

Thursday 28 April 2016

P8_TA(2016)0201

Attacks on hospitals and schools as violations of international humanitarian law**European Parliament resolution of 28 April 2016 on attacks on hospitals and schools as violations of international humanitarian law (2016/2662(RSP))**

(2018/C 066/03)

The European Parliament,

- having regard to the Geneva Conventions and other legal instruments on international humanitarian law (IHL),
- having regard to the Universal Declaration of Human Rights and other United Nations (UN) human rights instruments,
- having regard to the Rome Statute of the International Criminal Court,
- having regard to the Council conclusions of 10-11 December 2015 on the World Humanitarian Summit preparatory process,
- having regard to Article 208 of the Treaty on the Functioning of the European Union (TFEU) on policy coherence for development,
- having regard to the Foreign Affairs Council conclusions of 8 December 2009 on promoting compliance with international humanitarian law,
- having regard to the updated European Union Guidelines on promoting compliance with international humanitarian law ⁽¹⁾,
- having regard to the Principles of Partnership (as endorsed by the Global Humanitarian Platform) of 12 July 2007,
- having regard to the report of the UN Secretary-General for the World Humanitarian Summit, 'One humanity, shared responsibility', 2 February 2016,
- having regard to UN Security Council Resolution 1998, adopted on 12 July 2011, and Resolution 2143, adopted on 7 March 2014, addressing the protection of children affected by armed conflict,
- having regard to UN General Assembly Resolution 64/290 of 9 July 2010 on the right to education in emergency situations,
- having regard to its resolutions of 25 February 2016 on the humanitarian situation in Yemen ⁽²⁾, of 4 February 2016 on the systematic mass murder of religious minorities by the so-called ISIS/Daesh ⁽³⁾, of 26 November 2015 on education for children in emergency situations and protracted crises ⁽⁴⁾, of 27 February 2014 on the use of armed drones ⁽⁵⁾, and of 16 December 2015 on preparing for the World Humanitarian Summit: Challenges and opportunities for humanitarian assistance ⁽⁶⁾,
- having regard to UN Security Council Resolution 1502 (2003) on violence against humanitarian workers, and Resolution 2175 (2014) on protection of civilians in armed conflict,
- having regard to the Safe Schools Declaration of May 2015, opened for endorsement at the Oslo Conference on Safe Schools as convened by the Norwegian Ministry of Foreign Affairs in May 2015, and the related Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict,

⁽¹⁾ OJ C 303, 15.12.2009, p. 12.

⁽²⁾ Texts adopted, P8_TA(2016)0066.

⁽³⁾ Texts adopted, P8_TA(2016)0051.

⁽⁴⁾ Texts adopted, P8_TA(2015)0418.

⁽⁵⁾ Texts adopted, P7_TA(2014)0172.

⁽⁶⁾ Texts adopted, P8_TA(2015)0459.

