



Council of the
European Union

WORKING PARTY ON PUBLIC INTERNATIONAL LAW (COJUR) REPORT ON THE EU GUIDELINES ON PROMOTING COMPLIANCE WITH INTERNATIONAL HUMANITARIAN LAW

JULY 2016 - JUNE 2017

April
2018



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Brussels: General Secretariat of the Council of the European Union, 2018

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I. INTRODUCTION

International Humanitarian Law ("IHL"), which seeks to limit the effects of armed conflict and to protect civilians and others not taking part in hostilities, is a cornerstone of modern international law. Nevertheless, despite States' universal acceptance of its rules and principles, violations of IHL - and the enormous suffering which this entails - is an ever-present feature of today's armed conflicts. Promoting respect for IHL therefore remains an urgent challenge for the international community.

As a major global actor, the European Union is strongly committed to promoting respect for IHL as part of its wider commitment, laid down in its founding Treaties, to advancing respect for human dignity and for the principles of international law¹. This commitment to promoting IHL was expressly affirmed in the European Union's most recent Global Strategy adopted in 2016².

As a complex and diverse actor which is active across a wide number of areas, the European Union has a range of means by which it promotes respect for IHL. These can engage the responsibilities of different EU institutions and bodies - including the Council, the High Representative supported by the European External Action Service (EEAS), and the European Commission - as well as of Member States. They involve the exercise of the Union's powers across different policy areas notably the Common Foreign and Security Policy (including the Common Security and Defence Policy (CSDP)), development cooperation and humanitarian aid.

The European Union Guidelines on promoting compliance with International Humanitarian Law ("the Guidelines") were adopted by the Council in 2005, and updated in 2009³, to support and reinforce the Union's role in this field. They provide both an overview of the main tools at the disposal of the EU for promoting respect for IHL and a summary of the main elements of IHL aimed at promoting awareness and understanding of its rules and principles, particularly amongst those working within and with the European Union itself.

¹ Article 21, Treaty on European Union.

² [A Global Strategy for the European Union's Foreign and Security Policy](#), EEAS, June 2016, p. 42.

³ **Annex 1**, Updated European Union Guidelines on promoting compliance with international humanitarian law (IHL), 2009/C303/06.

EXTRACT FROM GUIDELINES

I. PURPOSE

1. The purpose of these Guidelines is to set out operational tools for the European Union and its institutions and bodies to promote compliance with international humanitarian law (IHL). They underline the European Union's commitment to promote such compliance in a visible and consistent manner. The Guidelines are addressed to all those taking action within the framework of the European Union to the extent that the matters raised fall within their areas of responsibility and competence. They are complementary to Guidelines and other Common Positions already adopted within the EU in relation to matters such as human rights, torture and the protection of civilians.

2. These Guidelines are in line with the commitment of the EU and its Member States to IHL, and aim to address compliance with IHL by third States, and, as appropriate, non-State actors operating in third States. Whilst the same commitment extends to measures taken by the EU and its Member States to ensure compliance with IHL in their own conduct, including by their own forces, such measures are not covered by these Guidelines.

The Guidelines, the first to be adopted at the regional level, provided a visible and practical sign of the EU's commitment to IHL and their adoption was widely welcomed. Since their adoption the EU has continued actively to promote respect for IHL through the various means at its disposal⁴. Many of these activities are already regularly reported in the various publications and communications issued by the responsible institutions⁵.

However there has remained scope for presenting a more systematic and transparent overview of the implementation of the Guidelines as a whole including to facilitate the Council's assessment of the work carried out by the Union in this field. To achieve these objectives, the Council Working Group on Public International Law (COJUR) has prepared this first annual report on the action taken by the European Union to implement the Guidelines. COJUR is the body charged under the Guidelines with monitoring action in this area and making suggestions for future action where appropriate and feasible. While COJUR remains responsible for the preparation and content of the report, it has greatly benefited from reporting from the Commission services, the EEAS and other bodies in relation to matters within their own areas of responsibility.

For this first annual report the reference period is from 1 July 2016 to 30 June 2017 although in some cases the material draws on reporting for the 2016 financial year. At the same time, it should be stressed that the Union has also been very active in the promotion of respect for IHL in the years preceding the start of this reporting period.

⁴ See the [EU Action Plan on Human Rights and Democracy, December 2015](#), in particular, Section III, point 21 on page 32.

⁵ [Mid-term Review of the Action Plan on Human Rights and Democracy](#), SWD(2017) 254 final, European Commission, 26 June 2017.
[Annual Report on Human Rights and Democracy for 2016, EEAS, 16 October 2017](#).

The report does not seek to be exhaustive or to duplicate material which is already available in other publications. Nor, as a public report, does it cover all activities falling within the scope of the Guidelines where these are of their nature - given the subject-matter - sensitive or confidential. It seeks rather to give a concise, factual overview of the main areas of European Union activity as covered in the 2009 Guidelines.

II. STATEMENTS

As an active actor at the international level, the European Union regularly issues public statements calling on the need to ensure respect for international humanitarian law either in relation to specific situations and conflicts or more generally.

EXTRACT FROM GUIDELINES

Paragraph 16 (b):

General public statements: In public statements on issues related to IHL, the EU should, whenever appropriate, emphasize the need to ensure compliance with IHL.

STATEMENTS AND CONCLUSIONS

At the level of the Head of State and Government, the **European Council** will often refer to compliance with IHL in the public Conclusions that it issues at the end of its meetings. Similarly, at the level of Foreign Ministers, the **Foreign Affairs Council**, as the policy-making body on foreign policy, regularly deliberates on situations of conflict around the world and underlines the need to respect IHL in the Conclusions issued at the end of its meeting. For example, in the Council conclusions on Syria of 17 October 2016, the EU condemned *"the continued systematic, widespread and gross violations and abuses of human rights and all violations of international humanitarian law by all parties, particularly the Syrian regime and its allies"*.

Between Council meetings, the **High Representative** frequently issues statements - often in immediate response to particular events - calling on parties to respect IHL and condemning violations. Such statements may be issued on her own initiative or, in agreement with members of the Council, on behalf of the Union. One example of this was the response of the High Representative on the alleged chemical attack in Idlib, Syria on 6 April 2017: *"In this context, the EU reiterates that as a party to the Chemical Weapons Convention, the Syrian regime has explicitly obligated itself to refrain from the use of chemical weapons and that the Syrian regime has the primary responsibility for the protection of the Syrian population."*

Members of the **Commission**, in particular the Commissioner for Humanitarian Aid and Crisis Management, may similarly issue statements relating to IHL - including in relation to particular humanitarian crises or the delivery of humanitarian aid - in relation to matters within their own areas of responsibility. Thus, for example, the Commission responded on 8 February 2017 to the killing of six ICRC staff in Afghanistan by saying it was *"An attack on those who work to help others is an attack on humanity and a grave violation of International Humanitarian Law"*.

A list of such Conclusions and Statements and declarations made during the reporting period is set out in the **Annex 2** (Section A). Collectively they represent a continuous, high level and public engagement by the Union as an international actor in responding to events and crises and reinforcing the need to ensure respect for rules of international humanitarian law.

The **European Parliament** also frequently adopts resolutions and reports dealing with IHL. A list of such declarations adopted by the European Parliament is set out in the **Annex 2** (Section A, vii). A further example of its work was the publication in June 2017 of "Towards an EU common position on the use of armed drones"⁶, requested by its Human Rights Subcommittee and which itself follows on from a resolution adopted by the European Parliament in 2014. The publication includes a report on workshop held by the European Parliament in March 2017 and which includes specific recommendations, including from the perspective on International Humanitarian Law, on the use of armed drones.

In June 2017, the Council Member States, European Parliament and the Commission also adopted a **New European Consensus on Development** - 'Our world, our dignity, our future', which as regards humanitarian action and cooperation, reaffirmed the upholding of humanitarian principles in accordance with IHL (**Annex 2**, Section A, viii).

POSITIONS IN INTERNATIONAL BODIES

The Union is also active as a member or observer in a range of **international organisations and bodies and in this capacity frequently intervene on matters of IHL**. A list of interventions made on behalf of the EU during the reporting period is set out in the **Annex 2** (Section A, vi).

A key illustration of this work is in **New York** in relation to the resolutions of the UN General Assembly (UNGA), and of the UN Economic and Social Council (ECOSOC) where the EU Delegation coordinates the position of the 28 Member States and facilitates one of the key humanitarian resolutions, on Safety and Security of humanitarian personnel and protection of UN personnel, on behalf of the EU and its Member States. As agreed every year at the Foreign Affairs Council, the humanitarian priorities of the EU include the promotion of humanitarian principles and IHL⁷, and these priorities are put forward during the negotiations of the resolutions. At the annual humanitarian debate in UNGA in December, the EU Delegation delivers a statement on behalf of the EU and its Member States which always includes strong language on IHL. The EU also participates in the open debates of the UN Security Council such as the one on the Protection of Civilians and Medical Care in Armed Conflict, where its statement equally underlines the Union's commitment to IHL.

A number of *ad hoc* meetings related to humanitarian affairs take place in New York, in which the EU Delegation systematically takes an active part:

⁶ [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/578032/EXPO_STU\(2017\)578032_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/578032/EXPO_STU(2017)578032_EN.pdf)

⁷ [EU priorities at the United Nations and the 71st United Nations General Assembly \(September 2016 – September 2017\)](#), adopted by the Council on 18 July 2016.

- A series of high-level humanitarian side-events are organised in the margins of the opening of each UN General Assembly during the so-called "Ministerial Week" in late September, with the EU typically organising at least one major event. During the reporting period, the EU led on a side-event on the humanitarian situation in Iraq and co-chaired other relevant events on South Sudan, Chad or Yemen.
- The Humanitarian Affairs Segment (HAS) of ECOSOC (which alternates between NY and Geneva) bring together each year the humanitarian community at the level of senior officials in which the latest policy and technical developments are discussed in side-events over three days. The EU is again traditionally very active during the HAS.
- The Humanitarian Liaison Working Group (HLWG) regularly meets in New York (every 2-3 weeks) to discuss the main on-going crises.
- *Ad hoc* humanitarian briefings are regularly organised in New York by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), and other agencies, funds or programmes, individual countries, NGOs and academic bodies, in which the EU normally also takes part.

In all these contexts the EU Delegation is a firm advocate of respect of IHL.

The Union is also very active in **Geneva** which is of course a key hub for humanitarian affairs and for addressing issues of compliance with international humanitarian law.

In the Human Rights Council, EU has intervened on numerous occasions to condemn human rights and humanitarian law abuses and violations. During the Interactive Dialogues with the Human Rights Council's mandated Commissions of Inquiry, the EU strongly promotes respect for IHL and accountability for its violations.

Also in Geneva, the EU chairs the Humanitarian Liaison Working Group, a platform of key States and humanitarian actors that offers the space for discussions and analyses of major contemporary humanitarian challenges. The very first meeting organised under the EU chairmanship in 2017 was an Interactive Panel on "Respect for International Humanitarian Law: An International Responsibility; a Global Challenge". Speakers from the International Committee of the Red Cross (ICRC), Geneva Call, Office of the United Nations High Commissioner for Human Rights and OCHA spoke candidly of their role and challenges in promoting respect for IHL.

At the World Humanitarian Summit of 23-24 May 2016 in Istanbul, the EU made a series of commitments linked to IHL such as measures to promote an increased understanding of and respect for the humanitarian mandate and principles, reinforced context-specific measures to enhance the physical safety of healthcare personnel and infrastructure, and continued support for the ICC. The EU regularly reports on the implementation of these commitments.

In addition, as part of the Conference "Supporting the future of Syria and the region", which took place in Brussels on 4-5 April 2017, the European Commission-led thematic event "Humanitarian Aid Inside Syria: Needs, Challenges & the Way Forward" had as its main objective promoting needs-based humanitarian aid delivery and compliance with humanitarian principles and IHL by all parties to the Syrian conflict, as well as providing concrete operational recommendations to donors, governments and aid organizations.⁸

⁸ http://ec.europa.eu/echo/sites/echo-site/files/syria_conference.pdf

III. POLITICAL DIALOGUES AND DEMARCHES

As well as a participant in international bodies, the Union has an extensive network of dialogues and contacts with third States and other international actors and frequently uses these to promote respect for IHL and adherence to international legal instruments. Where necessary, its representatives may also deliver demarches in relation to particular situations.

EXTRACTS FROM THE GUIDELINES

Paragraph 16(a):

Political dialogue: Where relevant the issue of compliance with IHL should be brought up in dialogues with third States. This is particularly important in the context of on-going armed conflicts where there have been reports of widespread IHL violations. However, the EU should also, in peace-time, call upon States that have not yet done so to adhere to, and fully implement, important IHL instruments, such as the 1977 Additional Protocols and the ICC Statute. Full implementation includes enactment of any necessary implementing legislation and training of relevant personnel in IHL.

Paragraph 16(c):

Demarches and/or public statements about specific conflicts: When violations of IHL are reported the EU should consider making demarches and issuing public statements, as appropriate, condemning such acts and demanding that the parties fulfil their obligations under IHL and undertake effective measures to prevent further violations.

While the content, or existence, of such dialogues may by their nature be confidential, the following examples demonstrate the range and scope of the Union's activities in this area.

In **Syria**, the EU Delegation has continuously raised IHL issues in its bilateral meetings with interlocutors from Syrian authorities in Damascus. Other diplomatic initiatives include outreach by the EEAS headquarters to the Syrian opposition as well as humanitarian diplomacy efforts by the Commission services and EEAS when present at the Humanitarian Task Force (HTF) meetings and other meetings held in Geneva. The EU has also contributed to joint diplomatic efforts to raise awareness on IHL issues at a high level, such as the UN Universal Periodic Review (UPR) for Syria – for which the EU Delegation in Geneva was associated to advocacy efforts.

