



Security Council

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Letter dated 25 January 2022 from the Secretary-General addressed to the President of the Security Council

On 21 January 2021, I announced the appointment of the Independent Senior Advisory Panel on Humanitarian Deconfliction in the Syrian Arab Republic, composed of three persons: Jan Egeland (Norway) (Chair), Erika Feller (Australia) and Radhouane Noucier (Tunisia).

I asked the Panel to provide advice on how to strengthen the humanitarian notification mechanism operated by the Office for the Coordination of Humanitarian Affairs in the Syrian Arab Republic, on the recommendations related to the mechanism submitted by the United Nations Headquarters Board of Inquiry and on lessons that could be learned for the future.

The Panel consulted a range of stakeholders, in particular local and international humanitarian organizations operating in the Syrian Arab Republic that participate in the humanitarian deconfliction mechanism, Member States, subject matter experts and United Nations entities. It also reviewed the written material on the humanitarian notification mechanism that was made available to it, as well as publicly available information.

I am grateful to the Panel for its thorough work and considered recommendations. The report is an internal document and is not for public release, as it contains significant amounts of information that external parties shared with the Panel in strict confidence.

However, I am also aware that the establishment of the Panel has generated considerable interest. In view of this, I have accordingly taken the decision to release a summary of the main findings and recommendations of the report of the Panel, which is attached to the present letter (see annex).

The annex, which was prepared by the Secretariat, is an objective summary of the report. I have instructed the Office for the Coordination of Humanitarian Affairs to lead the follow-up on the relevant recommendations, in consultation with other relevant United Nations entities and humanitarian partners.

The Panel has provided me with a clear analysis outlining the purpose of and key considerations related to humanitarian notification in support of access and protection in the Syrian Arab Republic.

To recall, under the humanitarian notification system in the Syrian Arab Republic, the Office for the Coordination of Humanitarian Affairs passes to parties to the conflict information that humanitarian actors have provided to it on the locations of facilities that serve a humanitarian function and the movements of humanitarian



staff. The purpose of such notifications is to maximize the opportunity for parties to the conflict to avoid inflicting harm or creating impediments to humanitarian workers and facilities, in line with their obligation under international humanitarian law. The humanitarian notification system does not change parties' obligations under international humanitarian law and does not make any judgment as to the protection of any given object or person under that law. Moreover, humanitarian notifications are not a mechanism designed for the parties to the armed conflict to approve or deny humanitarian activities or movements.

Over the past 10 years, hostilities in the Syrian Arab Republic have taken an immense toll on civilians and humanitarian operations. This is a constant reminder of the importance for all parties to the conflict to respect international humanitarian law.

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council, for their information.

(Signed) António **Guterres**

Annex

Executive summary of the report of the Independent Senior Advisory Panel on Humanitarian Deconfliction in the Syrian Arab Republic