Thursday 28 April 2016

- having regard to the Guidance Note on attacks against schools and hospitals, to assist all those involved in monitoring, reporting and advocacy, launched on 21 May 2014 by the Special Representative of the UN Secretary-General for Children and Armed Conflict,
 - having regard to the resolution adopted by the 32nd International Conference of the Red Cross and Red Crescent Movement on 10 December 2015 on strengthening compliance with international humanitarian law,
 - having regard to the International Committee of the Red Cross (ICRC) report on the Health Care in Danger project and its report on violence against health care facilities and personnel,
 - having regard to Rules 128(5) and 123(4) of its Rules of Procedure,
- A. whereas the international community has witnessed over the last few years a harrowing trend of attacks on hospitals and schools in armed conflicts around the world, such as the latest attacks on Doctors without Borders (MSF) health centres in Kunduz (Afghanistan) on 3 October 2015, in Razah (Yemen) on 10 January 2016 and in a number of Syrian towns throughout the ongoing conflict; whereas there has been an unprecedented increase in denial of humanitarian aid and access, the execution of civilians and humanitarian personnel, detention in dire conditions, and civilians being used as hostages or forced into slavery; whereas the growing needs and challenges, the lack of sustained commitments and the rising cost of humanitarian assistance have contributed to the current humanitarian system reaching its limits, and whereas this has forced a number of organisations to temporarily suspend food assistance, shelter and other life-saving humanitarian operations;
- B. whereas the first World Humanitarian Summit will be held in Istanbul on 23-24 May 2016; whereas, in his report for the World Humanitarian Summit entitled 'One humanity, shared responsibility', the UN Secretary-General draws attention to what he calls 'the brazen and brutal erosion of respect for international human rights and humanitarian law' in armed conflict situations, which threatens to cause a return to an era of war without limits; whereas the report notes that the failure to demand and promote respect for these norms and to support the existing enforcement, monitoring and accountability mechanisms contributes to this erosion;
- C. whereas international humanitarian law (IHL), also known as the Law of Armed Conflict, is intended to alleviate the effects of armed conflict by protecting those not taking part in conflict and by regulating the means and methods of warfare;
- D. whereas the UN Security Council has a clear role to play in ensuring respect for international law relevant to the protection of all humanitarian workers;
- E. whereas there is a need to strengthen protection for humanitarian workers without distinction in security arrangements between international and local staff;
- F. whereas the growing emergence of non-state actors, terrorist groups and other entities in armed conflicts poses challenges to the application of international humanitarian law; whereas all parties in a conflict, including state and non-state armed parties, must guarantee humanitarian actors the necessary access to assist vulnerable, conflict-affected civilian populations;
- G. whereas the humanitarian principles of humanity, neutrality, impartiality and independence, and the basic rules of international humanitarian law and the human rights provided for by the Geneva Conventions and the additional protocols thereto, must be at the core of all humanitarian actions; whereas the protection of displaced persons must be guaranteed, and whereas aid independence must prevail;
- H. whereas hospitals and medical personnel are specifically protected under international humanitarian law, and whereas any intentional attack against civilians and civilian infrastructure is clearly prohibited under, and considered to be a serious violation of, international humanitarian law;

Thursday 28 April 2016

- I. whereas the Rome Statute of the International Criminal Court defines attacks against humanitarian workers as a war crime; whereas it also stresses that intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, or historic monuments, constitutes a war crime;
- J. whereas UN premises and assets, including schools and health centres, are inviolable and protected under the 1946 Convention on the Privileges and Immunities of the United Nations;
- K. whereas the ICRC has also declared that the duty to investigate suspected war crimes is a rule of customary IHL applicable to both international and non-international armed conflicts;
- L. whereas some armed groups are opposed to secular and girls' education, or to girls being treated by male medical personnel, and therefore hamper access to these services; whereas a general climate of insecurity as a result of conflict also prevents children, teachers and medical personnel from attending school or seeking medical assistance; whereas women and children face heightened risks as a result of displacement and the breakdown of normal protection and support structures; whereas international humanitarian law requires that all necessary medical care be provided without discrimination to girls and women raped in war; whereas unsafe abortion is listed by the World Health Organisation as one of the three leading causes of maternal mortality; whereas maternal health, counselling of women rape victims, and education and schooling of displaced children are major challenges at refugee camps;
- M. whereas, as of 14 March 2016, 52 states, including several but not all EU Member States, have endorsed the Safe Schools Declaration following the Oslo Conference on Safe Schools, held in May 2015;
- N. whereas the Foreign Affairs Council, when adopting the EU Guidelines on promoting compliance with international humanitarian law, emphasised the importance of dealing effectively with the legacy of serious violations by supporting appropriate accountability mechanisms, and underlined the key role which the International Criminal Court (ICC) can play in cases where the state or states in question are unable or unwilling to exercise their jurisdiction; whereas the EU Guidelines commit the 'appropriate Council working groups' to monitoring situations where IHL may apply and, in such cases, to recommending action to promote compliance with IHL (paragraph 15(a));
- O. whereas, between 2012 and 2015, the ICRC organised a major consultation process on how to strengthen legal protection for victims of armed conflict and how to enhance the effectiveness of mechanisms of compliance with IHL;
- P. whereas the updated EU Guidelines on promoting compliance with international humanitarian law refer to a variety of means of action at the EU's disposal in its relations with third countries in this regard, including political dialogue, general public statements, restrictive measures, cooperation with other international bodies, crisis-management operations, individual responsibility, training and the control of arms exports;
- Q. whereas the participating states in the 32nd International Conference of the Red Cross and Red Crescent Movement in December 2015 were finally unable to agree on a new mechanism proposed by the ICRC and the Government of Switzerland to strengthen compliance with IHL; whereas the participating states agreed to launch a new intergovernmental process to find ways to enhance the implementation of IHL with the aim of having the outcome presented at the next International Conference in 2019;
- R. whereas the EU humanitarian aid chapter, which amounted to EUR 909 million in 2015, represents less than 1 % of the total EU budget; whereas an improved linkage between relief and long-term assistance would be one means of reducing the current discrepancy between the vast humanitarian needs and the resources available;