In relation to **Ukraine**, the EU Delegation raised IHL-related issues in various formats and fora in Kyiv, most notably in the context of the annual Human Rights Dialogue, in which IHL is one of the topics of discussion. The humanitarian situation in eastern Ukraine, including respect for IHL (protection of civilians and conduct of hostilities) is a regular issue discussed during the Union's bilateral political dialogue with Ukraine at various levels⁹, most notably in the context of the annual Human Rights Dialogue. IHL-related issues are also regularly discussed in the relevant negotiating formats (Normandy, Trilateral Contact Group) aimed at achieving the complete implementation of the Minsk agreements.

The EU Delegation in Moscow has raised on a continuous basis concerns with Russian interlocutors at all levels and, from the human rights angle, it has coordinated monitoring activities of a number of trials involving illegally detained Ukrainian citizens in Russia. EU Member States have voted in favor of the UNGA resolution 72/190 of December 2017 on the human rights situation in the Crimean peninsula (Ukraine), which included numerous references to IHL. The EU is also the biggest contributor to the **OSCE Special Monitoring Mission to Ukraine (SMM)** which plays an important role in monitoring the situation on the ground, mediating small local disputes, facilitating operations which improve the lives of local people (mine clearance agreements).

The mandate of the **EU Special Representative on the Middle East Peace Process** includes “engaging constructively with signatories to agreements within the framework of the peace process in order to promote compliance with the basic norms of democracy, including respect for international humanitarian law, human rights and the rule of law”. The EUSR has implemented this provision throughout the reporting period in his regular confidential contacts with a range of both Israeli and Palestinian interlocutors, in line with established EU policies and positions on the Middle East Peace Process, including on the issues of settlements, protection of civilians, and humanitarian access, in order to promote compliance by all States and non-State actors in the area. He has also engaged regularly with Israeli and Palestinian civil society actors involved in the promotion of IHL in the context of the Middle East Peace Process. The EU also maintains a continuous political dialogue with national authorities, regularly recalling Israel's responsibilities as an occupying power in the Palestinian territories.

⁹ 2nd and 3rd meeting of the EU-Ukraine Association Committee (5-6 July 2016, 29-30 June 2017) Human Rights Dialogue (20 July 2016, 13 June 2017); 19th EU-Ukraine Summit (24 November 2016, 12-13 July 2017); 3rd EU-Ukraine Association Council (19 December 2016); PSC political dialogue (20 March 2017).

In **Bosnia and Herzegovina**, the EU Delegation maintains regular contacts with national authorities aimed at reviewing the progress made in addressing IHL breaches stemming from the 1992-1995 war. Monitored progress forms part of the political criteria which needs to be met in order for the country to advance in the EU integration process. In that context, special attention is given to progress made on processing of war crime cases, including cases of sexual violence, regional cooperation and cooperation with the International Criminal Tribunal for the former Yugoslavia (including the Residual Mechanism), ensuring the return of refugees and displaced persons and locating and identifying missing persons. Contacts take place during regular, technical-level exchanges with Bosnia and Herzegovina, as well as Stabilisation and Association Agreement (SAA) Sub-Committees. Contacts also occur during political dialogues, such as the Structured Dialogue on Justice addressing the National War Crimes Strategy, and other high-level visits¹⁰.

The EU Delegation in **Former Yugoslav Republic of Macedonia** has been in regular contact with all key national and international stakeholders in the country such as the Ministry of Interior, the Ministry of Labor and Social Policy, United Nations High Commissioner for Refugees (UNHCR), United Nations Development Programme (UNDP) or Organization for Security and Co-operation in Europe (OSCE). The EU Assistance addressing refugee crisis and its distribution in respective domains and geographical areas is coordinated with the Member States. Local civil society organizations (CSOs) relating to IHL are regularly invited for consultations to cover specific areas (e.g. measures against human trafficking, legal counselling to asylum seekers, etc.).

The EU has also concluded a series of **agreements with third states** in various fields in which it reaffirms the importance of IHL and undertakes to cooperate with these states in accordance with its principles. For example, in the Framework Agreement between the European Union and Australia, signed on 7 August 2017, the EU agreed to cooperate in the prevention and suppression of terrorism in full respect for the rule of law and international humanitarian law. Other examples of agreements are set out in the **Annex 2** (Section B, iii).

¹⁰ IHL-related issues are raised in the annual EU report on Bosnia and Herzegovina (latest: 2016) as well as in the EU Questionnaire following Bosnia and Herzegovina's EU membership application (chapter 23 obligations related to the Council of Europe, the ICC, and cooperation with ICTY/MICT; chapter 31: conflict prevention and non-proliferation).

IV. COOPERATION WITH INTERNATIONAL ORGANISATIONS & OTHER ACTORS

EXTRACT FROM THE GUIDELINES

Paragraph 16 (e):

Cooperation with other international bodies: Where appropriate, the EU should cooperate with the UN and relevant regional organisations for the promotion of compliance with IHL. EU Member States should also, whenever appropriate, act towards that goal as members in other organisations, including the United Nations. The International Committee of the Red Cross (ICRC) has a treaty-based, recognised and long-established role as a neutral, independent humanitarian organisation, in promoting compliance with IHL.

As noted in Part I above, the Union frequently makes interventions on IHL in international bodies in which it is an observer or member. In addition, the Union cooperates with other international actors in promoting respect for IHL. These can include promoting a coordinated approach by the Union and its Member States in supporting diplomatic initiatives, concluding cooperation arrangements with international organisations and providing financial assistance.

SUPPORT FOR INTERNATIONAL DIPLOMATIC INITIATIVES TO STRENGTHEN SUPPORT FOR IHL

One of the main initiatives directed at strengthening compliance with IHL is facilitated, in Geneva, by the ICRC and Switzerland. Pursuant to Resolution 1 of the 31st International Conference, between 2012 and 2015 the ICRC and the Swiss government engaged in research and facilitated consultations with and among States on possible ways to improve the effectiveness of mechanisms of compliance with IHL. An inter-governmental process that started in 2014 is still ongoing, aiming to reach consensus on concrete ways to strengthen the compliance with IHL by the next International Conference of the Red Cross and Red Crescent in 2019. As a State only process, the EU attends the discussions with the delegation of the country holding the Presidency. Together with the Presidency, the EU organizes and hosts preparatory meetings with EU Member States. This collective work is aimed of delivering a strong outcome that would contribute to better respect for IHL.

COOPERATION WITH, AND SUPPORT FOR, THE ICRC, OTHER HUMANITARIAN ACTORS AND CIVIL SOCIETY

The **ICRC** is one of the EU's most trusted humanitarian partners, often among the few international actors present in the field. It is a key partner in delivering humanitarian response and in upholding respect for IHL and the humanitarian principles. In 2016, the ICRC received approximately EUR 146 million in funding from the EU's humanitarian aid budget. The ICRC is regularly invited to speak in informal sessions of Council working groups and at the PSC.

The above funding to the ICRC also included dedicated funding for IHL dissemination in **Afghanistan** and **Ukraine**. The project focused on IHL dissemination in a number of activities that increased the knowledge and capacity of duty-bearers on the respect for IHL and IHRL in times of armed conflict.

The EU humanitarian aid budget has also funded other projects with an IHL objective of other humanitarian partners, including Norwegian Refugee Council (NRC), UNHCR, Office for the Coordination of Humanitarian Affairs (OCHA), Danchurchaid, Office of the United Nations High Commissioner for Human Rights (OHCHR) and Geneva Call. These projects are focused on Ukraine, Mali, Syria, and Iraq. For example, on the Syrian conflict, the EU has supported Geneva Call's media campaign "Fighter not Killer" in order to raise awareness about the rules of war among the fighters from all parties to the conflict, and remind them of their obligation to respect humanitarian norms and protect the civilian population. The campaign also seeks to encourage civil society to promote these norms and values¹¹. More information on these projects can be found in the **Annex 2** (Section B, ii).

Examples of local cooperation beyond financial cooperation include those in **Armenia and Azerbaijan where** each of the two EU Delegation hosts a Political Adviser to the EU Special Representative for the Southern Caucasus, who maintains close contacts with the ICRC and attends meetings organised by the ICRC on behalf of the EU. Areas of interest are: implementation and respect of IHL, updates on prisoners of war, actions targeting missing persons, ICRC activities in conflict-affected border areas, and general conflict-related developments in Armenia, including in Nagorno-Karabakh. In April 2017, the EU Special Representative for the Southern Caucasus visited the Armenia-Azerbaijan border and had an exchange with representatives of the communities. The visit was facilitated by the ICRC office in Yerevan.

On the **Nagorno-Karabakh** conflict, the EUSR has continuously raised EU concerns on the humanitarian impact of the conflict with the sides, in accordance with the EUSR mandate to contribute to the peaceful settlement of the conflict in accordance with the principles of international law. At the OSCE, the EU has voiced support for the efforts of the ICRC to facilitate exchange of information on missing persons.

¹¹ <http://fighternotkiller.org/>

The **Lebanon Humanitarian International NGO Forum** (LHIF), supported by the EU, is an important partner in the field of IHL, collecting evidence of shortcomings as regards protection of refugee populations. LHIF members are NGOs that signed the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief. As regards diplomatic initiatives, the EU-Lebanon Partnership Priorities and the Compact, both approved in September 2016, include *inter alia* the implementation of commitments and obligations under IHL as well as national law regarding conflicts.

The EU has supported a wide range of humanitarian, protection, development and other co-operation actions in the Georgian breakaway region of **Abkhazia**, in partnership also with international and local NGOs, including through EU-funded project activities by UNDP, UNHCR and UNICEF aimed of promoting adherence to IHL. The EU has called for unimpeded humanitarian access to South Ossetia, as provided for by the 6-point agreement of 12 August 2008. In addition, the EU has urged for the conduct of assessments of the human rights situation in the breakaway regions by international human rights monitors and has called for follow-up activities to existing assessments done by the civil society and independent experts.

The EU is continuously engaging with local and international NGOs advocating for compliance with IHL in Israel and Occupied Palestinian Territories. The EU finances several actions reinforcing the promotion of international law and the respect of IHL in Occupied Palestinian Territories, enhancing the accountability of duty bearers, fostering investigative processes and safeguarding the rights of children in armed conflicts. The European Neighbourhood Instrument (ENI) and European Instrument for Democracy and Human Rights (EIDHR) contributed to funding such projects. The EU also supports the publication of policy reports, which are later disseminated through political briefings or submitted to relevant Israeli/UN bodies. The EU Representation supports several programmes pertaining to the promotion of the respect of IHL, notably as part of the EU Peace Building Initiative (project implemented by UN-Women) or the East Jerusalem Programme (EJP), under which two projects related to IHL advocacy and legal defence are being implemented by the Norwegian Refugee Council (NRC) and DanChurchAid.

The EU provides support through the Instrument contributing to Stability and Peace (IcSP) to organizations active in support of conflict affected population in **eastern Ukraine** including through psychosocial assistance to conflict affected communities and trainings to local media to raise their sensitivity and ability to report on conflict.

Other examples of the wide range of support provided by the EU to civil society in promoting respect for IHL are set out in the **Annex 2** (Section B, ii).

As regards **EU legislation**, on 15 March 2017 the European Parliament and the Council adopted a new directive on combatting terrorism (Directive (EU) 2017/541) as well as making clear that the directive should not alter the rights, obligations and responsibilities of Member States under international law including IHL. Its recitals also make clear that " *the provision of humanitarian activities by impartial humanitarian organisations recognised by international law, including international humanitarian law, do not fall within the scope of this Directive, while taking into account the case-law of the Court of Justice of the European Union*".

FINANCIAL ASSISTANCE

In providing **financial assistance**, the EU has different thematic instruments for external cooperation and channeling external aid. In particular, the European Instrument for Democracy and Human Rights (EIDHR)¹² aims to help establish democracy, the rule of law, and the protection of human rights and basic freedoms. The scope of the Regulation includes in Article 2(1) (a):

- *strengthening the rule of law, promoting the independence of the judiciary and of the legislature, supporting and evaluating legal and institutional reforms and their implementation, and promoting access to justice, as well as supporting national human rights institutions;*
- *promoting and strengthening the International Criminal Court, ad hoc international criminal tribunals and the processes of transitional justice and truth and reconciliation mechanisms;*

It also includes in Article 2(1)(c):

- *strengthening of the international framework for the protection of human rights, justice, gender equality, the rule of law and democracy, and for the promotion of international humanitarian law, in particular by:*

(i) providing support for international and regional instruments and bodies in the area of human rights, justice, the rule of law and democracy;

(ii) fostering cooperation of civil society with international and regional intergovernmental organisations, and supporting civil society activities, including capacity-building of non-governmental organisations, aimed at promoting and monitoring the implementation of international and regional instruments concerning human rights, justice, the rule of law and democracy;

(iii) training in and dissemination of information on international humanitarian law and support to its enforcement;

Equally, the Instrument contributing to Stability and Peace (IcSP)¹³ helps to prevent and respond to crises, including in areas such as:

- *support for international criminal tribunals and ad hoc national tribunals, truth and reconciliation commissions, and mechanisms for the legal settlement of human rights claims and the assertion and adjudication of property rights, established in accordance with international standards in the fields of human rights and the rule of law;*

¹² Regulation (EU) No 235/2014 of the European Parliament and the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide (OJ L 77, 15.3.2014, p. 85–94).

¹³ Regulation (EU) No 230/2014 of the European Parliament and the Council of 11 March 2014 establishing an instrument contributing to stability and peace (OJ L 77, 15.3.2014, p. 1–10).

