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*Plenary sitting*

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**B8-0491/2016**

20.4.2016

## **MOTION FOR A RESOLUTION**

further to Question for Oral Answer B8-0361/2016

pursuant to Rule 128(5) of the Rules of Procedure

on attacks on hospitals and schools as violations of international humanitarian law  
(2016/2662(RSP))

**Heidi Hautala, Judith Sargentini, Molly Scott Cato, Michel Reimon,  
Barbara Lochbihler, Jean Lambert**  
on behalf of the Verts/ALE Group

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

*The European Parliament,*

- having regard to the Universal Declaration of Human Rights and other UN human rights instruments,
- having regard to the Geneva Conventions and other legal instruments on international humanitarian law (IHL),
- 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<sup>1</sup>,
- having regard to the report of the UN Secretary-General for the World Humanitarian Summit, entitled ‘One humanity, shared responsibility’, of 2 February 2016,
- having regard to UN Security Council resolutions 1998 (2011), adopted on 12 July 2011, and 2143 (2014), adopted on 7 March 2014, addressing the protection of children affected by armed conflict,
- having regard to UN General Assembly resolution A/RES/64/290 of 9 July 2010 on the right to education in emergency situations,
- 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,
- having regard to the resolution of 10 December 2015 of the 32nd International Conference of the Red Cross and Red Crescent on strengthening compliance with international humanitarian law,
- having regard to its resolution of 25 February 2016 on the humanitarian situation in Yemen<sup>2</sup>,
- having regard to its resolution of 12 February 2015 on the humanitarian crisis in Iraq and Syria, in particular in the IS context<sup>3</sup>,

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<sup>1</sup> OJ C 303, 15.12.2009, p. 12.

<sup>2</sup> Texts adopted, P8\_TA(2016)0066.

<sup>3</sup> Texts adopted, P8\_TA(2015)0040.

- having regard to its resolution of 16 December 2015 on preparing for the World Humanitarian Summit: Challenges and opportunities for humanitarian assistance<sup>1</sup>,
  - having regard to the question to the Council on attacks on hospitals and schools as violations of international humanitarian law (O-000063/2016 – B8-0361/2016),
  - having regard to Rules 128(5) and 123(2) of its Rules of Procedure,
- A. whereas the development and strengthening of international humanitarian law over the past 150 years constitute a fundamental achievement for humanity; 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 our shared norms and to support the existing enforcement, monitoring and accountability mechanisms contributes to this erosion;
  - B. whereas IHL is intended to alleviate the effects of armed conflict by protecting those not, or no longer, playing a direct part in hostilities and by regulating the means and methods of warfare;
  - C. whereas the international community has witnessed a harrowing trend of attacks on hospitals and schools in armed conflicts around the world including, most recently, in Yemen, Afghanistan, Syria and the Occupied Palestinian Territories; whereas Syrian and Russian forces have been reported as targeting hospitals as a strategy of war in the Syrian conflict;
  - D. whereas hospitals and medical personnel are specifically protected under international humanitarian law and whereas any intentional attack against civilians and civilian infrastructure constitutes a serious violation of international humanitarian law, as is the case for a range of other actions regarding healthcare, including denial of access;
  - E. whereas, as of 14 March 2016, 52 states, including some but not all EU Member States, have endorsed the Safe Schools Declaration following the Oslo Conference on Safe Schools, held in May 2015;
  - F. 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; whereas violations of IHL are also committed by armed forces of states which are not parties to the ICC;

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<sup>1</sup> Texts adopted, P8\_TA(2015)0459.

- G. whereas, between 2012 and 2015, the International Committee of the Red Cross (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;
- H. whereas the participating states in the 32<sup>nd</sup> 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 proposed new mechanism would have involved setting up an annual meeting of states parties to the Geneva Conventions; 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;
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 to reaffirm the centrality of international humanitarian law and the protection it offers;
  2. Condemns the attacks against hospitals and schools and other civilian targets that continue to occur at an alarming rate in armed conflicts around the world; reminds all parties that hospitals and medical personnel are explicitly protected under international humanitarian law and that the deliberate targeting of civilians and civilian infrastructure amounts to a war crime;
  3. Calls for the EU and its Member States to recognise the true extent of this emergency, and to draw up without delay a concrete, time-bound action plan, to use their influence to halt such violations and abuses, and to support impartial and independent investigations into all alleged violations of international humanitarian law;
  4. 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;
  5. Insists on the vital need to preserve health and educational facilities as neutral, protected spaces during armed conflict situations; expresses concern at the blurring of the distinction between humanitarian and military actors and the co-optation of humanitarian action for military or political ends, which undermines and endangers genuine humanitarian operations and their staff; regrets, in this regard, that the role of the military in relation to humanitarian aid was not addressed in the Commission communication on the World Humanitarian Summit;
  6. Emphasises the importance of strengthening international investigative and judicial systems, including the International Criminal Court, to complement national frameworks in order to put an end to impunity for IHL violations; urges the EU and its Member States to continue to promote the universality and preserve the integrity of the Rome Statute, and to continue supporting the ICC and civil society organisations that are engaged in the global fight against impunity;

