

H.E. Federica Mogherini
High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission

H.E. Christos Stylianides
Commissioner for Humanitarian Aid and Crisis Management European Commission
1049 Brussels
Belgium

23 November, 2017

Re: The EU must ensure its humanitarian aid to war victims upholds their right to non-discriminatory medical care in line with IHL

Dear Vice-President Mogherini and Commissioner Stylianides,

In September 2015, the European Commission laudably took a historic step in making clear that women and girls raped in armed conflict deserve equal medical protection under international humanitarian law (IHL). In response to Members of the European Parliament, you stated:

“In cases where the pregnancy threatens a woman's or a girl's life or causes unbearable suffering, international humanitarian law and/or international human rights law may justify offering a safe abortion rather than perpetuating what amounts to inhumane treatment. Women and girls who are pregnant as a result of rape should first receive appropriate and comprehensive information and be provided access to the full range of sexual and reproductive health services.”¹

Previously, the European Union's position was that national abortion laws in conflict countries – not IHL – govern the scope of available care for women and girls in conflict settings. In 2015, the EU joined a growing chorus of human rights advocates, legal experts, United Nations bodies and national governments to acknowledge the primacy of IHL in conflict, including when it comes to safe abortion². The European Commission's latest position also received wide cross-party support in a number of parliamentary resolutions and several Member States have voiced their support for this policy for its compliance with IHL. Unfortunately, since 2015, no steps have been taken to implement this policy.

Women and girls continue to be denied care, including abortions, in humanitarian settings, even where rape is routinely used as a weapon of war. In light of increasing attacks on their right to terminate an unwanted pregnancy, largely driven by a dangerous anti-abortion ideology in the United States, now is a critical time for the EU to shift its position from paper to practice. Since the EU, along with its Member

¹ See response by the European Commission (September 11, 2015), available at:

<http://globaljusticecenter.net/documents/Mogherini%20response%20Sept%202015.pdf>

² See for example United Nations Global Study on the implementation of UN Security Council Resolution 1325 (October 2015), “Exclusion of one medical service, abortion, from the comprehensive medical care provided to the wounded and sick in armed conflict, where such service is needed by only one gender, is a violation not only of the right to medical care but also of the prohibition on “adverse distinction” found in common Article 3, the Additional Protocols to the Geneva Conventions and customary international law. Importantly, it is also in violation of international human rights law. The Committee on the Elimination of Discrimination against Women (CEDAW Committee) has specified that “it is discriminatory for a State party to refuse to legally provide for the performance of certain reproductive health services for women”. For a compilation of references, including country positions related to protected medical care under IHL, including safe abortion please see: <http://globaljusticecenter.net/documents/IHLandAbortionCitations.pdf>.

States, is the largest humanitarian aid donor in the world, it holds a unique responsibility to ensure international medical protocol follows the principle of non-discrimination enshrined in IHL.

We therefore request that the European Commission make clear that international law – not politics – determines the right to medical care of women and girls affected by armed conflict, and take the following steps:

- Issue a memorandum to your humanitarian partners and grantees to inform them of your updated policy concerning safe abortions for war rape victims, IHL’s protections for medical personnel, and the primacy of IHL in armed conflict settings.
- Develop a monitoring framework together with your humanitarian partners and grantees to ensure IHL obligations are met, and specifically that women and girls receive appropriate care, including the provision of safe abortion under the conditions set out in your policy.
- Ensure EU funds are kept separate from US humanitarian funds in all accounts, and as separate from any other donor funds that may prevent EU aid from being administered in full compliance with IHL.

We urge you to take decisive action and thank you for your attention to this important matter.