- *support for measures to address, within the framework of Union cooperation policies and their objectives, the socio-economic impact on the civilian population of anti-personnel landmines, unexploded ordnance or explosive remnants of war. Activities financed under this Regulation may cover, inter alia, risk education, mine detection and clearance and, in conjunction therewith, stockpile destruction;*
- *support for measures to combat, within the framework of Union cooperation policies and their objectives, the illicit use of and access to firearms, small arms and light weapons;*
- *support for the rehabilitation and reintegration of the victims of armed conflict, including measures to address the specific needs of women and children¹⁴;*

In addition, a large part of EU-funded humanitarian actions, financed under Council Regulation (EC) No 1257/96¹⁵ on humanitarian aid, is implemented in countries affected by armed conflicts. The Regulation includes in its preamble:

Whereas civilian operations to protect the victims of fighting or of comparable exceptional circumstances are governed by international humanitarian law and should accordingly be considered part of humanitarian action;

Article 1 of the Regulation also states that:

The Community's humanitarian aid shall comprise assistance, relief and protection operations (...).

Violations of IHL heavily impact and hamper the EU's humanitarian investments in meeting the needs of the affected populations and imperil the security of the EU's humanitarian partners. Strengthening compliance with IHL is thus a key concern for the EU as a reference humanitarian donor. Funding for humanitarian protection, namely addressing violence, coercion, deliberate deprivation and abuse for persons, groups and communities in the context of humanitarian crises, is in most cases considered as an overarching priority in Humanitarian Implementation Plans.

¹⁴ Regulation (EU) No 230/2014, Article 3(2)

¹⁵ Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid, OJ L 163, 2.7.1996, p. 1–6.

V. RESTRICTIVE MEASURES

EXTRACT FROM GUIDELINES:

Paragraph 16(d):

Restrictive measures/sanctions: The use of restrictive measures (sanctions) may be an effective means of promoting compliance with IHL. Such measures should therefore be considered against State and non-State parties to a conflict, as well as individuals, when they are appropriate and in accordance with international law.

The European Union maintained in force 25 sanctions regimes during the reporting period. A number of these were specifically aimed at preventing or repressing violations of IHL including by targeting individuals engaged in such violations. A list of these restrictive measures is set out in the **Annex 2** (Section C) . More generally by taking measures dealing with situations of armed conflict, including through arms embargoes, many sanctions measures seek to prevent the situations in which violation of IHL can occur.

Restrictive measures themselves are in accordance with international law. All EU legal instruments on financial restrictions, restrictions on admission and other restrictive measures make provision for appropriate exemptions to take account of in particular basic needs of targeted persons including where applicable humanitarian needs or international obligations. Furthermore EU sanctions policy is now based on a targeted approach, focusing on those who are responsible for the situation that is meant to be changed. The intention is to avoid as much as possible any negative effects on the civilian population.

VI. ARMS EXPORTS AND ARMS CONTROLS

EXTRACT FROM GUIDELINES

Paragraph 16(i):

Export of arms: The Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment provides that an importing country's compliance with IHL should be considered before licences to export to that country are granted.

The European Union continues to apply the legal binding decision on the control of exports of military technology and equipment referred to in the Guidelines¹⁶. This superseded European Union Code of Conduct on Arms Exports adopted by the Council in 1998. Criterion 2 of Article 2 of the Common Position stipulates that:

"Having assessed the recipient country's attitude towards relevant principles established by instruments of international humanitarian law, Member States shall:

(c) deny an export licence if there is a clear risk that the military technology or equipment to be exported might be used in the commission of serious violations of international humanitarian law."

Moreover, the EU has adopted the Nineteenth Annual Report according to Article 8(2) of Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment.

In addition, in relation to dual use goods, on 28 September 2016, the European Commission submitted "Proposal for a Regulation of the European Parliament and the Council setting up a Union regime for the control of exports, transfer, brokering, technical assistance and transit of dual-use items (recast)" which would also make express provision in relation to IHL. The Explanatory Memorandum accompanying the proposal states:

¹⁶ Council Common Position 2008/944/CFSP.

" The proposal sets out new provisions for an effective control focusing on specific and relevant cyber-surveillance technologies. It introduces an EU autonomous list of specific cyber-surveillance technologies of concern to be subject to controls (monitoring centres and data retention systems), with detailed technical parameters. This systematic control is complemented by a targeted catch-all control, which allows controlling the export of non-listed cyber-surveillance technologies in certain situations where there is evidence that they may be misused. The targeted catch-all control applies where there is evidence that the items may be misused by the proposed end-user for directing or implementing serious violations of human rights or international humanitarian law in situations of armed conflict or internal repression in the country of final destination."

The EU has also continued to pursue initiatives to combat illicit accumulation and trafficking of Small Arms and Light Weapons (SALW)¹⁷ and their ammunition as well as to support the Arms Trade Treaty (ATT)¹⁸. On 29 May 2017, the Council adopted a new Decision CFSP/2017/915 on Union outreach activities in support of the implementation of the Arms Trade Treaty that provides for the Union to undertake activities to support third states in the effective implementation of the ATT and to increase awareness and ownership of the ATT at national and regional levels.

A number of EU sanctions measures referred to above also make provision for the imposition of arms embargoes - in particular in relation to situations of armed conflict. The EU is active in ensuring that these embargoes are implemented. For example following reports of the UN Panel of Experts on **South Sudan** that Armenian-registered airplanes were breaching the EU arms embargo, with which Armenia was aligned, the EU received a report from the Conflict Armament Research, a body commissioned by the EEAS to investigate arms transfers, into South Sudan. This reported that an Armenian operator, Skiva Air, was still carrying Sudan Peoples' Liberation Army (SPLA) cargo and personnel. Following EU Delegation engagement with Armenia, Skiva Air's operating licence was withdrawn at the end of March 2017.

The EU actively supports the implementation and universalisation of Non-Proliferation, Disarmament and Arms Control agreements that are inspired by, and often entirely based on, the application of IHL. These treaties include the Nuclear Non-Proliferation Treaty, the Comprehensive Test Ban Treaty (CTBT), the Chemical Weapons Convention (CWC), the Arms Trade Treaty, the Anti-personnel Mine Ban Convention, the Convention on Certain Conventional Weapons (CCW) and the UN Programme of Action against the illicit Trade in Small Arms and Light Weapons.

The EU used all opportunities to advocate CTBT ratification in international fora and meetings with countries that have not yet signed or ratified the Treaty. For example, CTBT was raised bilaterally in the EU political as well as non-proliferation and disarmament dialogues with India, Pakistan and the US. As one example of local engagement, on 31 August 2016 the EU Special Envoy for Non-proliferation and Disarmament made a presentation on "EU policies and activities in support of disarmament and non-proliferation" at the Jawaharlal Nehru University in New Delhi with a heavy focus the CTBT and its Monitoring System.

¹⁷ [EU strategy to combat illicit accumulation and trafficking of small arms and ammunition](#), 13 January 2006.

¹⁸ See Council Decision 2014/165/EU authorizing Member States to ratify, in the interests of the European Union, the Arms Trade Treaty.

At the OPCW in the Hague the EU had condemned breaches of the IHL by chemical weapons attacks.¹⁹ Other examples of statements on the use of chemical weapons in which the EU regularly emphasises the importance of strict application of IHL which contributes to preventing and reducing the suffering of both civilians and combatants are provided in the **Annex 2** (Section A, ii, iii, vi).

¹⁹ [Statement on behalf of the European Union delivered by H.E. Ambassador Roman Buzek Permanent Representative of Slovakia to the OPCW at the eighty-third session of the Executive Council](#), 11 October 2016.

VII. CRISIS MANAGEMENT OPERATIONS AND TRAINING

EXTRACT FROM GUIDELINES

Paragraph 16 (f):

Crisis-management operations: The importance of preventing and suppressing violations of IHL by third parties should be considered, where appropriate, in the drafting of mandates of EU crisis-management operations. In appropriate cases, this may include collecting information which may be of use for the ICC (4) or in other investigations of war crimes.

Paragraph 16 (h):

Training: Training in IHL is necessary to ensure compliance with IHL in time of armed conflict.

Training and education must also be undertaken in peacetime. This applies to the whole population,

although special attention should be given to relevant groups such as law enforcement officials. Additional obligations apply to the training of military personnel. The EU should consider providing or funding training and education in IHL in third countries including within the framework of wider programmes to promote the rule of law.

During the reporting period, the European Union conducted 15 civilian and military crisis management operations within the framework of the Common Security and Defence Policy. By promoting security and deterring conflict they contribute by their nature to preventing situations in which violations of IHL can occur.

IHL is taken specifically into account in the planning and preparation of such missions.

The EU Policy on Training for CSDP²⁰ of 3 April 2017 provides that it:

*"should reflect and promote EU principles and pursue the objectives set out in Articles 3 and 21 of the Treaty on European Union. Support for democracy, the rule of law, human rights and the principles of international law is integral to the EU's activities for peace-keeping, conflict prevention and strengthening international security. This includes the EU's specific commitments regarding the integration in its missions and operations of: a code of conduct and discipline for EU missions and operations and other sources of EU policy, such as Council conclusions (including on hybrid threats, etc.), UN resolutions (including UNSCR 1325, etc.) as well as human rights, gender, **International Humanitarian Law** and Refugee Law and subsequent resolutions on women, peace and security; combatting sexual violence. It is inherent to all training activities for CSDP that they should reflect these principles, whether directly or indirectly."*

For example an EU Missions Concept Note²¹ was adopted on 6 March 2017 on Operational Planning and Conduct Capabilities for CSDP Missions and Operations. The note stressed "The importance of systematically integrating the implementation of UNSCR 1325 and subsequent resolutions on Women, Peace and Security and a gender perspective as well as human rights and international humanitarian law, including protection of civilians, into the CSDP planning cycle is stressed."

Some missions have specific mandates relating to the repression of international crimes including people trafficking (Operation Sophia), arms trafficking (Operation Sophia) and piracy (Operation Atalanta).

Certain missions also have specific mandates and tasks relating to IHL, including the monitoring of violations, repression of war crimes and training of third States' forces. In particular:

- The civilian CSDP mission **European Union Monitoring Mission in Georgia (EUMM Georgia)** explicitly includes among its tasks: "monitor, analyse and report on the situation pertaining to the stabilisation process, centred on full compliance with the six-point Agreement, including troop withdrawals, and on freedom of movement and actions by spoilers, as well as on violations of human rights and international humanitarian law". In this context, EUMM Georgia monitors issues affecting the human security of the conflict-affected population in Georgia including restrictions of freedom of movement and detentions. The mission reports these issues and provides information on them in the framework of the meetings between the conflict parties (Geneva International Discussions and Incident Prevention and Response Mechanisms).
- The military CSDP mission **EUTM Mali** objectives include responding to the operational needs of the Malian Armed Forces through the provision of training on International Humanitarian Law, protection of civilians and human rights (Art. 1.2 (b) of Council Decision 2013/34/CFSP).

²⁰ [EU Policy on Training for CSDP](#), 3 April 2017.

²¹ [Concept Note: Operational Planning and Conduct Capabilities for CSDP Missions and Operations](#), 6 March 2017.

- The civilian CSDP mission **EUCAP Sahel Mali**, under its overall task of assistance and advice to the Internal Security Forces of Mali (Art. 2 of Council Decision 2014/219/CFSP), conducts training on the principles and application of IHL and human rights. As the mission's focus is on capacity building in the domain of internal security to the Police, Gendarmerie and National Guard, the focus of the IHL training is on its core principles, particularly those of distinction, proportionality and necessity which builds on the core tenets of the human rights component of the course. This module complements the comprehensive IHL training provided by EUTM to the Malian Armed Forces.
- The civilian CSDP mission **EULEX Kosovo** (Article 3 of Council Joint Action 2008/124/CFSP) ensures that cases of war crimes, terrorism, organised crime, corruption, inter-ethnic crimes, financial/economic crimes and other serious crimes are properly investigated, prosecuted, adjudicated and enforced, according to the applicable law, including, where appropriate, by international investigators, prosecutors and judges jointly with Kosovo investigators, prosecutors and judges or independently, and by measures including, as appropriate, the creation of cooperation and coordination structures between police and prosecution authorities.

VIII. INTERNATIONAL CRIMINAL TRIBUNALS

The EU and its Member States have strongly supported the effective functioning of the ICC and other criminal tribunals such as the *ad hoc* international tribunals for the former Yugoslavia and Rwanda, the Special Court for Sierra Leone, the Extraordinary Chambers in the Courts of Cambodia, the Special Tribunal for Lebanon, and the international Residual Mechanism for Criminal Tribunals.

EXTRACT FROM GUIDELINES

Paragraph 16 (g):

(g) Individual responsibility: While, in post-conflict situations it is sometimes difficult to balance the overall aim of establishing peace and the need to combat impunity, the European Union should ensure that there is no impunity for war crimes. To have a deterrent effect during an armed conflict the prosecution of war crimes must be visible, and should, if possible, take place in the State where the violations have occurred. The EU should therefore encourage third States to enact national penal legislation to punish violations of IHL. The EU's support of the ICC and measures to prosecute war criminals should also be seen in this context.

In 2016 the EU supported the setting up of the Kosovo Specialist Chambers which has jurisdiction over crimes against humanity, war crimes and other crimes under Kosovo law. The NGO community remains a valuable ally in these efforts by facilitating public outreach, reinforcing victims' participation and building complementarity links to efforts of other donors.