1. On 21 January 2021, I announced the appointment of the Independent Senior Advisory Panel on Humanitarian Deconfliction in the Syrian Arab Republic tasked with providing advice on how to strengthen the deconfliction mechanism operated in that country by the Office for the Coordination of Humanitarian Affairs, on the recommendations related to the mechanism submitted by the United Nations Headquarters Board of Inquiry and on lessons that could be learned for the future.
2. The Panel was composed of Jan Egeland (Norway) (Chair), Erika Feller (Australia) and Radhouane Noucier (Tunisia).
3. As set out in its terms of reference, the Panel was to advise, inter alia, on the following issues:
 - (a) What the minimum conditions that need to be met are before the Office for the Coordination of Humanitarian Affairs operates a deconfliction process, and whether they are met in the case of the Syrian Arab Republic;
 - (b) How the deconfliction mechanism in the Syrian Arab Republic relates to the parties' obligations under international humanitarian law;
 - (c) Whether the deconfliction mechanism in the Syrian Arab Republic should be renamed a "humanitarian notification mechanism";
 - (d) Which parties to the conflict in the Syrian Arab Republic (both State and non-State armed groups) should be provided with deconfliction information, and in what circumstances should parties not be provided with such information;
 - (e) How to strengthen the systems and processes of the deconfliction mechanism in the Syrian Arab Republic, including, inter alia, those aimed at ensuring:
 - (i) The accuracy of the information that is provided to the parties;
 - (ii) Acknowledgement by the parties of the receipt of deconfliction information and their acceptance of the humanitarian nature of the facilities concerned;
 - (iii) The regular updating of deconfliction information and the communication of that updated information to the parties;
 - (iv) The reporting of incidents involving a deconflicted site by implementing (humanitarian) partners to parties to the conflict and the submission of a request to the parties that such incidents be duly investigated;
 - (v) The notification to implementing partners of any follow-up actions taken by the Office for the Coordination of Humanitarian Affairs upon receipt of incident reports;
 - (f) How to improve the record-keeping of the deconfliction mechanism in the Syrian Arab Republic and communications with all relevant stakeholders;
 - (g) What lessons learned from the deconfliction mechanism in the Syrian Arab Republic and, if possible, from the work of other humanitarian organizations in that country may be applicable in other humanitarian contexts in which a deconfliction mechanism is required.
4. The Panel commenced its work on 11 January 2021 and was requested to submit its final report to me by 10 May.

5. The Panel consulted with a range of humanitarian organizations, Member States, subject matter experts and United Nations entities. It also reviewed the written material on the deconfliction mechanism in the Syrian Arab Republic that was made available to it, as well as publicly available information. The Panel did not undertake any travel to the region.

Main findings

6. Based on the above, the Panel has made the following main findings.

7. Given the widespread, serious and frequent attacks on persons and sites protected under international humanitarian law in the Syrian Arab Republic throughout the conflict, the issuance of notifications through a United Nations-led humanitarian notification system should be a high priority for the Organization. The mechanism is severely weakened in the Syrian Arab Republic by the demonstrated lack of commitment to respecting international humanitarian law.

8. The Panel found that minimum conditions exist for maintaining a notification system in the Syrian Arab Republic. The mechanism operated by the Office for the Coordination of Humanitarian Affairs has proved that it can avert attacks affecting protected persons and sites and improve access in some circumstances and regions for a number of humanitarian partners. It commands the support and engagement of certain parties to the conflict, and its management has been improved to address early deficiencies of the mechanism.

9. The humanitarian notification system is a tool to help parties to the conflict to comply with their international humanitarian law obligations for the protection of civilians and the facilitation of humanitarian aid. Participation in the mechanism does not dilute or substitute for those obligations, which it can never do. Deconfliction is not a prerequisite for protection under international humanitarian law, nor can it in and of itself confer such protection. However, for the mechanism to achieve its objectives in an effective manner, problems and concerns remain that still need to be addressed.

10. A core concern with the deconfliction mechanism in the Syrian Arab Republic has been, and remains, the non-involvement of key parties to the conflict. Whereas Turkey and the United States of America still participate in it, the Russian Federation withdrew from it in June 2020. The Syrian Arab Republic has never formally participated. It is not possible to envisage success for any mechanism intended to avert attacks on civilian and humanitarian sites and movements without the commitment of the principal parties to the conflict with air force and heavy weaponry. A decision by a party not to participate in the notification system does not change its international humanitarian law obligations. Such decisions, however, have consequences for the mechanism itself.

11. Set up in September 2014, at the request of the humanitarian country team in Damascus, the mechanism has faced structural problems that have had an impact on its operational effectiveness, including a lack of sufficient technical expertise to verify and convey correct coordinates; inadequate information management protocols; variable usage by humanitarian entities; a lack of clarity on what happens when parties do not confirm receipt of notifications; and confusion among users about the outcomes that the system could deliver with respect to possible accountability for incidents involving deconflicted sites. Important efforts have been made to professionalize the mechanism and address those deficiencies, including through new standard operating procedures issued in April 2020.