7. Deplores the fact that a number of close partners of the EU and its Member States are engaged in grave violations of international humanitarian law, including attacks against hospitals and schools, as illustrated recently by US strikes against MSF facilities in Afghanistan, the Saudi-led military coalition in Yemen and the Israeli attacks against Gaza in summer 2014; 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; more broadly, calls for the EU to support initiatives aimed at spreading knowledge of international humanitarian law and good practice in its application;
8. Calls on the VP/HR to launch an initiative aimed at imposing an EU arms embargo against countries that are accused of serious breaches of international humanitarian law, notably with regard to the deliberate targeting of civilian infrastructure; stresses that the continued licensing of weapons sales to such countries represents a breach of Council Common Position 2008/944/CFSP of 8 December 2008<sup>1</sup>;
9. Stresses that non-state actors, including private military and security companies, may be responsible for violations of international humanitarian law; reiterates, in this context, its absolute condemnation of recent attacks against schools and children by terrorist groups in Nigeria and Pakistan; suggests exploring the possibility of applying and extending the EU Common Position on Arms Exports, also to the transfer of arms-export-related services such as consultancy and other activities of EU-based private military companies in third countries; calls also for a unified EU approach to the issue of floating armouries;
10. Acknowledges the importance of the EU Guidelines on promoting compliance with international humanitarian law, but regrets that their implementation by EU institutions and Member States and the level of awareness among public officials remain grossly inadequate;
11. Calls on the Foreign Affairs Council and the VP/HR to review the current allocation of responsibilities, whereby the implementation of the IHL guidelines falls primarily under the auspices of the Council working group on public international law; 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 on the relevant Council working groups, notably the Council Working Group on Human Rights (COHOM), to use this mandate to address the current urgent crisis of non-compliance; calls for the EU and the Member States to provide more transparency concerning the implementation of the Guidelines in specific conflict situations, notably in the EU Annual Report on Human Rights and Democracy;
12. 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-

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<sup>1</sup> OJ L 335, 13.12.2008, p. 99.

finding capacity and its good offices function; regrets that the services of the IHFFC have not been used, and urges the Council, the Member States and the EEAS to seriously consider activating this commission, for the first time since its creation, to address the attacks on hospitals and schools as an urgent crisis situation concerning respect for IHL standards; calls on all EU Member States (and therefore France and Latvia) to recognise the competence of the IHFFC;

13. Notes with concern the currently limited institutional space for the international community to address common concerns relating to IHL implementation; regrets, in this context, the failure of the participating states in the 32<sup>nd</sup> International Conference of the Red Cross and Red Crescent in December 2015 to agree on a new mechanism that would have strengthened the governance system of IHL;
14. 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; insists in this regard on the need for an international mechanism to track and collect data and report on violations of international humanitarian law, comparable to the elaborate UN human rights system; in this regard, expresses its full support for regular public meetings of the parties to the Geneva Conventions – as is the case for other UN Conventions – in order to assess the fulfilment of their obligations by the contracting parties;
15. 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;
16. 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; in particular, deplores the fact that seven Member States have yet to ratify the Convention on Cluster Munitions, only 12 have ratified the Convention on Enforced Disappearances and one Member State has yet to ratify the Arms Trade Treaty; calls on the Member States to take urgent measures to rectify this situation;
17. Urges all Member States to endorse the Safe Schools Declaration without further delay, as well as the recommendations made at the 32<sup>nd</sup> International Conference of the Red Cross and Red Crescent Movement;
18. Calls for the EU and its Member States to support a global ban on the use of white phosphorus, notably through the conclusion of a new protocol to the Convention on Certain Conventional Weapons banning the use of such weapons;
19. Urges the VP/HR and the Member States to support the UN General Assembly resolutions on depleted uranium weapons and to develop an EU common position that better reflects Parliament's repeated calls for a precautionary global moratorium and the developing global consensus on the potential civilian health risks, complex post-conflict management burden and financial costs associated with the use of such weapons;

20. Calls on those Member States that have still not introduced a ban on investment in companies which produce, trade in or have any other form of commercial dealings in relation to landmines, to do so as a matter of priority;
21. Insists on the importance of ensuring coherence of EU policy towards situations of occupation or annexation of territory; recalls that international humanitarian law should guide EU policy regarding all such situations, including cases of protracted occupation as in Palestine, the Western Sahara or northern Cyprus and the multiple frozen conflicts in the Eastern Partnership countries;
22. Reiterates its grave concern over the use of armed drones outside the international legal framework, and deplores the fact that its call on the Council to adopt an EU common position on the use of armed drones remains unanswered; insists on the need for the EU and its Member States to promote greater transparency and accountability in the use of armed drones; once again urges the Council to adopt a policy banning the use of automated weapons systems;
23. Stresses that asymmetric warfare and counter-terrorism may not justify the loosening or discarding of international humanitarian law; deplores the negative impact of counter-terrorism measures on humanitarian action, including intensified administrative procedures for procurement or vetting of partners, which may significantly impede aid delivery to populations in areas where armed groups designated as terrorists may be active; insists that counter-terrorism measures should not undermine humanitarian efforts and should comply strictly with human rights and international humanitarian law;
24. Expresses its concern at the lack of transparency and public reporting regarding the military strikes carried out by or with the involvement of EU Member States in the context of international coalitions, including against Islamic State in Syria and Iraq; calls on Member States to provide precise information about their military involvement in such coalitions and the measures taken to ensure full compliance with international humanitarian law;
25. Urges the VP/HR to modify and adapt the relevant planning and implementation documents and guidelines in the field of military operations under the Common Security and Defence Policy (CSDP), in particular the EU Concept for the Use of Force; urges military commanders to formulate sufficiently clear and precise rules of engagement so that soldiers can easily abide by the rules of international humanitarian law;
26. 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.