The EU's commitment to the ICC is set out in Council Decision 2011/168/CFSP²² and further operationalized in the Action Plan following up on this Decision. In addition, the EU Guiding Principles concerning Arrangements between a State Party to the Rome Statute of the ICC and the United States Regarding the Conditions to Surrender Persons to the Court were adopted by the General Affairs and External Relations Council on 30 September 2002. The EU regularly coordinates its position in the Assembly of States Parties. Examples are in the **Annex 2** (Section D).

²² Council Decision 2011/168/CFSP of 21 March 2011 on the International Criminal Court and repealing Common Position 2003/444/CFSP OJ L 76, 22.3.2011, p. 56–58.

The EU has provided over 40 M EUR to the ICC since its creation, both in direct support, and through support to civil society under the EIDHR. In particular, since 2012, the EU directly contributes to the ICC outreach activities with an annual budget of 1 M EUR. Since 2013, 15 High-Level & Cooperation Seminars have been organized, fostering closer cooperation between States and the Court. Seminars and trainings to legal professionals, including counsel, have proved extremely relevant regarding the defence or representation of victims, while also promoting dialogue among participants at the regional level. Moreover, training of legal professionals increased participants' legal expertise in international criminal and humanitarian law and developed their knowledge of the Rome Statute system.

The 2016 EIDHR global call for proposals, with a budget of EUR 2.67 million, supports projects that i) fight impunity by facilitating access to justice and legal and psychological assistance to victims, and ii) support transitional justice mechanisms, further contributing to the EU's efforts to support complementarity and accountability.

Support for ICC is also reflected in the EU's bilateral relations. For example, EU Common positions on the integrity of the Rome Statute are an essential element of accession negotiations. Candidates or potential candidates who maintain bilateral agreements concerning the conditions for the surrender of persons to the ICC are reminded of the need to align with the EU position. The Union regularly proposes demarches to promote the universality and integrity of the Rome Statute of the ICC by encouraging its ratification, accession and implementation.

Since the opening of the investigation in **Georgia** on crimes perpetrated in 2008 in South Ossetia, the EU Delegation has been providing assistance and guidance to visiting **ICC** teams in relation to political, logistical, organisational and security matters. Briefings on domestic political developments and conflict-related issues have been provided *inter alia* by the EU Delegation and, the EUSR. The EU Delegation has also organised, on ICC's request, several meetings between ICC visiting delegations and EU Member State Heads of Mission. During the last of such meetings, the ICC briefed on the Trust Fund of Victims and encouraged possible voluntary contributions from the EU and EU Member States.

The EU also promotes adherence with the Rome Statute in its international agreements.

Article 11 of the Cotonu Agreement provides:

7. In promoting the strengthening of peace and international justice, the Parties reaffirm their determination to:

-share experience in the adoption of legal adjustments required to allow for the ratification and implementation of the Rome Statute of the International Criminal Court; and

- fight against international crime in accordance with international law, giving due regard to the Rome Statute.

The Parties shall seek to take steps towards ratifying and implementing the Rome Statute and related instruments.

Another example in Article 5 of the Comprehensive and Enhanced Partnership Agreement between the EU and **Armenia** on the **ICC**:

2. The Parties consider that the establishment and effective functioning of the International Criminal Court constitutes an important development for international peace and justice. The Parties shall aim to enhance cooperation in promoting peace and international justice by ratifying and implementing the Rome Statute of the International Criminal Court and its related instruments, taking into account their legal and constitutional frameworks.

3. The Parties agree to closely cooperate to prevent genocide, crimes against humanity and war crimes by making use of appropriate bilateral and multilateral frameworks.

Examples of financial assistance provided to international criminal tribunals is set out in the **Annex 2** (Section B, i).

IX. CONCLUSION

As set out in the report, the EU continues to be active in promoting respect for IHL across the various areas covered in the Guidelines - in its own policy positions, in international fora, in its bilateral relations, in the provision of financial and other assistance and in its operational and other activities. Such activity does not of course take place in isolation but is in each case part of the Union's wider diplomatic, humanitarian and development efforts. It is however clear that when undertaking action at the international level, and in particular when dealing with situations of armed conflict, the promotion of respect of IHL is a key element of the Union's efforts.

In view of the continuing and widespread violations of IHL, there can be no grounds for complacency by any international actor. This report seeks only to provide a factual overview of the Union's activities in this field and does not itself seek to make an assessment of the effectiveness of Union action or to make specific recommendations for further action. It is however intended to contribute to raising awareness of the EU's work in this area, including amongst those working with and within the Union itself, and to assist in identifying where more could be done to improve the coherence and effectiveness of Union action.

ANNEX I - Updated European Union Guidelines on promoting compliance with international humanitarian law (IHL)

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS AND BODIES

COUNCIL

Updated European Union Guidelines on promoting compliance with international humanitarian law (IHL)

(2009/C 303/06)

I. PURPOSE

1. The purpose of these Guidelines is to set out operational tools for the European Union and its institutions and bodies to promote compliance with international humanitarian law (IHL). They underline the European Union's commitment to promote such compliance in a visible and consistent manner. The Guidelines are addressed to all those taking action within the framework of the European Union to the extent that the matters raised fall within their areas of responsibility and competence. They are complementary to Guidelines and other Common Positions already adopted within the EU in relation to matters such as human rights, torture and the protection of civilians⁽¹⁾.
2. These Guidelines are in line with the commitment of the EU and its Member States to IHL, and aim to address compliance with IHL by third States, and, as appropriate, non-State actors operating in third States. Whilst the same commitment extends to measures taken by the EU and its Member States to ensure compliance with IHL in their own conduct, including by their own forces, such measures are not covered by these Guidelines⁽²⁾.

⁽¹⁾ See EU Guidelines on Human Rights Dialogues (approved by the Council on 13 December 2001, updated on 19 January 2009); Guidelines for EU Policy towards Third Countries on Torture and other Cruel, Inhuman or Degrading Punishment or Treatment (approved by the Council on 9 April 2001, updated on 29 April 2008); EU Guidelines on Children and Armed Conflict (approved by the Council on 8 December 2003, updated on 17 June 2008); EU Guidelines on the Promotion and Protection of the Rights of the Child (approved by the Council on 10 December 2007); Guidelines on Violence against women and girls combating all forms of discrimination against them (approved by the Council on 8 December 2008) and Council Common Position 2003/444/CFSP of 16 June 2003 on the ICC (OJ L 150, 18.6.2003, p. 67).

⁽²⁾ All EU Member States are Parties to the Geneva Conventions and their Additional Protocols and thus under the obligation to abide by their rules.

II. INTERNATIONAL HUMANITARIAN LAW (IHL)

Introduction

3. The European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law. This includes the goal of promoting compliance with IHL.
4. International Humanitarian Law (IHL) — also known as the Law of Armed Conflict or the Law of War — is intended to alleviate the effects of armed conflict by protecting those not, or no longer taking part in conflict and by regulating the means and methods of warfare.
5. States are obliged to comply with the rules of IHL to which they are bound by treaty or which form part of customary international law. They may also apply to non-State actors. Such compliance is a matter of international concern. In addition, the suffering and destruction caused by violations of IHL render post-conflict settlements more difficult. There is therefore a political, as well as a humanitarian interest, in improving compliance with IHL throughout the world.

Evolution and Sources of IHL

6. The rules of IHL have evolved as a result of balancing military necessity and humanitarian concerns. IHL comprises rules that seek to protect persons who are not, or are no longer, taking direct part in hostilities — such as civilians, prisoners of war and other detainees, and the injured and sick — as well as to restrict the means

and methods of warfare — including tactics and weaponry — in order to avoid unnecessary suffering and destruction.

7. As with other parts of international law, IHL has two main sources: international conventions (treaties) and customary international law. Customary international law is formed by the practice of States, which they accept as binding upon them. Judicial decisions and writings of leading authors are subsidiary means for determining the law.

8. The principal IHL Conventions are listed in the Annex to these Guidelines. The most important are the 1907 Hague Regulations, the four Geneva Conventions from 1949 and their 1977 Additional Protocols. The Hague Regulation and most of the provisions of the Geneva Conventions and the 1977 Additional Protocols are generally recognised as customary law.

Scope of application

9. IHL is applicable to any armed conflicts, both international and non-international and irrespective of the origin of the conflict. It also applies to situations of occupation arising from an armed conflict. Different legal regimes apply to international armed conflicts, which are between States, and non-international (or internal) armed conflicts, which take place within a State.

10. Whether situation amounts to an armed conflict and whether it is an international or non-international armed conflict are mixed questions of fact and law, the answers to which depend on a range of factors. Appropriate legal advice, together with sufficient information about the particular context, should always be sought in determining whether a situation amounts to an armed conflict, and thus whether international humanitarian law is applicable.

11. The treaty provisions on international armed conflicts are more detailed and extensive. Non-international armed conflicts are subject to the provisions in Article 3 common to the Geneva Conventions and, where the State concerned is a Party, in the 1977 Additional Protocol II. Rules of customary international law apply to both international and internal armed conflicts but again there are differences between the two regimes.

International Human Rights Law and IHL

12. It is important to distinguish between international human rights law and IHL. They are distinct bodies of law and, while both are principally aimed at protecting individuals, there are important differences between them. In particular, IHL is applicable in time of armed conflict and occupation. Conversely, human rights law is applicable to everyone

within the jurisdiction of the State concerned in time of peace as well as in time of armed conflict. Thus while distinct, the two sets of rules may both be applicable to a particular situation and it is therefore sometimes necessary to consider the relationship between them. However, these Guidelines do not deal with human rights law.

Individual responsibility

13. Certain serious violations of IHL are defined as war crimes. War crimes may occur in the same circumstances as genocide and crimes against humanity but the latter, unlike war crimes, are not linked to the existence of an armed conflict.

14. Individuals bear personal responsibility for war crimes. States must, in accordance with their national law, ensure that alleged perpetrators are brought before their own domestic courts or handed over for trial by the courts of another State or by an international criminal tribunal, such as the international Criminal Court ^(?).

III. OPERATIONAL GUIDELINES

A. REPORTING, ASSESSMENT AND RECOMMENDATIONS FOR ACTION

15. Action under this heading includes:

(a) In order to enable effective action, situations where IHL may apply must be identified without delay. The responsible EU bodies, including appropriate Council Working Groups, should monitor situations within their areas of responsibility where IHL may be applicable, drawing on advice, as necessary, regarding IHL and its applicability. Where appropriate they should identify and recommend action to promote compliance with IHL in accordance with these Guidelines. Consultations and exchange of information with knowledgeable actors, including the ICRC and other relevant organisations such as the UN and regional organisations, should be considered when appropriate.

^(?) See the Union's Common Position on the ICC (2003/444/CFSP) and the EU's Action Plan on the ICC. See further Decision of 13 June 2002 (2002/494/JHA) by which the Council set up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes; the Framework Decision (2002/584/JHA) on the European arrest warrant and the procedures between Member States; the Decision of 8 May 2003 (2003/335/JHA) concerning the investigation and prosecution of genocide, crimes against humanity and war crimes; Council Decision 2006/313/CFSP of 10 April 2006 concerning the conclusion of the Agreement between the International Criminal Court and the European Union on cooperation and assistance, OJ L 115, 28.4.2006, p. 49.

Consideration should also be given, where appropriate, to drawing on the services of the International Humanitarian Fact-Finding Commission (IHFFC) established under Article 90 of the Additional Protocol I to the Geneva Conventions of 1949, which can assist in promoting respect for IHL through its fact-finding capacity and its good offices function.

(b) Whenever relevant, EU Heads of Mission, and appropriate EU representatives, including Heads of EU Civilian Operations, Commanders of EU Military Operations and EU Special Representatives, should include an assessment of the IHL situation in their reports about a given State or conflict. Special attention should be given to information that indicates that serious violations of IHL may have been committed. Where feasible, such reports should also include an analysis and suggestions of possible measures to be taken by the EU.

(c) Background papers for EU meetings should include, where appropriate, an analysis on the applicability of IHL and Member States participating in such meetings should also ensure that they are able to draw on advice as necessary on IHL issues arising. In a situation where an armed conflict may be at hand, the Council Working Group on International Law (COJUR) should be informed along with other relevant Working Groups. If appropriate and feasible, COJUR could be tasked to make suggestions of future EU action to relevant EU bodies.

B. MEANS OF ACTION AT THE DISPOSAL OF THE EU IN ITS RELATIONS WITH THIRD COUNTRIES

16. The EU has a variety of means of action at its disposal. These include, but are not limited to, the following:

(a) Political dialogue: Where relevant the issue of compliance with IHL should be brought up in dialogues with third States. This is particularly important in the context of on-going armed conflicts where there have been reports of widespread IHL violations. However, the EU should also, in peacetime, call upon States that have not yet done so to adhere to, and fully implement, important IHL instruments, such as the 1977 Additional Protocols and the ICC Statute. Full implementation includes enactment of any necessary implementing legislation and training of relevant personnel in IHL.

(b) General public statements: In public statements on issues related to IHL, the EU should, whenever appropriate, emphasise the need to ensure compliance with IHL.

(c) Demarches and/or public statements about specific conflicts: When violations of IHL are reported the EU should consider making demarches and issuing public statements, as appropriate, condemning such acts and demanding that the parties fulfil their obligations under IHL and undertake effective measures to prevent further violations.

(d) Restrictive measures/sanctions: The use of restrictive measures (sanctions) may be an effective means of promoting compliance with IHL. Such measures should therefore be considered against State and non-State parties to a conflict, as well as individuals, when they are appropriate and in accordance with international law.

(e) Cooperation with other international bodies: Where appropriate, the EU should cooperate with the UN and relevant regional organisations for the promotion of compliance with IHL. EU Member States should also, whenever appropriate, act towards that goal as members in other organisations, including the United Nations. The International Committee of the Red Cross (ICRC) has a treaty-based, recognised and long-established role as a neutral, independent humanitarian organisation, in promoting compliance with IHL.