1. Action Aid
2. Actions des Femmes pour les Droits et le Développement (DRC)
3. AdvocAid (Sierra Leone)
4. AFFORD (United Kingdom)
5. Afghan Women Skills Development Center (Afghanistan)
6. Africa Development Interchange Network (Cameroon)
7. Alliance for Choice Northern Ireland (United Kingdom)
8. Arab Women's Solidarity Association (Belgium)
9. Association des Femmes Juristes de Centrafrique (CAR)
10. Association Française des Femmes Médecins (France)
11. Association of War Affected Women (Sri Lanka)
12. Awaj Foundation (Bangladesh)
13. Baghdad Women Association (Iraq)
14. CAFSO-WRAG for Development (Nigeria)
15. Cameroon Youths and Students Forum for Peace (Cameroon)
16. CARE International (Belgium)
17. Catholics for Choice (USA)
18. Center for Health, Human Rights and Development (Uganda)
19. Center for Reproductive Rights (USA)
20. Choice for Youth and Sexuality (The Netherlands)
21. Civil Society Coalition on Migration and Development (Nigeria)
22. Coalition for Sexual and Bodily Rights in Muslim Societies
23. Darfur Bar Association (Sudan)
24. Dutch CEDAW Network (Netherlands)
25. Encadrement des Femmes Indigènes et des Ménages vulnérables (DRC)
26. European Network of Migrant Women
27. European NGOs for Sexual & Reproductive Health & Rights (Belgium)
28. European Women’s Lobby
29. Eyzidi Documentation Center (Iraq)
30. Face Past for Future Foundation (Uganda)

31. Facilitating Peace (USA)
32. Fédération internationale des ligues des droits de l'homme (FIDH)
33. FemJust (USA)
34. Finnish Refugee Council (Finland)
35. FOKUS- Forum for Women and Development (Norway)
36. Global Justice Center
37. Global Network of Women Peacebuilders
38. Human Rights Watch
39. Humanitarian Assistance for the Women and Children of Afghanistan
40. IMA Research Foundation (Bangladesh)
41. INGWEE (Belgium)
42. International Campaign for Women's Right to Safe Abortion
43. International Centre for Eritrean Refugees and Asylum Seekers (United Kingdom)
44. International Planned Parenthood Federation (European Network)
45. International Rescue Committee
46. International Youth Alliance for Family Planning
47. Ipas (USA)
48. Iraqi Al-Amal Association (Iraq)
49. Iraqi Women Network (Iraq)
50. Johanniter International Assistance (Germany)
51. Kins of Africa for Development and Reintegration (Nigeria)
52. Kvinnefronten i Norge (Norway)
53. Le Fonds pour les Femmes Congolaises (DRC)
54. Lietuvos etninių grupių moterų verslininkų draugija (Lithuania)
55. Madre (USA)
56. Médecins du Monde (France)
57. Medica Mondiale (Germany)
58. Medical Women's International Association
59. Melissa Network of Migrant Women (Greece)
60. Migrant Women Association (Malta)
61. Movimiento Amplio de Mujeres de Puerto Rico (USA)
62. Organization of Women's Freedom in Iraq (Iraq)
63. Pacific Women's Indigenous Networks (New Zealand)
64. PAIMAN Alumni Trust (Pakistan)
65. Physicians for Human Rights
66. Plan International
67. Povod (Slovenia)
68. Radha Paudel Foundation (Nepal)
69. Riksförbundet För Sexuell Upplysning (Sweden)
70. Rutgers (Netherlands)
71. Socio-Economic Rights and Accountability Project, SERAP (Nigeria)
72. Solidarité Féminine pour la paix et le développement Intégral (DRC)
73. Synergie des femmes pour les victimes de violences sexuelles (DRC)
74. TAPEPUKA (United Kingdom)
75. Tiye International (Netherlands)
76. WO=MEN, Dutch Gender Platform (Netherlands)
77. Women for Afghan Women (USA)
78. Women Now For Development (Syria)
79. Women Peace Network – Arakan (Myanmar)
80. Women's Global Network for Reproductive Rights (Philippines)
81. Women's Global Network for Reproductive Rights Africa (Tanzania)
82. Women's League for International Peace and Freedom, (Ghana section)
83. Women's League of Burma (Myanmar)
84. Women's Promotion Center (Tanzania)

85. Women's Rights Centre (Armenia)
86. World Organisation Against Torture
87. Yazda (United Kingdom)
88. Yemen Organization For Defending Rights & Democratic Freedoms (Yemen)

89. Yemeni Women Network (Yemen)
90. YouAct (United Kingdom)
91. Y-PEER (Bulgaria)

CC: Monique Parlat, Director-General for Humanitarian Aid and Civil Protection

Frans Timmermans, First Vice-President of the European Commission

Neven Mimica, European Commissioner for International Cooperation and Development