June 26, 2020

Professor Josep Borrell
High Representative of the European Union for Foreign Affairs and Security Policy and Vice-President of the EU Commission
Rue de la Loi / Wetstraat 200
1049 Brussels, Belgium

Dear High Representative Borrell:

On behalf of the American Bar Association (ABA), I write to thank you for organizing the IV Brussels conference on Supporting the Future of Syria and the Region and to highlight several recommendations we hope the European Union (EU) will consider at the conference. The ABA is the largest voluntary organization of lawyers, judges, and legal professionals in the world, and we regard human rights and the rule of law as cornerstones of a free and fair society.

The ABA acknowledges the EU’s for its work toward a lasting ceasefire in Syria and its engagement with all relevant actors, including Syrian and other civil society actors, to reach a comprehensive political solution and to address the humanitarian needs of the Syrian people.

With the conflict in Syria entering its ninth year, the ABA respectfully offers the following proposals for the EU, in exercising its leadership, to consider in order to:

1) Protect civilians inside Syria by considering advocating at the UN for a No-Fly Zone over Northwest Syria;
2) support the provision of cross-border aid into Northeast Syria and to the Rukban camp (even without the consent of the Syrian regime);
3) promote the right of Syrians to be protected against forced return or *refoulement*; and
4) support justice and accountability for Syrians.

1. Civilian Protection

The EU and its member states should consider enhancing the protection of civilians in Northwest Syria by supporting a United Nations call for a No-Fly Zone (NFZ) over Northwest Syria. The EU might even consider directing its mission to the UN General Assembly (UNGA) to obtain support for and to request an emergency special session of the UNGA pursuant to the “Uniting For Peace Resolution,” to recommend measures that states can collectively take, including the establishment of a NFZ over Northwest Syria.
2. Humanitarian Assistance

To prohibit the Assad regime from continuing to use the denial of humanitarian assistance as a method of warfare, the EU should advocate, including to the Friends of Syria Group (FSG), providing humanitarian assistance to Northeast Syria and the Rubkan camp via airdrops. The EU should also consider calling for airdrops of aid, including food, medicine, and other health necessities, to Northwest Syria if the UNSC fails to renew the remaining cross-border aid routes from Turkey to Syria. Lastly, the EU should consider providing funds for the operationalization of these airdrops.

3. Forced Returns

The EU should consider highlighting in its bilateral discussions the obligations of countries hosting large populations of Syrian refugees to adhere to international law on forced return, ensuring that refugees are not forced to return to Syria involuntarily. The EU has considerable resources to put behind such discussions, including inter alia: non-humanitarian financial resources, development assistance and financial support to the security sector. Further, the EU should also consider supporting or continuing to support: (i) the humanitarian aid it provides directly to Syrian and non-Syrian humanitarian organizations in host countries to support Syrian refugees; (ii) capacity-building of human rights organizations, in countries hosting large numbers of Syrian refugees, to increase their ability to monitor and advocate for the protection of Syrian refugees; and (iii) integration assistance to refugees and for campaigns to combat xenophobia and encourage cross-cultural collaboration in countries to which Syrians have fled.

4. Justice and Accountability

Justice and accountability for war crimes and crimes against humanity are essential components of any political solution aimed at achieving and sustaining peace. Accordingly, we note the efforts of Germany, France, the Netherlands, and Sweden to utilize domestic justice mechanisms to pursue cases against those responsible for atrocity crimes in Syria. Therefore, the EU might consider adopting a policy of pursuing prosecution of Syrian war crimes under, for example, a theory of universal jurisdiction. Further, the EU should consider continuing to advocate for the UNSC’s referral of Syrian officials responsible for perpetrating war crimes and crimes against humanity to the International Criminal Court.

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We appreciate the European Union’s continued efforts to end the war in Syria. We also recognize the importance of the substantial funding that the EU has provided in humanitarian assistance, during the course of the conflict, to help the Syrian people and neighboring countries hosting millions of Syrians displaced by the war. And we extend our gratitude to EU member states that have collectively accepted over 1 million Syrian refugees.

Thank you for considering these recommendations.

Sincerely,

Judy Perry Martinez
President, American Bar Association