(f) Crisis-management operations: The importance of preventing and suppressing violations of IHL by third parties should be considered, where appropriate, in the drafting of mandates of EU crisis-management operations. In appropriate cases, this may include collecting information which may be of use for the ICC ⁽⁴⁾ or in other investigations of war crimes.

(g) Individual responsibility: While, in post-conflict situations it is sometimes difficult to balance the overall aim of establishing peace and the need to combat impunity, the European Union should ensure that there is no impunity for war crimes. To have a deterrent effect during an armed conflict the prosecution of war crimes must be visible, and should, if possible, take place in the State where the violations have occurred. The EU should therefore encourage third States to enact national penal legislation to punish violations of IHL. The EU's support of the ICC and measures to prosecute war criminals should also be seen in this context.

⁽⁴⁾ See the Agreement on Cooperation and Assistance between the European Union and the International Criminal Court referred to in footnote 3 above.

(h) Training: Training in IHL is necessary to ensure compliance with IHL in time of armed conflict. Training and education must also be undertaken in peacetime. This applies to the whole population, although special attention should be given to relevant groups such as law enforcement officials. Additional obligations apply to the training of military personnel. The EU should consider providing or funding training and education in IHL in third countries including

within the framework of wider programmes to promote the rule of law.

- (i) Export of arms: The Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment⁽⁵⁾ provides that an importing country's compliance with IHL should be considered before licences to export to that country are granted.

⁽⁵⁾ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, OJ L 335, 13.12.2008, p. 99. This Common Position replaces the European Code of Conduct on Arms Exports adopted by the Council on 8 June 1998.

ANNEX

PRINCIPAL LEGAL INSTRUMENTS ON INTERNATIONAL HUMANITARIAN LAW AND OTHER RELEVANT LEGAL INSTRUMENTS

- 1907 Hague Convention IV Respecting the Laws and Customs of War
- Annex to the Convention: Regulations Respecting the Laws and Customs of War
- 1925 Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare
- 1949 Geneva Convention I for the Amelioration of the Conditions of the Wounded and Sick in Armed Forces in the Field
- 1949 Geneva Convention II for the Amelioration of the Conditions of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea
- 1949 Geneva Convention III Relative to the Treatment of Prisoners of War
- 1949 Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War
- 1977 Geneva Protocol I Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts
- 1977 Geneva Protocol II Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts
- 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict
- Regulations for the Execution of Convention for the Protection of Cultural Property in the Event of Armed Conflict
- 1954 First Hague Protocol for the Protection of Cultural Property in the Event of Armed Conflict
- 1999 Second Hague Protocol for the Protection of Cultural Property in the Event of Armed Conflict
- 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction
- 1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects
- 1980 Protocol I on Non-Detectable Fragments
- 1980 Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices
- 1996 Amended Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices
- 1980 Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons
- 1995 Protocol IV on Blinding Laser Weapons
- 2003 Protocol V on Explosive Remnants of War
- 1993 Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction
- 1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction

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- 1993 Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991
 - 1994 Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994
 - 1998 Rome Statute of the International Criminal Court
 - 2005 Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)
 - 2008 Convention on Cluster Munitions
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ANNEX II - Supporting materials

A. STATEMENTS & CONCLUSIONS

[See section II of the report]

i. European Council Conclusions

	Subject	Date	Extract
1.	European Council meeting Conclusions – Syria	21.10.2016	„The European Council calls for an immediate cessation of hostilities and for resumption of a credible political process under UN auspices. Those responsible for breaches of international humanitarian law and human rights law must be held accountable. The EU is considering all available options, should the current atrocities continue.“
2.	European Council meeting Conclusions - Syria	15.12.2016	„The European Council urgently calls on the regime and Russia, as well as all parties in the Syrian conflict to implement immediately the following four emergency measures: b) immediate and unconditional aid and protection for all inhabitants of the eastern part of Aleppo, without discrimination and in accordance with international humanitarian law, guaranteeing full and unimpeded access for the United Nations and its partners on the ground in supplying essential items and urgent medical assistance, as provided for in United Nations Security Council Resolution 2258, for the whole of Syria; d) international humanitarian law needs to be applied in the eastern part of Aleppo but also to the whole country and in particular to all those areas in which civilians have been besieged.“

ii. Council Conclusions

	Subject	Date	Extract
1.	Council conclusions on South Sudan	18.07.2016	„The EU urges all parties to allow and facilitate the full, safe and unhindered provision of humanitarian assistance to all those in need, in accordance with international humanitarian law.“
2.	Council conclusions on Afghanistan	18.07.2016	„The Council remains concerned by the humanitarian situation and recalls the importance of respecting international humanitarian law.“
3.	Council conclusions on Syria	17.10.2016	„The EU condemns the continued systematic, widespread and gross violations and abuses of human rights and all violations of international humanitarian law by all parties, particularly the Syrian regime and its allies. The targeting of a UN humanitarian convoy on 19 September is a clear violation of international law, which requires full investigation.“

	Subject	Date	Extract
4.	Council conclusions on South Sudan	12.12.2016	„The Transitional Government of National Unity is severely restricting fundamental freedoms and applying relentless pressure on civil society and on the media. The EU calls upon the Transitional Government to uphold its responsibility for the protection of civilians and on all parties to comply strictly with their obligations under international law and to put an end to violations of human rights and of international humanitarian law in South Sudan.“
5.	Council conclusions on Libya	6.2.2017	„The EU is concerned about the humanitarian situation in Libya, where some 1.3 million people are in need of emergency assistance. It calls for access for humanitarian workers to the people in need and the respect for International Humanitarian Law.“
6.	Council Conclusions on EU Priorities at UN Human Rights Fora in 2017	27.2.2017	“The dire human rights and humanitarian situation in Syria deserves the continuous full attention of the UN human rights bodies. The EU will condemn in UN fora the continued, systematic, widespread and gross violations and abuses of human rights and all violations of international humanitarian law by all parties, particularly the Syrian regime and its allies.”
7.	Council conclusions on the Democratic Republic of the Congo	6.3.2017	“The EU is concerned, as are the members of the UN Security Council, at recent reports of serious violations of human rights and humanitarian law committed by local militias in the Kasai region, including the recruitment and unlawful use of child soldiers and the killing of civilians by members of the DRC security forces, which could constitute war crimes under international law.”
8.	Council conclusions on Yemen, adopted by the Council	3.4.2017	“The EU strongly condemns attacks against civilians and renews its urgent call on all parties to the conflict to ensure the protection of civilians and to respect international humanitarian law and international human rights law, including to respect the principles of distinction, proportionality, and to take precaution in the conduct of hostilities.”
9.	Council conclusions on an EU strategy for Syria	3.4.2017	“The Council strongly condemns the continued systematic, widespread and gross violations and abuses of human rights and violations of international humanitarian law by all parties, particularly by the Syrian regime. This must end and those responsible must be held accountable.” “The EU will continue to work to help ensure accountability for war crimes, human rights violations and abuses and violations of international humanitarian law, including the confirmed use of chemical weapons.”
10.	Council conclusions on Somalia	3.4.2017	„The EU remains deeply concerned by continued serious violations of international humanitarian law and violations and abuses of human rights law in Somalia, including violence against women and children and attacks against journalists. It is essential to bring those responsible to justice.“
11.	Council conclusions on operationalising the Humanitarian-	19.5.2017	„The Council recalls its previous relevant conclusions and the outcome of the World Humanitarian Summit and underlines the need to strengthen resilience by

	Subject	Date	Extract
	Development Nexus		better linking humanitarian assistance and development cooperation to anticipate, prepare for and respond to crises and disasters, man-made or natural. It is crucial to further strengthen the operational links between the complementary approaches of humanitarian assistance, development cooperation and conflict prevention, in full respect of humanitarian principles and international humanitarian law.“
12.	Council conclusions on Mali and the Sahel	19.6.2017	“The EU recalls that all actors must respect international human rights law and international humanitarian law in order to ensure the protection of the civilian population, including to ensure and safeguard children's right to education.”
13.	Council conclusions on Iraq	19.6.2017	„The EU condemns in the strongest terms the continued brutality of Da'esh and its flagrant violations of human rights and international humanitarian law, including indiscriminate attacks, killings and conflict-related sexual violence. The EU is also deeply concerned by allegations of human rights abuses and violations perpetrated by Iraqi forces.“
14.	Council Conclusions on EU External Action on Counter-terrorism	19.6.2017	“The Council stresses the importance of a criminal justice approach to the fight against terrorism and support to partner countries to strengthen their criminal justice response in compliance with international law, including international human rights law, international refugee law and international humanitarian law and improve the investigation of CT related cases within a rule of law perspective.”

iii. Statements by the High Representative (HR)

	Subject	Date	Extract
1.	Declaration by the HR on behalf of the EU on the occasion of the Day of International Criminal Justice	17.7.2016	“The EU and its Member States remain committed to promoting the efforts to end impunity for the most heinous atrocities and encourage the universal acceptance of the jurisdiction of the International Criminal Court.”
2.	Declaration by the HR on behalf of the European Union on Syria and the situation in Aleppo	18.8.2016	“The EU strongly condemns the escalation of violence in Aleppo, the continuous bombardments and the sieges that have put the lives of hundreds of thousands of Syrians in further danger and is hindering the efforts of the international community both to provide humanitarian aid and to support a political solution to the conflict. Recalling that the Syrian authorities have the primary responsibility for the protection of its people, the EU strongly condemns all attacks against civilians and civilian infrastructure and the excessive and disproportionate attacks by the Syrian regime.”
3.	Declaration by the HR on behalf of the European Union concerning South Sudan	20.9.2016	“The EU recalls that humanitarian action is independent and neutral, and is provided solely on the basis of the immense needs of the most vulnerable South Sudanese. The EU urges the Transitional Government of National Unity to adhere to its obligations under International Humanitarian Law to facilitate

	Subject	Date	Extract
			rapid and unimpeded relief to all South Sudanese affected by the conflict, regardless of ethnic, tribal or political affiliations and to ensure full respect for all organisations providing humanitarian relief and their staff.”
4.	Declaration by the HR on behalf of the European Union on South Africa and Burundi and the International Criminal Court	21.10.2016	“The EU and its Member States remain staunch supporters of the ICC and are committed to full co-operation on the prevention of serious crimes falling under the jurisdiction of the Court. Where concerns are raised within the framework of the Rome Statute, we remain open for constructive discussion.”
5.	Statement by HR on Russia and the International Criminal Court	17.11.2016	“The European Union remains a staunch supporter of the ICC and is committed to full co-operation on the prevention of serious crimes falling under the jurisdiction of the Court, which is a key institution to assist citizens achieve justice when confronted with the most serious crimes, where this is not possible at the national level.”
6.	Declaration by the HR on behalf of the EU on the situation in Aleppo	9.12.2016	“The EU recalls the obligation under international humanitarian law to take all feasible measures to ensure the protection of civilians and civilian objects enjoying special protection under international humanitarian law.”
7.	Syria, HR calls for urgent protection of civilians in Aleppo	13.12.2016	“...underlined the obligations of all the parties on the ground to protect civilians and abide by international humanitarian and human right's law.”
8.	HR: protection of civilians in Aleppo and all besieged areas has to be guaranteed	15.12.2016	“We are working day and night literally to try to guarantee the protection of civilians first of all in East Aleppo,” but also “in other areas of the Country”
9.	Statement by the Spokesperson of the EEAS on the occasion of the International Day for Mine Awareness and Assistance in Mine Action	04.04.2017	“The European Union reiterates its concern about the tremendous humanitarian, stabilisation and development challenges still posed by anti-personnel mines, including improvised mines. These devices continue to kill people and constitute an obstacle to the return of refugees and other displaced persons, humanitarian aid operations, reconstruction and economic development. ”
10	Remarks by HR at the joint press conference of the Brussels Conference 'Supporting the Future of Syria and the Region'	5.4.2017	“There must be no doubt that those responsible for violations of international humanitarian law or human rights, whoever they are – whoever they are - will be held accountable.”
11.	Declaration by the HR on behalf of the EU on the alleged chemical attack in Idlib, Syria	6.4.2017	“In this context, the EU reiterates that as a party to the Chemical Weapons Convention, the Syrian regime has explicitly obligated itself to refrain from the use of chemical weapons and that the Syrian regime has the primary responsibility for the protection of the Syrian population.”

iv. Joined Statements by the HR and the Commission

	Subject	Date	Extract
1.	EU Commissioner Christos Stylianides announces new humanitarian aid projects in Iraq	23.7.2016	“What is crucial is that civilians in need can have access to these life-saving supplies and are protected, wherever they are with full respect of International Humanitarian law.”
2.	Statement by the HR and Commissioner for Humanitarian aid and Crisis management Christos Stylianides on the humanitarian situation in Aleppo city, Syria	28.7.2016	“...another grave violation of international humanitarian law.”
3.	Statement by HR and Commissioner Christos Stylianides on the situation in Syria	3.8.2016	“...they constitute new and grave violations of international humanitarian law.”
4.	Statement by the HR and Commissioner Christos Stylianides on World Humanitarian Day 2016	19.8.2016	“We must strengthen our understanding of and respect for International Humanitarian Law (IHL) and the four humanitarian principles: humanity, neutrality, impartiality and independence. We reaffirm our commitment to defend IHL and these principles which should be the shield of humanitarian workers while they do their job and ensure access to people most in need.”
5.	Joint statement by HR and Commissioner Christos Stylianides on air strikes against UN/Syrian Red Crescent humanitarian aid convoy in Syria	20.9.2016	“The air strikes against the UN/Syrian Red Crescent humanitarian aid convoy near Aleppo are alarming violations of international humanitarian law. This attack risks to set an unacceptable precedent, jeopardising the safe delivery of humanitarian aid everywhere.”
6.	Joint Statement by HR and Commissioner for Humanitarian Aid and Civil Protection Christos Stylianides on the situation in Aleppo	24.9.2016	“The indiscriminate suffering being caused among innocent civilians... is an unacceptable breach of international humanitarian law.”
7.	Statement by Commissioner for Humanitarian Aid and Crisis Management Christos Stylianides on the situation in Aleppo	29.9.2016	“I am outraged by the unprecedented attacks that have targeted civilians and humanitarian infrastructures.”

