



Council of the
European Union

**Brussels, 25 November 2019
(OR. en)**

14487/19

**COHAFA 102
COJUR 13
RELEX 1098**

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	14077/19 + 14077/19 COR 1
Subject:	Humanitarian Assistance and International Humanitarian Law - Council Conclusions (25 November 2019)

Delegations will find in the annex the Council conclusions on humanitarian assistance and international humanitarian law, as adopted by the Council at its 3732nd meeting held on 25 November 2019.

Council Conclusions on Humanitarian Assistance and International Humanitarian Law

1. In the year of the 70th anniversary of the Geneva Conventions, the Council reaffirms its strong support for the respect for and the promotion of international humanitarian law (IHL) as operationalised in the EU Guidelines on Promoting Compliance with International Humanitarian Law. The Council underlines that international law, including IHL, is one of the strongest tools the international community has for ensuring the protection and dignity of all persons. The Council recalls the obligation to respect and ensure respect for IHL in all circumstances and reaffirms its commitment to the humanitarian principles and objectives of humanitarian action as enshrined in the European Consensus on Humanitarian Aid. The EU will continue to do its utmost to strengthen effective multilateralism and to promote a rules-based international order where no state or individual is above the law and no person is outside the protection of the law.
2. The Council welcomes the 33rd International Conference of the Red Cross and Red Crescent, taking place in Geneva in December 2019. It is a unique platform bringing together states, the International Red Cross and Red Crescent Movement, as well as other relevant actors in the humanitarian field. The EU and its Member States remain committed to continued discussions on respect for and the implementation and further strengthening of IHL and the humanitarian principles, in close cooperation with their respective National Red Cross Societies. The Council particularly acknowledges the important role of the ICRC as a guardian and promoter of international humanitarian law.

3. The Council expresses its serious concern about the growing number of deliberate breaches of IHL and calls on all parties to all conflicts, including non-state armed groups, to respect IHL and the humanitarian principles. The EU remains strongly committed to the fight against impunity for atrocity crimes and recalls that all States have an obligation to investigate and, if appropriate, prosecute or extradite the suspects of grave breaches of IHL regardless of the nationality of the perpetrators or where the crimes were committed, in accordance with the relevant provisions of the Geneva Conventions and national law. The EU underlines the important complementary role of the International Criminal Court in case a State is unable or unwilling to carry out genuine investigation or prosecution. The EU also recognises the crucial contribution of regional accountability mechanisms to documenting serious breaches of IHL and ensuring accountability. The EU strongly encourages States to ensure adequate protection for victims and survivors of sexual and gender-based violence in armed conflict and to investigate and prosecute the perpetrators of such crimes.

4. The EU will continue to promote compliance with IHL and humanitarian principles in its own activities as well as in its relations with third parties, as expressed in the EU Guidelines on Promoting Compliance with International Humanitarian Law. The EU will issue annual reports on the implementation of these Guidelines. The EU reaffirms its intention to improve coherence, complementarity and coordination between its various policies and actions in promoting and ensuring respect for IHL in all circumstances. In this regard, the Council recalls the reinforcement of the mandate of the European Union Special Representative for Human Rights in the areas of international criminal justice and IHL. The Council also reiterates the importance of integrating respect for IHL into the full range of EU crisis management efforts. In this regard, the EU also recalls the key importance attributed to respect for and the promotion of IHL in the EU Concept on Effective Civil-Military Coordination in Support of Humanitarian Assistance and Disaster Relief¹.