12. Another defect of the mechanism has been, and remains, the absence of guidance on what sites to deconflict under the criterion of being “indispensable” for

the civilian population. Likewise, arrangements to enable the satisfactory verification of the continued humanitarian and civilian character of such sites have been lacking.

13. The notification mechanism has lacked adequate fact-finding procedures that would ensure that attacks affecting deconflicted sites and movements are fully examined, made public and followed up on as appropriate. More rigorous monitoring and reporting procedures have been developed, but the Panel noted that their adequacy remains to be seen.

14. The climate of perceived impunity surrounding violations against notified sites has seriously undermined humanitarian actors' support for the humanitarian notification system. Non-governmental organizations (NGOs), in particular, call for clearer and more direct links between notification and the processes in place to pursue accountability for attacks in violation of international humanitarian law and international human rights law.

15. Pursuing accountability goes beyond establishing the facts of what happened. It also needs to be based on a detailed investigation of why it happened and who may have been responsible. The Office for the Coordination of Humanitarian Affairs is neither able nor mandated to undertake such investigations. Practical and operational concerns about providing accountability processes must be considered. Strengthening the links to accountability mechanisms outside of the deconfliction mechanism is needed.

16. The loss of trust in the mechanism has led to the withdrawal of important humanitarian actors from the system. Rebuilding that trust will best flow from system users being assured that structural concerns are now addressed, that parties to the conflict will engage in good faith and in full respect for their obligations under international humanitarian law, that there will be prompt investigation of incidents and that, when they occur, any violation of those obligations will have consequences.

Recommendations for the Syrian Arab Republic

17. On the basis of those findings, the Panel has made a number of recommendations, including the following:

(a) The United Nations should accord high priority to rebuilding the commitment of the parties to the conflict to a reinvigorated deconfliction mechanism;

(b) Trust in the mechanism needs to be rebuilt among NGOs and other humanitarian organizations in the Syrian Arab Republic;

(c) The Office for the Coordination of Humanitarian Affairs has already introduced important measures that have strengthened the management of the deconfliction mechanism. The Office is recommended to review the concerns raised with the Panel and described in its report with a view to making any additional adjustments to the mechanism that might be warranted and would help to restore confidence;

(d) The mechanism should be reconfigured to enable all parties to the conflict, including armed groups, with air force or heavy weaponry, to participate in it;

(e) Participation in the mechanism should be formalized in a more structured way with all parties to the conflict being encouraged expressly to declare their participation therein and their commitment to respecting its procedures, including through the formal acknowledgement of receipt of coordinates;

(f) Sites and movements should only be considered deconflicted once there has been specific acknowledgement of the receipt of a deconfliction notification by

the parties to the conflict concerned, with the humanitarian entity that has submitted the deconfliction request being kept fully informed throughout;

(g) The deconfliction mechanism in the Syrian Arab Republic should, similar to the mechanisms in Afghanistan and Yemen, deconflict more systematically schools, civilian infrastructure, displacement camps, collective centres and other civilian sites considered vital for the protection of civilian populations and submitted for deconfliction by bona fide humanitarian entities;

(h) The Office for the Coordination of Humanitarian Affairs should define the criteria that should be used to determine which entity qualifies for participation in the deconfliction mechanism as a bona fide humanitarian entity and provide guidance to the humanitarian entities participating in the mechanism on how to assess what is a critical site, so that it may be considered for deconfliction;

(i) The Office for the Coordination of Humanitarian Affairs and the United Nations agencies concerned, either directly or through trusted third parties, should develop modalities for the verification of the exclusive and continuous civilian character and use of sites and activities prior to their submission for deconfliction;

(j) Given the threats against humanitarian actors, NGOs should have the opportunity to remain anonymous in the humanitarian notification to one or more of the parties to the conflict. However, given that anonymity and accountability do not sit easily together, the Office for the Coordination of Humanitarian Affairs should encourage humanitarian partners to participate openly whenever, and wherever, possible;

