



31.10.2018

## NOTICE TO MEMBERS

**Subject: Petition No 1074/2017 by Jānis Kuzins (Latvian), on behalf of Association Against Nazism, on imposing economic sanctions on supporters of Nazi manifestations and the ideas of fascism**

### 1. Summary of petition

The petitioner believes that the European Union should impose various economic sanctions on European Union citizens, politicians, civil servants and financial donors of political parties, which organize, participate or finance events and manifestations of Nazi veterans. He also asks that such sanctions be imposed on organizations that indirectly express fascist ideas. He suggests the establishment of a multinational working group which should identify contemporary ideas and symbols in the Member States, which resemble the fascist ideology.

### 2. Admissibility

Declared admissible on 1 February 2018. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 31 October 2018

The Commission recalls that the scope of its actions is defined and limited by the competences attributed to it by the Treaties. These do not include any power to impose economic sanctions of the nature referred to by the petitioner.

The Commission uses all the tools at its disposal in the fight against racism and xenophobia, intolerance and extreme nationalism, which run counter to the values that the European Union is built upon.

EU legislation<sup>1</sup> criminalises forms and expressions of racism and xenophobia, in particular

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<sup>1</sup> 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.

racist hate speech, defined as the public incitement to violence or hatred on grounds of race, colour, religion, descent, national or ethnic origin. This includes the denial, gross trivialisation and public condoning of the Holocaust and Nazi crimes, as well as, more broadly, crimes of genocide, crimes against humanity and war crimes, when done in a manner likely to incite to violence or hatred. Such conduct shall also be punishable if committed by public dissemination or distribution of tracts, pictures or other material, as well as if committed in the online world.

Member States are, under this EU legislation, obliged to ensure that the public incitement to violence or hatred, including through the use of Nazi and fascist symbols and slogans, is criminalised under national law. National law enforcement and judicial authorities are responsible to investigate, prosecute and try *ex officio* any such behaviour, ensuring that proportionate, effective and dissuasive penalties are applied to perpetrators, including legal persons, in the light of the circumstances of the case. As regards the nature of the penalties, the Framework Decision contains certain requirements, in particular as regards maximum penalties, but leave the Member States free to apply, as appropriate, fines and other economic sanctions of a criminal nature (or, insofar as legal entities are concerned, also of a non-criminal nature).<sup>1</sup>

The Commission rigorously monitors the transposition and application of this legislation in all Member States and has engaged in bilateral dialogues with most Member States on the matter. In recent years eleven Member States made amendments to their respective criminal laws in order to bring them in line with EU standards. The Commission continues working on reducing remaining gaps in national legislation.

The Commission has also been stepping up its efforts to assist Member States to build their capacity to ensure the effective implementation of laws in the area of non-discrimination, racism, hate speech and hate crime. These include high level expert discussions and guidance<sup>2</sup> as well as targeted funding<sup>3</sup>.

The Commission has been leading initiatives to counter the toxic narratives which, often fed by populism and nationalism, are shrinking the space for well-informed and democratic discussions in the public sphere and are polarising our societies. These include the Code of Conduct on countering illegal hate speech online<sup>4</sup>, as well as initiatives to enhance critical thinking and media literacy and build citizens' capacity for debunking disinformation.

Early intervention and prevention as well as the involvement and empowerment of civil society are crucial in tackling violent extremism. First line practitioners are often best positioned to connect with people vulnerable of being drawn into violent extremism. Several EU initiatives such as the Radicalisation Awareness Network (RAN) or the Civil Society Empowerment Programme, one of the initiatives under the EU Internet Forum, aim at increasing civil society's capability to tackle all forms of extremism, including right-wing extremism. Moreover, the Commission has put increasing attention, efforts and resources in key areas such as: human rights education, media literacy and ethics, which were at the core

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<sup>1</sup> See Articles 3 and 6 of the Framework Decision, cited above.

<sup>2</sup> In particular through the [EU High Level Group on Non-Discrimination, Equality and Diversity](#) and the [EU High Level Group on combating racism, xenophobia and other forms of intolerance](#).

<sup>3</sup> See in particular the opportunities available under the [Rights, Equality and Citizenship Programme](#).

<sup>4</sup> For more information, see: [http://ec.europa.eu/newsroom/just/item-detail.cfm?item\\_id=54300](http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=54300)

of the 2017 Annual Colloquium on fundamental rights<sup>1</sup>.

Continued efforts are also devoted to initiatives on remembrance. As the Commission stressed in its statement on the Europe-wide Day of Remembrance for the victims of all totalitarian and authoritarian regimes on 23 August 2017, it is essential not only to remember the victims of these regimes but also to use remembrance as a guide for the future not to repeat mistakes and not to let discrimination and hatred spread again. This is why the Commission strongly reaffirmed on that occasion the rejection of totalitarian and authoritarian ideologies such as, in particular, Nazi and fascist ideologies. It is crucial to remember past horrors to generate knowledge and strength to reject those who seek to revive these ideologies.

The promotion of the memory of the crimes committed by totalitarian regimes in Europe receives financial support under the Europe for Citizens programme with around EUR 4.5 million annually. Under the strand “European remembrance” the programme supports activities reflecting on causes of totalitarian regimes and to commemorate the victims of their crimes. It also encompasses actions which encourage tolerance, mutual understanding, intercultural dialogue and reconciliation as a means to move beyond the past and build the future, in particular with a view to reaching the younger generation.

### Conclusion

The Commission has no competence, under the Treaties on which the European Union is based, to impose economic sanctions such as those referred to by the petitioner. Existing EU legislation obliges Member States to criminalise the public incitement - also by legal persons - to violence or hatred, including through the use of Nazi and fascist symbols and slogans, and make it punishable by effective and dissuasive penalties. It is the responsibility of competent national authorities, including the courts, to investigate, prosecute and try ex officio any such behaviour, ensuring that proportionate, effective and dissuasive penalties are applied to perpetrators in the light of the circumstances of the case.

For the reasons set out above, it is not possible for the Commission to follow up on any of the issues raised by the petitioner.

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<sup>1</sup> [http://ec.europa.eu/newsroom/just/item-detail.cfm?item\\_id=115277](http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=115277)