.

Analyzing the potential and possible ways and means of preventing the phenomenon of anti-Semitism, we are shown as relevant the fundamental values

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<sup>8</sup> Wilhelm Marr, *Der Sieg des Germanenthums über das Judentum - Vom nichtconfessionellen Standpunkt aus betrachtet* („The victory of Germany over Jewishness. Viewed from a non-denominational perspective”), propaganda brochure, Berlin, February 1879. The publication reached the 12th edition in the same year.

and qualities of the Jewish people, on which these methods and means should be based. These made them overcome all obstacles, meanders and vicissitudes to which he has been subjected from the beginning to the present day.

We consider as main means of prevention, but also valid for the social reintegration so necessary after committing hatred crimes, knowing and promoting the values of the history, culture and traditions of the Jewish people.

It must be borne in mind that the lack of knowledge, the lack of communication, the exacerbated identity separatism, the lack of frequency of social interactions, will lead in the first phase to the breakdown of interconnections in a given society and later to the escalation of conflicts. If over all these actions of propaganda and manipulation will overlap, as happened in the history, we have foreshadowed the social dissolution.

Therefore, we believe that the solution lies precisely in the special qualities and intrinsic fundamental values of the Jewish people, but which must be revealed and disseminated in a special way, both from the perspective of civilization and from the perspective of history and culture.

The truth must be revealed, and in order to reach true knowledge it is imperative that the revelation of the truth be repeated. Knowledge must be the purpose of the education of future generations, who must realize that only through deep knowledge can the roots of the history of mankind, including anti-Semitism, be removed. Of course, it is self-evident that cloistered knowledge, without being disseminated, is of little value. This is why it is so important that, besides acquiring a significant amount of knowledge, there are efficient methods and means for its rapid and correct dissemination.

We appealed to this journey from our main theme with the clear intention of introducing a new concept, which we consider the key to the prevention of the anti-Semitic phenomenon, namely Jewishology.

**Jewishology** is a new concept term but expressing an old reality embraced by our countless peers, consisting in the study and in-depth research of the history, civilization, language and culture of Judaism. The term is derived from the words JEW + ISH [Old English iudēisc < Late Latin iudē(us) Jew + Old English -isc -ish] and LOGY, meaning bodies of knowledge, science [< Fr. -logie, It. -logia, cf. gr. -logia < logos - word, speech].

Thus, we can briefly define **Jewishology as that science that deals with the study and research of the history, culture, language and civilization of the Jewish people.**

At the risk of repeating ourselves, we make the point that although the study and research of the impressive dimension of the Jewish civilization, history, culture and language has aroused the interest of countless personalities over time, at the international level, however, this fact did not occur under this conceptual-terminological authority as Jewishology should become. Moreover,

we believe that precisely this profound dimension of study research throughout history, must be done internationally and established itself as a science. From another perspective, Jewishology is more than a wish, a necessity. This need lies also in the fact that on the international market, there are various studies and research carried out of malicious purpose, with the goal of presenting pseudo-truths about Jews and Israel. Consequently, these pseudo-studies and research must be opposed vehemently because they have the ability and could represent new sources of anti-Semitism. We are convinced that, Jewishology will empower and gather among its followers, specialists from various fields of activity, well trained, who will be able to bring to light, for both contemporaries and future generations, untroubled truths.

**Jewishology** is and will be for the future, one of the basic concepts in demonstrating the uselessness of anti-Semitism. If, in order to combat the facts of anti-Semitism, we have as a means and methods the legislation of penal nature by which criminal perpetrators can be brought to justice, for prevention and social reintegration we must resort to the means and methods used in diplomacy. In our opinion, knowledge-based diplomacy, in general, and **Diplomacy of Jewishology**, in particular, will represent a social desire in the field of complex prevention of anti-Semitism.

The new anti-Semitism emerged as a concept at the end of the 20th century, the beginning of the 21st century, and is aimed at demonizing Israel and its position in the Middle East and globally. Moreover, with the escalation of conflicts in the Middle East, the migration of refugees from the area to Europe created the premises for the configuration of an "import anti-Semitism." This was made possible by the receipt of a large quota of refugees from the Middle East, by the Central-Western European countries and beyond, who brought with some of them ideas which are based on the genesis of Middle East issues. Thus, Europe which was suffering from an old-fashioned anti-Semitism, coming from socio-religious prejudices, to which mass propaganda and manipulation were superimposed by states wishing to hide the impotence of interwar governments, received a new stream of anti-Semitism from import.