(k) Relevant United Nations entities should undertake or facilitate enhanced training of the parties to the conflict, including non-State armed groups, on their applicable obligations under international humanitarian and human rights law;

(l) Given the importance of providing military actors with reliable and accurate coordinates on sites to be deconflicted, relevant United Nations entities should consider organizing training sessions targeting the staff of humanitarian entities to enhance their skills in the preparation of deconfliction notifications and relevant coordinates;

(m) A review should be undertaken of how to maximize the use of advanced technology for the purposes of verification of information, as well as for the investigation of incidents, for example, the use of satellite images;

(n) Member States should be encouraged to provide assistance to the Office for the Coordination of Humanitarian Affairs and other United Nations entities operating in the humanitarian context through the provision of expertise and in-kind contributions, including advanced technology, to support real-time monitoring, verification and reporting;

(o) Higher priority should be accorded to follow up on fact-finding regarding attacks, in a more resolute pursuit of accountability;

(p) All United Nations agencies that have not already done so should put in place timely and well-resourced mechanisms to establish the facts regarding attacks involving sites and persons under their mandated responsibilities. It is the Panel's view that the World Health Organization should take the lead in fact-finding regarding attacks involving or abuse of hospitals and other medical facilities; the World Food Programme for all inter-agency humanitarian movements by land, sea and air; the Office of the United Nations High Commissioner for Refugees for all displacement camps and collective centres; and the United Nations Children's Fund for schools and other educational facilities. The Office for the Coordination of Humanitarian Affairs, as the manager of the humanitarian notification mechanism, and the agencies,

according to their respective mandates, should devote sufficient resources to register the totality of attacks;

(q) The Panel recommends that States Members of the United Nations be urgently invited to consider what else they can do, at the national level as well as collectively, to address the prevailing climate of impunity surrounding attacks on deconflicted sites or movements;

(r) The Global Protection Cluster should support humanitarian notifications more actively by promoting fact-finding, investigation and accountability in the case of abuse and attacks, including by coordinating and articulating a common United Nations position on incidents;

(s) There has been no in-depth, comparative review of how deconfliction has been working across all the conflict settings where it has been implemented. Such an empirical study should be conducted to better inform the establishment of deconfliction arrangements in the future.

Lessons learned

18. In addition to the aforementioned recommendations, which apply in the case of the Syrian Arab Republic but also have direct relevance to notification arrangements working or to be set up elsewhere, the Panel identified the following lessons learned from the review of the humanitarian notification system in the Syrian Arab Republic.

19. A deconfliction mechanism should be set up at the earliest possible time from the outset of hostilities. When the system was introduced in the Syrian Arab Republic in 2014, there was already an irreparable lack of trust between humanitarian actors and certain parties to the conflict.

20. The objectives and consequences of a deconfliction mechanism need to be clearly explained to and understood by humanitarian actors and parties to the conflict to avoid misconceptions or false expectations. Continuous dialogue with users, parties and authorities on the functioning of the system and the protected nature of sites is needed.

21. Accountability flows from obligations under international legal instruments and rules, which are not changed or qualified in any way by the deconfliction mechanism. The United Nations should advocate the express affirmation from all relevant parties that they will respect protected persons and installations under applicable rules of international law.

22. Where there are violations involving deconflicted sites, the absence of accountability will undermine trust in humanitarian notification systems. The United Nations should establish capacity for effective and public fact-finding regarding attacks, as well as for the verification of the continued civilian nature of sites, but also, in tandem with the humanitarian notification system, to promote accountability.

23. The renaming by the Office for the Coordination of Humanitarian Affairs of the deconfliction mechanism in the Syrian Arab Republic as the “Humanitarian Notification System Supporting Access and Protection” adds more clarity to the purpose of the deconfliction mechanism and should be adopted for the deconfliction arrangements in that country and elsewhere.