	Subject	Date	Extract
8.	Statement by the HR and Commissioner for Humanitarian Aid and Crisis Management Christos Stylianides on « an emergency humanitarian initiative for Aleppo »	2.10.2016	“...we as the European Union are taking an urgent humanitarian initiative for Aleppo aimed at allowing humanitarian organisations to do their work and civilians to be rescued and protected.”
9.	Joint statement by HR and European Commissioner for Humanitarian Aid and Crisis Management Christos Stylianides on deadly attacks on hospitals and schools in Syria	15.2.2017	“These attacks follow a series of similar assaults against civilian infrastructure happening on an almost daily basis across Syria which are in clear violation of international humanitarian law.”

v. Statements by the Commission

	Subject	Date	Extract
1.	Statement by Commissioner for Humanitarian Aid and Crisis Management Christos Stylianides on deadly attacks on schools across Syria	27.10.2016	“Civilians and civilian infrastructure, like schools and hospitals are meant to be protected by International Humanitarian Law.”
2.	Statement by Commissioner for Humanitarian Aid and Crisis Management Christos Stylianides on the latest bombings in East Aleppo	20.11.2016	“These unacceptable violations of international humanitarian law ...Those responsible for such atrocities will be held accountable under international law.”
3	Statement by Commissioner for Humanitarian Aid and Crisis Management Christos Stylianides on the reported atrocities committed in Aleppo and need to protect civilians	13.12.2016	“Protection of civilians must be ensured, as well as that of humanitarian and medical staff and of civilian infrastructures in line with international humanitarian and human rights law.”
4.	EU steps up humanitarian aid to Iraq by €25 million as more planes arrive to help Mosul	16.12.2016	“It is crucial to ensure the protection of all civilians and respect of International Humanitarian Law.”
5.	Statement by EU Commissioner for Humanitarian Aid and	8.2.2017	“An attack on those who work to help others is an attack on humanity and a grave violation of International Humanitarian Law.”

	Subject	Date	Extract
	Crisis Management Christos Stylianides on the killing of six Red Cross staff in Afghanistan		
6.	Statement by Commissioner Stylianides on the humanitarian situation in Western Mosul and other conflict areas in Iraq	17.2.2017	"We commend Iraqi authorities and military forces for having put protection of civilians at the core of their military strategy."
7.	EU announces €42.5 million in humanitarian assistance for Iraq	7.3.2017	"I call again for the protection of all civilians during and after the conduct of hostilities and for humanitarian access to be guaranteed to all people in need, everywhere."
8.	Christos Stylianides: Protection of Civilians in Mosul is Crucial	31.3.2017	"The EU remains fully committed to supporting the Iraqi people and the authorities at this time. Together, we must ensure that every effort is made so civilians are protected in the first place."
9.	Statement by Commissioner for Humanitarian Aid and Crisis Management Christos Stylianides on protecting civilians during the final stage of the battle of Mosul, Iraq	26.6.2017	"Protecting the lives of tens of thousands civilians is more than ever a necessity for humanity in this conflict. In line with the Foreign Affairs Council Conclusions of 19 June, we urge the Iraqi authorities..."

vi. **Statements on behalf of the Union in international fora**

	Subject	Date	Extract
1.	Statement on behalf of the European Union and its Member States at the United Nations Informal consultations on the zero draft declaration of the high-level plenary meeting to address large movements of refugees and migrants	7.7.2016	"Considering the particular vulnerability of migrant and refugee children and the special provisions as regards children's rights in international humanitarian and human rights law, we would suggest strengthening the language on children's rights and child protection with the aim to highlight the best interests of the child principle as a paramount consideration."
2.	Statement on behalf of the European Union at the Security Council Open Debate on the situation in the Middle East, including the Palestinian question	12.7.2016	"The EU condemns all violations of international humanitarian law, attacks against civilians and civilian infrastructure, in particular against medical facilities, schools, markets and IDP camps."

	Subject	Date	Extract
3.	EU priorities at the United Nations and the 71st United Nations General Assembly (September 2016 – September 2017)	18.7.2016	“The EU will continue to support the leading role of the UN in the coordination and delivery of international humanitarian assistance as well as continue to advocate for the respect of the humanitarian principles, International Humanitarian Law, Human Rights Law and Refugee Law.”
4.	Statement on behalf of the European Union and its Member States at the Security Council Open Debate on “Children and armed conflict”	2.8.2016	“We note with growing concern the prevalence of attacks on, and the use of schools and hospitals for, military purposes. Governments and all other actors must protect schools and hospitals by upholding the provisions of international humanitarian law and international human rights law.”
5.	33rd Session of the United Nations Human Rights Council Geneva, EU Statement - Item 2: Update by the High Commissioner followed by General Debate	14.9.2016	“The EU demands accountability in Syria and an end to impunity for human rights violations and violations of international humanitarian law by all parties to the conflict, including Da’esh.”
6.	HRC 33 - EU Intervention: Interactive Dialogue with the Commission of Inquiry on the Syrian Arab Republic	19.9.2016	“We again call on all parties, notably the Syrian regime, to cease attacks and bombing of civilian targets; take appropriate steps to protect civilians; end besiegement of civilian areas; release of all arbitrarily detained persons, including women and children; fully respect human rights and international humanitarian law and implement the relevant UNSC resolutions without delay, in particular UNSCR 2254 and 2268.”
7.	HRC 33 - EU Statement - Item 4: Human Rights situation that require the Council's attention	19.9.2016	The EU recalls that compliance of all parties with international humanitarian law and respect for human rights, including accountability, is a cornerstone for peace and security. The EU calls on all parties to fully cooperate with UN human rights mechanisms.”
8.	33rd Session of the United Nations Human Rights Council Geneva, EU Intervention: Interactive Dialogue on the High Commissioner oral update on Ukraine	27.9.2016	“The EU calls on all sides of the conflict to respect international human rights and humanitarian law and in this context we stress that all international human rights observers should be granted full, free and unhindered access to eastern Ukraine and illegally annexed Crimea.”
9.	33rd Session of the United Nations Human Rights Council Geneva, EU Statement - Item 10: Technical assistance and capacity-building	28.9.2016	“The European Union is deeply concerned about the crisis in Yemen and gravity of the alleged violations of human rights and international humanitarian law.”
10.	HRC 33 - EU Intervention: Interactive Dialogue	28.9.2016	“The EU strongly condemns the escalation of violence by State and non-State actors in Southern Kordofan, Blue Nile and Darfur carried out during the reporting period, including

	Subject	Date	Extract
	with the Independent Expert on Sudan		indiscriminate attacks against civilians, sexual violence against women, large scale displacement and denial of humanitarian access.”
11.	Statement on behalf of the European Union and its Member States at the Sixth Committee on agenda item 108 on Measures to Eliminate International Terrorism	3.10.2016	“As previously stated, the European Union is appalled by, and firmly condemns, the indiscriminate killings, the human rights abuses and violations of international humanitarian law perpetrated by several terrorist organizations, including Da’esh, Fateh al Sham, Al Qaeda, Boko Haram, Al-Shabaab.”
12.	European Union Statement at the General Debate of the 71st Session of the UN General Assembly First Committee	3.10.2016	“27. The EU and its Member States have a long-standing commitment to the CCW and its Protocols. The CCW is a unique international forum gathering diplomatic, legal and military expertise. It offers a flexible way to respond to new developments in the field of weapons technologies and above all, to support the implementation of an essential part of International Humanitarian Law which contributes to preventing and reducing the suffering of both civilians and combatants.”
13.	Statement on behalf of the European Union and its Member States at the Sixth Committee on Agenda item 75: Criminal Accountability of United Nations Officials and experts on Mission	7.10.2016	“We note that training on UN standards of conduct is an indispensable preventive measure. UN personnel both in headquarters and in the field must meet the highest standards of behaviour. We welcome the strengthening of the UN Conduct and Discipline Unit at the Department of Field support, agreed by the General Assembly in June and support strengthening measures in this area, notably pre-deployment and mission training of personnel, including on human rights, international humanitarian law, gender-based violence and civilian protection.”
14.	Statement on behalf of the European Union and its Member States at the Sixth Committee on Agenda item 81: Status of Protocols Additional to Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts	10.10.2016	“Respect of international humanitarian law is crucial to ensure the protection of victims of armed conflicts. International humanitarian law is still too often disregarded. Upholding international humanitarian law and protecting human dignity in situations of armed conflict remains a major challenge. Enhancing the protection of civilians must be our common goal.”
15.	Statement on behalf of the European Union at the Security Council Open Debate on the situation in the Middle East, including the Palestinian question	19.10.2016	“We urge all parties to work towards de-escalation of tensions; to observe international humanitarian law and adhere to the principles of necessity and proportionality in the use of force.”
16.	European Union Statement United Nations General Assembly 71st	20.10.2016	“15. The European Union supports the humanitarian goal of the Convention on Cluster Munitions (CCM) and calls upon all actors to fully observe the principles of International Humanitarian Law.”

	Subject	Date	Extract
	Session First Committee Thematic Discussion on Conventional Weapons		
17.	Statement on behalf of the European Union, Informal meeting of the General Assembly: Briefing by the Secretary-General and Special Envoy on Syria, Mr. Staffan de Mistura on the situation in Syria	20.10.2016	“The EU condemns the continued systematic, widespread and gross violations and abuses of human rights and all violations of international humanitarian law by all parties, particularly the Syrian regime and its allies.”
18.	HRC - 25th Special Session EU Statement on "the deteriorating situation of Human Rights in the Syrian Arab Republic and the recent situation in Aleppo"	21.10.2016	“The Syrian regime has the primary responsibility for the protection of the Syrian population. The EU condemns the continued systematic, widespread and gross violations and abuses of human rights and all violations of international humanitarian law by all parties, particularly the Syrian regime and its allies. The targeting of a UN humanitarian convoy on 19 September is a clear violation of international law, which requires full investigation.”
19.	European Union Statement at the 71st Session of the UN General Assembly Fourth Committee, 19th Meeting on Agenda item 50 – Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	31.10.2016	“The EU believes that compliance with international humanitarian law and international human rights law by states and non-states actors, including accountability, is a cornerstone for peace and security in the region.”
20.	European Union Statement, 71st UN General Assembly Third Committee Item 68 (b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms; and (c) Human rights	31.10.2016	“The EU condemns in the strongest terms the confirmed use of chemical weapons by the Syrian regime and Da’esh. All those responsible for such breaching of international law, in particular of international humanitarian law and human rights law, some of which may constitute war crimes or crimes against humanity, must be brought to justice. The EU and its Member States will seek to explore possibilities of concerted action inter alia through the UN General Assembly.”

	Subject	Date	Extract
	situations and reports of special rapporteurs and representatives.		
21.	European Union Statement at the 71th Session of the UN General Assembly Fourth Committee 20st meeting on Agenda item 49 – United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)	02.11.2016	“Compliance with international humanitarian law and international human rights law by states and non-state actors, including accountability, is a cornerstone for peace and security in the region.”
22.	European Union Statement at the 71st United Nations General Assembly Third Committee on the Resolution on the situation of human rights in Syria	15.11.2016	“The EU condemns the continued systematic, widespread and gross violations and abuses of human rights and all violations of international humanitarian law by all parties.”
23.	Statement on behalf of the EU and its Member States at the Security Council Open Debate on Maintenance of international peace and security: Water, peace and security	22.11.2016	“By reaffirming the need to respect and ensure respect for international humanitarian law, human rights law and the law on transboundary water resources, we may ensure better protection of water during armed conflict. This will contribute to strengthening the protection of this natural resource in times when it is most at risk.”
24.	Statement on behalf of the European Union at the United Nations General Assembly 71st session, 49th plenary meeting on Agenda item 35: Question of Palestine	29.11.2016	“The response of security forces needs to be proportionate and consistent regardless of who is the perpetrator. Israel must conduct thorough investigations into cases in which lethal force has been used. Alleged violations and abuses of international human rights law and international humanitarian law by all sides must be investigated in accordance with international law and standards. Compliance with international humanitarian law and international human rights law by states and non-states actors, including accountability, is a cornerstone for peace and security in the region.”
25.	Statement on behalf of the European Union and its Member States at the General Assembly on Agenda item 69: Strengthening of the coordination of humanitarian and disaster relief assistance of the United Nations,	08.12.2016	“In this regard respect for international humanitarian law, including safeguarding humanitarian access and combating impunity for violations, should top the international agenda.”

