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High Representative of the Union for Foreign Affairs and Security Policy
Vice-President of the Commission
European Commission
1049 Brussels

Christos Stylianides
Commissioner for Humanitarian Aid and Crisis Management
European Commission
1049 Brussels

Brussels, 29th May 2015

Dear Ms Mogherini, Dear Mr Stylianides, Dear colleagues,

Re: EU humanitarian aid fails female victims of war rape

It has come to our attention that our humanitarian assistance fails to provide female war rape victims all the help they are entitled to under international humanitarian law. The plight of the women and girl children recently rescued from Boko Haram, “hundreds” of whom were raped,¹ prompts us to write this letter. These Nigerian women are war victims whose rights to medical care are protected under the Geneva Conventions.

Although the United Nations Population Fund (UNFPA) reports that at least 214 women in the displacement camps in Borno are visibly pregnant, many of whom were recently rescued from Boko Haram, neither UNFPA nor the local hospital testing and treating them will provide or refer for abortions. UNFPA has pledged to provide only psychosocial counselling, safe delivery kits, and childbirth services for the victims.

The UN Security Council has addressed the problem of discriminatory medical services for girls and women raped in war, including the denial of abortions, in two resolutions on sexual violence in armed conflict. Provisions in Security Council adopted resolutions 2106 and 2122 respond to the UN Secretary-General’s recommendations that all humanitarian actors (*inter alia* EU-funded organisations operating in conflict areas) ensure women impregnated by war rape are provided all necessary medical services, including “safe termination of pregnancies resulting from rape”, “without discrimination”, and “in accordance with international humanitarian law”.²

¹ ‘Boko Haram Militants Raped Hundreds of Female Captives in Nigeria’, *New York Times*, 18 May 2015, <http://nyti.ms/1IHpVot>

² *Women, Peace and Security: Report of the Secretary-General*, par. 72(a), UN doc. S/2013/525 (4 September 2013); *Women, Peace and Security: Report of the Secretary-General*, par. 62, UN doc. S/2014/693 (23 September 2014); UN Security Council Resolution 2106, UN doc. S/Res/2106 (24 June 2013); UN Security Council Resolution 2122, preamble, UN doc. S/Res/2122 (18 October 2013).

The way the Commission currently disburses humanitarian aid appears at odds with these resolutions, and with the EU's positive obligations to see that its humanitarian aid upholds war victims' protections under common Article 3 of the Geneva Conventions and the 1977 Additional Protocols. Although the EU is neither a party to the UN Charter nor to the Geneva Conventions, the Treaty on the Functioning of the European Union states that "humanitarian aid operations shall be conducted in compliance with the principles of international law",³ and the Council Regulation concerning humanitarian aid provides that our humanitarian aid to support civil operations to protect victims of fighting shall be "in accordance with current international agreements".⁴ Finally, the medical mandates of international humanitarian law are customary international law, which applies to the European Union's provision of humanitarian aid to war victims.

Under international humanitarian law, all persons "wounded and sick" in war must receive all the medical care necessary to their physical or mental health, based solely on their condition, with no adverse distinction based on their sex, in all circumstances, and irrespective of national law. Under these universal standards of care, medical care for girls and women impregnated by war rape must include abortion. (Furthermore, failing to provide an abortion to a victim of war rape, thereby forcing her to continue her unwanted pregnancy, can constitute an act of torture and inhuman treatment in violation of common Article 3 of the Geneva Conventions.)

A year ago the United Kingdom, citing UN Security Council Resolution 2122, clarified its own policy on abortions and female war rape victims by communicating to its humanitarian partners that "in situations of armed conflict or occupation where denial of abortion threatens the woman's or girl's life or causes unbearable suffering, international humanitarian law principles may justify offering a safe abortion rather than perpetuating what amounts to inhumane treatment in the form of an act of cruel treatment or torture", despite contrary national laws.⁵

The Commission's policy on this matter, expressed in various letters and replies to parliamentary questions since 2012,⁶ appears to be at odds with both the texts and practice of international humanitarian law. The European Parliament has expressed its worries about this state of affairs in four resolutions, including two adopted last month.⁷

We kindly request that you consider re-examining the Commission's policy, in particular to ensure the EU—as well as its humanitarian partners—complies with all the positive obligations applying to humanitarian actors under international humanitarian law.

³ Treaty on the Functioning of the European Union, Article 214(2).

⁴ Council Regulation (EC) No. 1257/96 of 20 June 1996 concerning humanitarian aid, Article 2(g).

⁵ Department for International Development, *Safe and unsafe abortion: The UK's policy position on safe and unsafe abortion in developing countries*, June 2014 (available from <http://bit.ly/1P7xi6W>).

⁶ Responses to parliamentary questions on the United States' 'no abortion' clause applied to humanitarian aid (E-005386-12); on rape as a weapon of war in Syria (E-003947-14); and on the US abortion ban harming female UN peacekeepers (E-009430-14). Letters from the European Commission of 20 December 2012 (ref. Ares(2012)1536571); of 30 June 2014 (ref. Ares(2014)2149775); and of 8 September 2014 (refs Ares(2014)2933829 and Ares(2014)2934591).

⁷ European Parliament resolution of 29 April 2015 on the situation of the Yarmouk refugee camp in Syria (2015/2664(RSP)), par. 8; European Parliament resolution of 29 April 2015 on the situation in Nigeria (2015/2520(RSP)), par. 15; European Parliament resolution of 13 June 2013 on the Millennium Development Goals – defining the post-2015 framework (2012/2289(INI)), par. 31; and European Parliament resolution of 13 March 2012 on equality between women and men in the European Union (2011/2244(INI)), par. 61.

Like yourselves and your services, we are deeply committed to saving the lives, relieving the suffering, and advancing the health of girls and women victims of war rape. We believe the EU must do more to meet its international obligations.

Yours sincerely,

Elena Valenciano

Chair, Subcommittee on Human Rights

Iratxe García-Perez

Chair, Committee on Women's Rights and Gender Equality

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Chair, Group of the Progressive Alliance of Socialists & Democrats

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