This overlap of anti-Semitic elements and currents of old, new and/or of import, generated mutations in the configuration of the phenomena, creating an appearance of resilience of anti-Semitism in Europe. In fact, one cannot speak of a real resilience of the phenomenon, but only of a revival offered by the presence of some citizens of Islamic religion in Europe, who have not yet understood the uselessness of anti-Semitism.

From the above, the map of political, social and economic interests, at international level, on which anti-Semitism is trying to find new centers of resistance, can be easily revealed. At the same time, it can be noticed that in such an existentially functional paradigm, anti-Semitism must and can only be

combated with the help of good specialists from various fields of activity, such as political, social, economic, etc., who act in full synergy.

Thus, an interdisciplinary alliance must be shaped to demonstrate and convince with scientific arguments the uselessness of anti-Semitism, having as an important working instrument, the **diplomacy of Jewishology** and **Jewishology** itself.

## 1.2. Romania demonstrates the futility of anti-Semitism

It is well known that Romania is one of the countries with the lowest level of anti-Semitism at European level and beyond. This is due on the one hand to the desire of Romanian citizens to live in harmony, regardless of ethnicity, and on the other hand, to the realization of its importance by the Parliament and President of Romania as well as the necessity of setting up a predictable and efficient legislative framework, regarding the protection of the rights and freedoms of ethnic minorities.

From another point of view, also very important, the low degree of virulence of the anti-Semitism in Romania is due to the recognition of the special contribution that the Jews made to the history, culture and civilization of the Romanian people.

In support of the above, we can name the adoption of Law no. 174/2019 regarding the establishment of the National Museum of Jewish History and the Holocaust in Romania<sup>9</sup>. This law is a recognition in itself of the natural historical symbiosis of coexistence, between the Romanian people and the Jewish community in Romania, and also a recognition and awareness of anti-Semitism zenith reached in Romania, materialized in the Holocaust.

Very interesting from the content of this law we find that the Museum is considered a public institution of national importance, which aims to present and promote the history, culture and traditions of the Jewish communities in Romania. At the same time, it aims to raise awareness, both internally and internationally, of the contribution of the Jews to the evolution and modernization of the Romanian society. From another perspective, the purpose of this institution will be to protect the memory of the victims of the Holocaust, as well as to promote the fight against anti-Semitism. Worthy to mention are the provisions of article 3 which consist of main tasks for the achievement of the

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<sup>9</sup> Law no. 174/2019 regarding the establishment of the National Museum of Jewish History and the Holocaust in Romania published in the Official Journal of Romania, Part I, no. 821 from 9th of October 2019. The National Museum of Jewish and Holocaust History in Romania is a public institution of national importance, with legal personality, subordinated to the National Institute for the Study of the Holocaust in Romania, „Ellie Wiessel” initiated by Mr. Deputy Silviu Vexler, representative of the Jewish minority in Romania

purpose stipulated in article 2 of Law 174/2019. Among the 6 important tasks, we mention those mentioned in letters c) and d), consisting of c) conducting studies and research, at home and abroad, to deepen the knowledge of the history of the Jews and the Holocaust in Romania; and d) organizing scientific research activities, conferences, exhibitions, exchanges of experience and seminars with an informative-educational character, including through international collaboration and participation;

This is how the legislation recently adopted in Romania, decrypts a real appetite of the national legislature to perform in terms of the means of combating anti-Semitism. (by means we understand the legislative instruments and bodies and their implementing institutions.)

### Conclusions

From the analysis of those presented in the study, emerges a particularly important idea of international cooperation and involvement of states to combat anti-Semitism worldwide. At the same time, we appreciate that **Jewishology** and **Diplomacy of Jewishology**, as new concepts, will generate the results we have as expectation and that were presented in this study. In the same vein, we express the wish that the two concepts have a practical function, applied, not just one of a unitary useful terminology.

We consider that the present scientific approach opens also the way to what will be the subject of another very important study, in which we will analyze the conceptual essence of **Neo-jewishology**, who represent the new paradigm of Jewishology, specific to the period after the establishment of the state of Israel on May 14, 1948.