	Subject	Date	Extract
	including special economic assistance		
26.	Statement on behalf of the European Union, United Nations General Assembly 71st session on Agenda item 31: Prevention of armed conflict	9.12.2016	“The EU condemns the continued systematic, widespread and gross violations and abuses of human rights and all violations of international humanitarian law by all parties. The EU looks forward to the findings of the internal UN board of inquiry on the targeting of a UN humanitarian convoy on 19 September – a clear violation of international law, which requires full investigation.”
27.	EU Statement: Fifth Review Conference of the Convention on Certain Conventional Weapons (CCW) - 12-16 December 2016	16.12.2016	“The CCW is a unique international instrument gathering diplomatic, legal and military expertise. It is an important part of International Humanitarian Law which contributes to preventing and reducing the suffering of both civilians and combatants. The EU underlines the importance to maintain the Convention responsive to new developments and strengthen its implementation.”
28.	HRC34 - EU intervention - High-level Panel Discussion: Human Rights Situation in the Syrian Arab Republic	14.3.2017	“The testimonies that we have just heard are a sharp reminder of the need for accountability for the human rights violations and abuses and the violations of international humanitarian law committed in Syria for the past 6 years.”
29.	HRC34 - EU intervention - Interactive Dialogue with the Commission of Inquiry on the Syrian Arab Republic	14.3.2017	“The EU is seriously concerned about the finding of the Col that attributes the targeting of the humanitarian convoy on 19 September to the Syrian air force. The EU stresses out that deliberately attacking humanitarian relief personnel, denying humanitarian aid and attacking civilians, constitute serious violations of human rights and of International Humanitarian law.”
30.	HRC 34 - EU Intervention: Interactive Dialogue on HC Oral update on Libya	21.3.2017	“We urge all parties to fully respect the rights to freedom of expression and freedom of peaceful assembly in the country. We also call on all parties to protect civilians, to respect international human rights and humanitarian law, and we reiterate that all those responsible for violations and abuses must be brought to justice.”
31.	HRC 34 - EU Intervention: Interactive Dialogue on the High Commissioner oral update on Ukraine	22.3.2017	“The EU calls on all sides of the conflict to respect international human rights and humanitarian law and in this context we stress that all international human rights observers should be granted full, free and unhindered access to the territories of eastern Ukraine not controlled by government and illegally annexed Crimea, as laid out in resolution 71/205 on the Situation of human rights in Crimea/Sevastopol, adopted by the UN General Assembly.”
32.	Statement on behalf of the EU and its Member States at the United Nations Security Council Open Debate on the Middle East, including the Palestinian Question	20.4.2017	“We call on Israel to meet its obligations under international law including international human rights law and international humanitarian law, allow the unimpeded delivery of humanitarian aid and accelerate the approval of master plans and building permits for Palestinians in Area C.”

	Subject	Date	Extract
33.	Statement on behalf of the European Union and its Member States at the Security Council Open Debate on the Protection of Civilians and Healthcare in Armed Conflict	25.5.2017	“We must strengthen our resolve to implement the commitments we have made and stop medical facilities and personnel from being targeted, in clear breach of international humanitarian law. It is a war crime to intentionally attack hospitals, and places where the sick and wounded are collected.”
34.	EU Statement – United Nations Security Council: Protection of Civilians and Healthcare in Armed Conflict	25.5.2017	“You can count on our support for reinforcing the protection of the wounded and sick as well as medical personnel, facilities and equipment. We will also continue our global support for the promotion of compliance with international humanitarian law and the protection of civilians.”
35.	HRC 35 - EU Intervention: Interactive Dialogue with the Commission of Inquiry on the Syrian Arab Republic	14.6.2017	“The EU condemns in the strongest terms the systematic violations of international humanitarian law as well as the violations and abuses of international human rights law, for which the regime bears the greatest responsibility.”
36.	ECOSOC Humanitarian Affairs Segment - EU Statement	21.6.2017	“For this very same reason the EU and its Member States will continue to advocate strongly and consistently for the respect of international law, including international humanitarian law (IHL), refugee law and international human rights law.”

vii. Resolutions of the European Parliament

	Subject	Date	Extract
1.	European Parliament resolution on the EU Trust Fund for Africa: the implications for development and humanitarian aid	13.9.2016	“...whereas the EU and its partners in the humanitarian field must be able to ensure assistance and protection based on needs and on respect for the principles of neutrality, impartiality, humanity and independence of humanitarian action, as enshrined in international law and in particular in international humanitarian law.”
2.	European Parliament resolution on Syria	6.10.2016	“Deeply deplores and unconditionally condemns the recent attacks on a humanitarian relief convoy and a Red Crescent warehouse near Aleppo as severe and alarming violations of international humanitarian law and as a possible war crime;”
3.	European Parliament resolution on the situation in Northern Iraq/Mosul	24.10.2016	“...having regard to, among others, the EU Guidelines on the promotion and protection of freedom of religion or belief; the EU Guidelines on promoting compliance with international humanitarian law;”
4.	European Parliament resolution on the Annual Report on human rights and democracy in the world and the	14.12.2016	“Stresses firmly that the EU is committed to a CFSP and to all other policies with an external dimension founded on the advancement of democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations

	Subject	Date	Extract
	European Union's policy on the matter 2015		Charter and international human rights and humanitarian law;"
5.	European Parliament resolution on Central African Republic	17.1.2017	"The European Parliament...– having regard to the EU Guidelines on International Humanitarian Law...Condemns the serious violations of international human rights and humanitarian law perpetrated by all parties to the conflict in the Central African Republic in recruiting children as soldiers; Believes such actions, along with the violence and instability, have a devastating impact on children;"
6.	European Parliament resolution on the situation of human rights defenders in Guatemala	14.2.2017	"The European Parliament...– having regard to the 2009 Council's Guidelines on Human Rights and International Humanitarian Law;..."
7.	European Parliament resolution on achieving the two-state solution in the Middle East	15.5.2017	"The European Parliament... – having regard to the EU Guidelines on International Humanitarian Law,... – having regard to the UN human rights conventions and international humanitarian law treaties."
8.	Yemen European Parliament resolution on the humanitarian situation in Yemen	15.6.2017	"6. Reiterates its call on all sides and their regional and international backers to comply with international humanitarian law and international human rights law, to ensure the protection of civilians and to refrain from directly targeting civilian infrastructure, in particular medical facilities and water systems;"

viii. New European Consensus on Development

	Subject	Date	Extract
1.	New European Consensus on Development - 'Our world, our dignity, our future' Joint Statement on behalf of Council Member States, EP and the Commission	8.6.2017	" The EU and its Member States will implement humanitarian action and development cooperation in a more coherent and complementary way, actively contributing to building individual, community, societal and state resilience, addressing extreme poverty, preventing and tackling crises, reducing chronic vulnerability and building self-reliance. Sustainable solutions require multi-stakeholder approaches, interventions at different levels and a longterm vision. This means strengthening the link between relief, rehabilitation and development, including through an in-depth exchange of information, donor coordination and joint analysis of gaps, risks and vulnerabilities, and a shared vision of strategic priorities, as early as possible. The EU and its Member States will ensure early engagement of and close" cooperation between political and development actors from the outset to complement and build on the humanitarian actors' emergency and early recovery interventions. This will be done in such a way as to uphold humanitarian principles in accordance with international humanitarian law."

B. COOPERATION WITH INTERNATIONAL ORGANISATIONS & OTHER ACTORS

[See section IV of the report]

i. Financial assistance provided to international criminal tribunals

The EU has provided over 40 M EUR to the ICC since its creation, both in direct support, and through support to civil society via Calls for Proposals under the EIDHR. In particular, since 2012, the EU directly contributes to the ICC outreach activities with an annual budget of 1 M EUR. Since 2013, 15 High-Level & Cooperation Seminars have been organized, fostering closer cooperation between States and the Court. Seminars and trainings to legal professionals, including counsel, have proved extremely relevant regarding the defence or representation of victims, while also promoting dialogue among participants at the regional level. Moreover, trainings of legal professionals increased participants' legal expertise in international criminal and humanitarian law and developed their knowledge of the Rome Statute system.

Furthermore, the 2016 EIDHR global call for proposals, with a budget of EUR 2.67 million, supports projects that i) fight impunity by facilitating access to justice and legal and psychological assistance to victims, and ii) support transitional justice mechanisms, further contributing to the EU's efforts to support complementarity and accountability.

Participation in the Principal Donors Group of the **Extraordinary Chambers in the Courts of Cambodia** (ECCC) and funding of the ECCC up to EUR 3,500,000.

In December 2013, the **OSCE Mission to Serbia** (the OSCE Mission) started the EU financed project entitled "Support to Monitoring of National War Crimes Trials" project (Phase I). Phase II of the project commenced in January 2017 for a 26 month period. Its value is 500,000 EUR. It aims to assist Serbia in strengthening its criminal justice system and render accountability for war crimes and co-operate with civil society in monitoring and in promoting public awareness of war crimes trials.

Over the years the EU has been supporting the **International Criminal Tribunal for former Yugoslavia** (ICTY) in different ways, using different programmes and contracts for an overall amount of some 11.4 MEuro.

The COM has substantially financed the **RECOM Initiative** (Regional Commission tasked with establishing the facts about all victims of war crimes and other serious human rights violations committed on the territory of the former Yugoslavia in the period from 1991-2001) in the past. Currently, DG NEAR has a 700,000 EUR direct grant with RECOM Initiative (Lead partner Humanitarian Law Center – Serbia) that will end on 19/02/2018.

In view of the Trieste WB6 Summit, RECOM launched a petition in May 2017 to support the creation of the RECOM Regional Commission tasked with establishing the facts about all victims of war crimes and other serious human rights violations committed on the **territory of the former Yugoslavia** in the period from 1991-2001. The initiative has collected 50,000 signatures from the region.

Lebanon: A EUR 7,500,000 project supports the **Special Tribunal for Lebanon** (STL), covering staffing costs which amount on average to 60% of the annual core budget of the STL. The STL was established pursuant to UN Security Council Resolution 1757 (2007) to prosecute persons responsible for the attack of 14 February 2005 resulting in the death of former Lebanese Prime Minister Rafiq Hariri and 21 other persons, as well as the injury of 226 people.

In **Serbia**, the EU provides financial assistance to a project conducted by the OSCE on **war crimes trial monitoring**, including a training component on IHL for Serbian judges, prosecutors and prosecutorial assistance (ICTY former staff could in the future participate in the training as experts). Total EU contribution is EUR 500,000. More generally, cooperation with ICTY is a regular feature of the structured dialogue with Serbia under the Stabilisation and Association Agreement, notably the Justice, Freedom and Security Sub-Committee and the EU-Serbia Stabilisation and Association Council.

ii. Cooperation with, and support for, the ICRC, other humanitarian actors and civil society

In **Ukraine**, the EU funds a project implemented by the Centre for Civil Liberties with a specific component on ensuring thorough investigations and adequate remedies for the victims of the recent and ongoing conflicts, notably through the promotion of the ratification of the Rome Statute of the ICC. Support has also been provided to OHCHR through the IcSP, with two projects funded during the reporting period, for a total of EUR 5.5 million. The objective of such projects has been to support the operations of the Human Rights Monitoring Mission in Ukraine, with a focus on regions affected by conflicts (Eastern Ukraine, Crimea).

In **Syria**, projects with a clear IHL objective have been funded through the EU's humanitarian aid budget. Other projects funded under EIDHR have touched upon IHL issues while not being strictly dedicated to the promotion of IHL, such as projects implemented by OHCHR.

The IcSP funded various smaller initiatives covering IHL issues under the Syria Peace Process Support Initiative (SPPSI). Support to the Center for Justice and Accountability (CIJA) and the International Commission on Missing Persons (ICMP) has been provided under the IcSP. Support to the International, Impartial and Independent Mechanism (IIIM) to Assist in the Investigation and Prosecution of Those Responsible for the Most Serious Crimes in Syria established by the UN will be provided under IcSP, but outside the reporting period.

- Since 2013, the IcSP is fostering a future process of transitional justice in Syria by supporting the collection and analysis of evidence material related to potential crimes under international criminal and humanitarian law. Assistance to the Commission for International Justice and Accountability (CIJA) has been provided since 2014 for a total of € 3M. CIJA's work focuses on conducting investigation into alleged war crimes and crimes against humanity and is co-funded by several other donors.

- Since April 2017, a new € 3M intervention with the International Commission on Missing Persons (ICMP) takes concrete steps to launch a sustainable process of collecting data from families whose relatives are missing due to/in the Syrian conflict.

- In July 2017, the EU announced a € 1,5M Support for the International, Impartial and Independent Mechanism, initiated by UN General Assembly Resolution 71/248 with the mandate to ensure accountability for the most serious crimes committed in Syria. Negotiations with the Office of the High Commissioner for Human Rights (OHCHR) in order to mobilize these funds are on-going as the Mechanism is becoming progressively operational.

- In parallel, several targeted initiatives related to International Humanitarian Law (IHL) are funded under the Syria Peace Process Support Initiative (SPPSI), as the overarching intervention supporting the efforts to reach a political transition in Syria, in line with UNSCR 2254.

In **Kosovo**, the EU Office and the EU Special Representative for Kosovo have been working in close cooperation with the ICRC on various issues (e.g. missing persons, operations of Red Cross in Metohija, radicalisation in detention institutions). The EU Office regularly participates to meetings organised by the ICRC-chaired Working Group on Missing Persons, in which Kosovo and Serbia have been cooperating since 2004. The EU Special Representative supports the

process, including through projects and political engagement on the ground. In January 2016, the EU Office ensured the participation of a delegation from Kosovo to an investigation in a mass grave site located in Serbia, upon request of the ICRC. In return, ICRC contributes to yearly country reports published by the EU Office.

In **Ukraine**, in the period April 2016 - September 2017, the EU's humanitarian aid budget supported NRC with EUR 1,000,000 for a project focusing on protection and assistance to IDPs and conflict-affected communities in eastern Ukraine. NRC provided support to the most vulnerable internally displaced and conflict affected people in Eastern Ukraine with access to their rights and entitlements in accordance with human rights and humanitarian law (timely, relevant and effective information about legal aid to access justice as regards legal identity, freedom of movement, respect for security and personal integrity). It lobbied with authorities, UN, INGOs and civil society in relation to legal and protection concerns and provided capacity-building to national executive and judicial authorities to effectively exercise their powers in line with relevant international standards.