Thursday 28 April 2016

1. Reaffirms the fundamental contribution of international humanitarian law to the modern history of humanity, and calls on all UN member states to seize the opportunity of the World Humanitarian Summit (WHS) to reaffirm the centrality of international humanitarian law and the protection it offers;
2. Deeply regrets the lack of respect for international humanitarian law, and expresses its shock and grave concern at the deadly attacks against hospitals, schools and other civilian targets that are occurring at an increasingly alarming rate in armed conflicts around the world, with patients, students, medical and teaching staff, humanitarian aid workers, children and family members becoming targets and victims; expresses its opinion that international condemnations must be followed by independent investigations and genuine accountability; calls on the Member States, the EU institutions and the Vice-President/High Representative (VP/HR) to recognise the true extent of this emergency and to use all instruments at their disposal to address this matter;
3. Condemns attacks on hospitals and schools, as prohibited under international law, recognising that such acts may constitute grave breaches of the Geneva Conventions of 1949, and war crimes under the Rome Statute of the ICC; expresses its conviction that the preservation of health and educational facilities as neutral, protected spaces during armed conflict situations must be ensured by transparent, independent and impartial investigations into the brutal attacks that have occurred and by achieving genuine accountability for the crimes committed by all parties involved; stresses the importance of upholding the distinction between humanitarian and military actors and the need to refrain from the co-optation of humanitarian action for military or political ends, which undermines and endangers genuine humanitarian operations and their staff;
4. Condemns the use of hospitals and schools by parties to armed conflict, effectively turning them into targets for attacks; recalls that those using protected people or property as human shields or camouflage are also guilty of IHL violations;
5. Calls on the conflicting parties in conflicts to respect the basic principles of IHL and refrain from deliberately targeting civilian infrastructures; stresses the importance of improving the security of aid workers in order to react to the attacks more effectively; requests therefore that the EU and its Member States call on the UN and the UN Security Council to guarantee the protection of both local and international humanitarian workers;
6. Pays tribute to the admirable courage and dedication of the international and local medical personnel, teaching staff and humanitarian aid workers who operate in conflict areas;
7. Stresses that the right to health is a human right, and calls for the parties involved in an armed conflict to guarantee the availability, accessibility, acceptability and quality of medical services during armed conflicts; calls for a global commitment to ensuring that women and girls are safe from the start of every emergency or crisis by addressing the risk of sexual and gender-based violence, by raising awareness, by taking steps to prosecute the perpetrators of such violence, and by ensuring that women and girls have access to the full range of sexual and reproductive health services, including safe abortions, in humanitarian crises, rather than perpetuating what amounts to inhumane treatment, as required by international humanitarian law and as foreseen in the Geneva Conventions and their Additional Protocols;
8. Underlines that increased complementarity between humanitarian and development aid is needed in order to address the issues of effectiveness and the humanitarian financing gaps, and should go hand in hand with increased development aid and humanitarian funding; calls on the EU, its Member States and other international donors to fully commit at the WHS to all proposed Core Commitments included in the Agenda for Humanity, which focuses on reducing the humanitarian impact of the conduct of hostilities and enabling humanitarian action;

Thursday 28 April 2016

9. Calls for the EU and its Member States to urge the UN Security Council to use all available tools, such as the use of targeted measures, the establishment of fact-finding missions or commissions of inquiry, and judicial mechanisms such as referrals to the ICC; requests that the power of veto not be used in Security Council decisions on issues related to humanitarian action, that respect for international law norms that provide for the protection of humanitarian workers be enhanced, that acts that could constitute violations of those norms be systematically investigated and that those suspected of being responsible for such acts be brought to justice;