¹ Approved by the EU Military Committee on 30 January 2019, 5536/19

5. The EU will seek innovative ways to promote knowledge on IHL and emphasizes the important role of the National Red Cross Societies and the ICRC as well as the National IHL Committees in this context. The EU and its Member States will strengthen their efforts to disseminate IHL inside and outside the EU, in particular to armed forces and armed non-state actors. The EU welcomes the Humanitarian Call for Action as a useful tool of practical measures to strengthen international humanitarian law, foster principled humanitarian action and thus safeguard humanitarian space.
6. The EU recalls that parties to armed conflicts bear the primary obligation to meet the needs of the population under their control. It is vital that all states and parties to armed conflicts respect their obligation to allow and facilitate the rapid and unimpeded passage of humanitarian relief. The EU is gravely concerned about the indiscriminate use of explosive weapons in densely populated areas and the impact of such use on civilians and civilian objects. The EU will continue to seek to improve the protection of civilians, who are the most frequent victims of serious IHL violations, bearing in mind that men, women, boys and girls of different ages and backgrounds are affected in different ways and recognising their needs, capacities, resources and opportunities in this regard.
7. The EU will continue to promote the protection of humanitarian and medical workers in conflict areas. The EU strongly condemns the growing number of attacks on humanitarian and medical personnel and facilities as well as public infrastructure, which directly affect the safety and health of civilians. The EU calls on states and non-state actors to stop these attacks immediately and refrain from committing them in the future. The Council recalls Resolution 2286 (2016) of the UN Security Council on the protection of health care in armed conflict, and reaffirms that all humanitarian personnel are entitled to respect and protection under international humanitarian law. The Council also welcomes and supports other initiatives, such as the Health Care in Danger initiative by the International Red Cross and Red Crescent Movement.

8. The Council welcomes UN Security Council Resolution 2462(2019) on preventing and combating the financing of terrorism, which recognizes the need to take into account the potential effect of counter-terrorism measures on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors. The Council notes that humanitarian actors often work in operational environments with a likely presence of, or under direct control of, designated or sanctioned entities. While recognising the importance of identifying and preventing illicit financial flows to terrorist organisations and networks, the Council, in line with the Security Council Resolution, reiterates that any EU measures including designing and applying restrictive measures and all counter-terrorism measures, must be in accordance with all obligations under international law, in particular international human rights law, international refugee law, and international humanitarian law. The Council will seek to avoid any potential negative impact on humanitarian action and encourages Member States to ensure that domestic counterterrorism measures and restrictive measures are in accordance with international law.

9. The Council expresses its deep concern about the rapidly growing humanitarian needs around the world and reaffirms the EU's commitment to responding to them with regard to both the volume and the effectiveness of humanitarian funding, including through commitments such as those made by the signatories to the Grand Bargain. In this context, the EU also reiterates its call to humanitarian organisations to increase the efficiency of the response in order to ensure that a maximum of assistance goes directly to beneficiaries. The EU calls for coordinated, multi-stakeholder needs assessments in order to provide a more accurate basis for funding decisions and response.

10. The Council stresses its commitment to use EU humanitarian assistance to better address the needs of those in the most vulnerable situations, including women and children, and those most at risk due to, for example, disability, gender identity and sexual orientation, race, ethnicity, age or religion. The EU also recognises their role as key actors in further improving the planning, implementation and evaluation of humanitarian assistance. The EU welcomes the IASC Guidelines on Inclusion of Persons with Disabilities in Humanitarian Action adopted this year and expresses its full support for their implementation and mainstreaming in all humanitarian action in line with the EU's own commitments in the area of disability inclusion.
11. The EU recalls the need to strengthen coordination, coherence and complementarity between humanitarian, development and peace actions and actors, as enshrined in the EU Integrated Approach to External Conflicts and Crises² and in the Council Conclusions on operationalising the Humanitarian-Development nexus adopted in May 2017³. The 'triple nexus' approach recognises that humanitarian relief, medium- to long-term development cooperation and peacebuilding approaches and diplomacy, carried out in accordance with their respective mandates and international humanitarian law, are required in complex emergencies and beyond, while ensuring that humanitarian principles are respected and upheld and development cooperation objectives are maintained. In order to promote a more effective response, the EU will continue to apply lessons learned from EU nexus pilot activities at country level and build on their achievements.
12. The Council recalls the need for the international community to reinforce conflict prevention, to strive for conflict resolution and to better address development needs in all humanitarian crises, in order to achieve the Sustainable Development Goals. The Council underlines that effective multilateralism is imperative and the role of the United Nations in this regard is essential.

² The EU Integrated Approach to external conflicts and crises, 2 June 2017

³ Operationalising the Humanitarian-Development Nexus - Council conclusions (19 May 2017), 9383/17

13. The Council emphasises the need and the commitment to address the humanitarian impact of climate change more effectively and to include disaster risk reduction and resilience-building in all relevant activities. The EU reiterates the benefits of prevention and anticipatory action, both in saving lives and in reducing material damage. The implementation of the Sendai Framework for Disaster Risk Reduction at national level and through international cooperation remains a key objective for the EU.
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