In addition, in the period April-December 2017, the EU's humanitarian aid budget supported UNHCR with EUR 2,500,000 for a project focusing on protection and provision of humanitarian assistance for displaced and conflict-affected communities in Eastern Ukraine. Through the Protection Cluster mechanism and regional protection working groups UNHCR sought to coordinate protection response and synergies on all levels. On the national level, the Protection Cluster, through its capacity building initiatives and advocacy efforts, supported the government of Ukraine in the development of policies and legislative documents in line with international standards, including guiding principles on internal displacement and international humanitarian law, as well as promote international best practices in the area of peace-building.

In **Afghanistan** and **Ukraine**, in the period January – December 2016, the EU's humanitarian aid budget supported the ICRC with EUR 1,700,000.00 for a project focusing on IHL dissemination through a number of activities that increased the knowledge and capacity of duty-bearers (authorities, arms carriers, etc.) on the respect for IHL and IHRL in times of armed conflict.

In **Mali**, in the period January-December 2016, the EU's humanitarian aid budget supported OCHA with EUR 400,000 for humanitarian coordination and advocacy. In addition, in the period January-December 2017, the Commission extended this support to OCHA with a further EUR 300,000. The project aimed to ensure that military actors and armed groups are aware of civil-military coordination guidelines and the humanitarian principles, supported the Humanitarian Country Team (HCT) access working group and works on the implementation of the access strategy developed by this group.

In **Syria**, in the period March 2016 – August 2017, the EU's humanitarian aid budget supported Danchurchaid (DCA) with EUR 1.000,000 towards improved protection of civilians from the effects of the internal armed conflict. Through this action, implemented directly by Geneva Call, DCA advanced significantly on its direct engagement with the Syrian anti-Government armed non-State actors (ANSAs) on international humanitarian law, by increasing their knowledge and ownership of such norms. The planned activities specifically served the aim of pushing forward the need for changes in Syrian ANSAs policies, practices and attitudes, taking humanitarian commitments or signing specific agreements, and disseminating the humanitarian rules among their rank and file.

In addition, in **Syria** in the period July 2016 – September 2017, the EU's humanitarian aid budget supported OHCHR with EUR 750.000 for enhancing the integration of IHL and IHRL into the humanitarian response to the crisis. Specifically, through the supported project, OHCHR worked in support of the existing humanitarian coordination mechanisms in place in the region by facilitating efforts to respond to the evolving protection needs of affected persons, including vulnerable groups. Planned activities included, among others, providing advice on International Humanitarian and Human Right Law to the Humanitarian Coordinator/Resident Humanitarian Coordinator/ Deputy Regional Humanitarian Coordinator (as well as to humanitarian partners

participating in the clusters) and supporting evidence-based advocacy and communication on abuses and violations of IHL/IHRL.

In **Iraq**, in the period January – December 2017, the EU's humanitarian aid budget supported Geneva Call to improve knowledge and respect of humanitarian norms by armed non-State actors (ANSAs) and other key stakeholders. The project also included tailored IHL trainings of civil society organisations and international NGOs.

Financial support is being provided to international organisations and NGOs addressing the needs **refugee populations**, notably Syrian refugees – mainly dedicated at improving living conditions and access to basic services. Total budget available for such actions over the reporting period is approximately EUR 56 million. The respect of IHL is embedded in terms of reference of three projects financed under ENI and implemented by UNICEF, UNHCR and WHO. These projects involved NGOs such as Save the Children, WarChild Holland, HearthAlliance, Mercy Corps, IRC, DRC, InterSOS, AVSO, Terre des Hommes, ArcEnCiel, Shield, Amel, etc. Under the UNICEF contract, EUR 800,000 were dedicated to the prevention and response to situations where children are associated with armed conflicts or violence, in partnership with NGOs. Another contract involving UNHCR aimed at reducing statelessness in Lebanon, notably among Syrian refugees. A similar approach integrating the respect of IHL as a cross-cutting priority in actions vis-à-vis Syrian refugees in Lebanon has been applied by actions funded by the EU Regional Trust Fund in response to the Syrian crisis (Madad).

As regards financial support, EUR 360,000 have been dedicated under IPA to the International Commission on Missing Persons (ICMP). The project assisted **Kosovo and Serbia** in investigation missions, notably providing support to the Kosovo Forensic Agency in terms of DNA testing and matching.

In **Bosnia and Herzegovina**, the EU provided EUR 1 million to the International Commission on Missing Persons (ICMP) over the reporting period to enable the use of DNA-assisted identification and recovery of persons missing as a result of the armed conflict. A further EUR 3 million will be provided to the ICMP in the next two years (outside the reporting period). The EU also granted EUR 500,000 under IPA for the OSCE to provide expert advice and assistance in the implementation of the EU-finance War Crimes Case Processing Support (EU grant to the Ministry of Finance and Treasury of Bosnia and Herzegovina) aimed at reducing the backlog of war crime cases in the country. The project runs from October 2016 until the end of 2018.

Bosnia and Herzegovina (BiH): A EUR 1,702,447 project seeks to ensure 'Access to Justice for Witnesses and Victims through Strengthening Existing and Establishing New Witness Support Networks Across BiH'.

The **IcSP**, during the reporting period, has supported crisis-management operations including missions to collect information useful for the International Criminal Court (ICC) or for investigations of war crimes' in five projects in five countries in Europe, the Middle East, and Africa at a total value of EUR 15,8 million.

Central African Republic: A EUR 1,000,000 project has ensured monitoring of human rights abuses with the aim of building up a well-documented caseload which will then assist in the conduct of a truth, justice, and reconciliation process.

Syria: A EUR 1,500,000 project supports the 'Governance, Administrative, and Analytical Functions of the Commission for International Justice and Accountability, Contributing to International Security and Justice in Syria and the Global Pursuit of Justice for Victims of War'.

Ukraine: A EUR 5,700,000 project ensures monitoring of human rights abuses with the aim of building up a well-documented caseload which will then assist in the restoration of justice for

affected individuals and communities.

iii. Agreements concluded between the European Union and Third Countries

	Subject	Date	Extract
1.	Framework Agreement between the European Union and its Member States, of the one part, and Australia, of the other part	07.08.2017	„The Parties reaffirm the importance of the prevention of, and fight against, terrorism in full respect for the rule of law and human rights and in accordance with applicable international law, including the UN Charter, international anti- terrorism conventions, relevant UN Security Council Resolutions, refugee law and international humanitarian law.“
2.	Partnership Agreement on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand, of the other part	05.10.2016	„The Parties reaffirm the importance of the fight against terrorism in full respect for the rule of law, international law, in particular the UN Charter and relevant UNSC resolutions, human rights law, refugee law and international humanitarian law.“
3.	Political Dialogue and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part	12.12.2016	„The Parties reaffirm the importance of preventing and combating terrorism in all its forms and manifestations and agree to cooperate in exchanges of experience and information with full respect for the principles of the UN Charter, the rule of law and international law, including international human rights law and humanitarian law.“
4.	Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Canada, of the other part	30.10.2016	„The Parties recognise that the fight against terrorism is a shared priority and emphasise that the fight against terrorism shall be conducted with respect for the rule of law, international law, in particular the Charter of the United Nations and relevant United Nations Security Council Resolutions, human rights, international refugee law, humanitarian law and fundamental freedoms. “

C. RESTRICTIVE MEASURES

[See section V of the report]

	Decision		Criteria
1.	COUNCIL DECISION (CFSP) 2016/1693 of 20 September 2016 concerning restrictive measures against ISIL (Da'esh) and Al-Qaeda and persons, groups, undertakings and entities associated with them	Al Qaida and ISIL	Article 2 (2) (f) : "being involved or complicit in ordering or committing serious abuses of human rights, including abduction, rape, sexual violence, forced marriage and enslavement of persons, outside the territory of the Union, on behalf or in the name of ISIL (Da'esh), Al-Qaeda or any cell, affiliate, splinter group or derivative thereof,"
2.	COUNCIL DECISION 2012/642/CFSP of 15 October 2012 concerning restrictive measures	Belarus	Article 3 (1) (a): "responsible for serious violations of human rights or the repression of civil society and democratic opposition, or whose activities otherwise seriously undermine democracy or the rule of law in Belarus ..."
3.	COUNCIL DECISION (CFSP) 2015/1763 of 1 October 2015 concerning restrictive measures in view of the situation in Burundi	Burundi	Article 1 (1) (b): "involved in planning, directing, or committing acts that violate international human rights law or international humanitarian law, as applicable, or that constitute serious human rights abuses, in Burundi ..."
4.	COUNCIL DECISION 2013/798/CFSP of 23 December 2013 concerning restrictive measures against the Central African Republic	Central African Republic (CAR)	Article 2a (1) (c): "involved in planning, directing, or committing acts that violate international human rights law or international humanitarian law, as applicable, or that constitute human rights abuses or violations, in the CAR, including, targeting of civilians, ethnic- or religious-based attacks, attacks on schools and hospitals, and abduction and forced displacement; (d) involved in planning, directing or committing acts involving sexual and gender-based violence in the CAR; (e) recruiting or using children in armed conflict in the CAR, in violation of applicable international law; (g) obstructing the delivery of humanitarian assistance to the CAR, or access to, or distribution of, humanitarian assistance in the CAR".
5.	COUNCIL DECISION 2010/788/CFSP of 20 December 2010 concerning restrictive measures against the Democratic Republic of the Congo and repealing Common Position 2008/369/CFSP	Democratic Republic of Congo	"Article 4(3): Paragraph 1 shall not apply where the Sanctions Committee: [...] (c) authorises in advance and on a case-by-case basis, the transit of individuals returning to the territory of the State of their nationality, or participating in efforts to bring to justice perpetrators of grave violations of human rights or international humanitarian law."

	Decision		Criteria
6.	COUNCIL DECISION (CFSP) 2015/1333 of 31 July 2015 concerning restrictive measures in view of the situation in Libya, and repealing Decision 2011/137/CFSP	Libya	Article 8 (2) (a) : "involved in or complicit in ordering, controlling, or otherwise directing, the commission of serious human rights abuses against persons in Libya, including by ... "; Article 8 (2) (c): " engaged in or providing support for acts that threaten the peace, stability or security of Libya, or obstructing or undermining the successful completion of its political transition, including by: (i) planning, directing, or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses, in Libya"
7.	COUNCIL DECISION 2010/231/CFSP of 26 April 2010 concerning restrictive measures against Somalia and repealing Common Position 2009/138/CFSP	Somalia	Article 2 "— obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia, — being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law, — being responsible for violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement."
8.	COUNCIL DECISION (CFSP) 2015/740 of 7 May 2015 concerning restrictive measures in view of the situation in South Sudan and repealing Decision 2014/449/CFSP	South Sudan	Article 3 (1) (a): " designated by the Security Council or by the Committee in accordance with paragraphs 6, 7, 8 and 9 of UNSCR 2206 (2015), as listed in Annex I to this Decision; (b) not covered by point (a), obstructing the political process in South Sudan, including by acts of violence or violations of ceasefire agreements, as well as persons responsible for serious violations of human rights in South Sudan, and persons associated with them, as listed in Annex II."
9.	COUNCIL DECISION 2014/450/CFSP of 10 July 2014 concerning restrictive measures in view of the situation in Sudan and repealing Decision 2011/423/CFSP	Sudan	Article 3: "individuals who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities,..."
10.	COUNCIL DECISION 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria	Syria	Article 27 (1): "responsible for the violent repression against the civilian population in Syria..." ²²
11.	COUNCIL DECISION 2014/932/CFSP of 18 December 2014 concerning restrictive measures in view of the situation in Yemen	Yemen	Article 2a (1) (c) "planning, directing or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses, in Yemen"

²² This criterion does not explicitly mention human rights criteria but refer to human rights issues.

D. INTERNATIONAL CRIMINAL TRIBUNALS

[See section VIII of the report]

	Subject	Date	Extract
1.	Statement on behalf of the EU and its Member States for "General Debate" at the 15th Assembly of States Parties to the Rome Statute in November 2016	<u>November 2016</u>	<p>" The Rome Statute is an essential and unique achievement in international criminal justice. The existence and functioning of the ICC remains an important guarantor of the respect of international humanitarian and human rights law in all countries. The decisions by the South Africa and Burundi and announcement of the Gambia's intention to withdraw from the Rome Statute raise serious concerns of the EU and its Members States. Such action could weaken the perception that the "rule of law" is strong and that justice is delivered to the victims across the globe, in particular in countries concerned. It would stimulate those seeking justice to take the law into their own hands. We regret those decisions and align with your invitation, Mr. President, to the States concerned for a constructive and open dialogue, however with full respect for the principles and integrity of the Rome Statute."</p> <p>" Syria is in its sixth year of conflict. All those responsible for breaches of international law, in particular of international humanitarian law and human rights law, some of which may constitute war crimes or crimes against humanity, must be brought to justice, including those committing crimes against religious, ethnic and other groups and minorities. Impunity for crimes committed is unacceptable and thus the EU will continue to support efforts to gather evidence in view of future legal action."</p>
2.	Statement on behalf of the EU and its Member States for the debate on cooperation at the next ASP in November 2016	November 2016	"The EU belongs to first regional organizations to enter into an agreement on cooperation and assistance with the Court. In parallel, the European Network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes has been set up. Its aim is to facilitate cooperation and assistance between the Member States' investigation and prosecution authorities and to exchange information on criminal investigation and prosecution of the relevant crimes."



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