10. Deplores that a number of partners of the EU and its Member States are engaged in grave violations of international humanitarian law; calls for the EU to seize all bilateral tools at its disposal to effectively promote compliance with international humanitarian law by its partners, including through its political dialogue and, in the event that such dialogue yields no results, to consider other measures in accordance with the EU Guidelines on promoting compliance with international humanitarian law;

11. Calls on the VP/HR to launch an initiative aimed at imposing an EU arms embargo against countries that are responsible for serious breaches of international humanitarian law, in particular as regards the deliberate targeting of civilian infrastructure; stresses the fact that the continued licensing of weapons sales to such countries represents a breach of Council Common Position 2008/944/CFSP of 8 December 2008 ⁽¹⁾;

12. Calls on the Foreign Affairs Council and the VP/HR to request that the EU Heads of Mission and appropriate EU representatives (heads of EU Civilian Operations, Commanders of EU Military Operations and EU Special Representatives) report on cases of serious violation of international humanitarian law;

13. Encourages the EU and its Member States to fully support the UN Secretary-General's call for all UN member states to seize the opportunity of the WHS to recommit to protecting civilians and ensuring the human rights of all by respecting, implementing and promoting the rules that they have already agreed upon; emphasises the importance attributed by the UN Secretary-General to the strengthening of international investigative and judicial systems, including the ICC, to complement national frameworks, in order to bring an end to impunity for IHL violations;

14. Acknowledges the importance of the EU Guidelines on promoting compliance with international humanitarian law, as no other states or organisations have adopted an equivalent document; calls for the EU and its Member States to implement the EU Guidelines effectively;

15. Calls on the Foreign Affairs Council and the VP/HR to ensure that EU policies and actions related to IHL are developed in a coherent and effective way and that the implementation of IHL Guidelines falls primarily within the remit of the Council Working Group on Public International Law, chaired by the Council Presidency; emphasises, in this context, that the EU Guidelines commit 'the appropriate Council working groups' to monitoring situations where IHL may apply and, in such cases, to recommending action to promote compliance with IHL; calls for the EU and the Member States to provide more detailed reporting on the implementation of the Guidelines in specific conflict situations, in particular in the EU Annual Report on Human Rights and Democracy;

16. Recalls the position taken in the EU Guidelines that consideration will be given, where appropriate, to drawing on the services of the International Humanitarian Fact-Finding Commission (IHFFC), established under 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; regrets that the services of the IHFFC have not been used, and calls on the involved parties to consider its activation; calls on all the Member States to recognise the competence of the IHFFC;

⁽¹⁾ OJ L 335, 13.12.2008, p. 99.

Thursday 28 April 2016

17. Calls for enhanced institutional space for the international community to address common concerns relating to IHL implementation; welcomes the pledge of the EU and its Member States to the ICRC to strongly support the establishment of an effective mechanism on strengthening compliance with IHL, but calls on the VP/HR to report to Parliament on her objectives and strategy in terms of realising this pledge in the forthcoming intergovernmental process to find ways to enhance the implementation of IHL as agreed at the 32nd International Conference of the Red Cross and Red Crescent in December 2015, which could strengthen the governance system of IHL;
 18. Welcomes the practice of the EU and the Member States of issuing pledges to the ICRC conference; calls on the VP/HR to report regularly on the implementation of these pledges, notably through the inclusion of a detailed section in the chapter on IHL in the Council's Annual Report on Human Rights;
 19. Calls for the UN and the EU to promote campaigns to ensure that all actors, including non-state armed groups, are aware of their obligations under international law, and to fulfil their obligations to facilitate humanitarian assistance and protection for people under their influence;
 20. Calls on the Member States to lead by example and to fulfil their commitment to ratifying the principal international humanitarian law instruments and other relevant legal instruments, which have an impact on international humanitarian law;
 21. Reiterates its grave concern over the use of armed drones outside the international legal framework, and insists on its call on the Council to adopt an EU common position on the use of armed drones;
 22. Instructs its President to forward this resolution to the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the EU Special Representative for Human Rights, the governments and parliaments of the Member States, the UN Secretary-General, the President of the UN General Assembly and the governments of the UN member states.
-