**JUNE 2022** 

# VOICE OUTLOUD #33 ENABLING PRINCIPLED HUMANITARIAN AID



## VOICE **OUT LOUD** #33

ENABLING PRINCIPLED HUMANITARIAN AID

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Cover photo: Deminer Bijou from the HI and AFRILAM demining team on the Bangboka site in Kinsangani. © Kelvin Batumike / Handicap International, August 2016

VOICE wishes to thank the contributors of this issue. Views expressed herein do not necessarily reflect those of the VOICE network.

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# Editorial

It may easily be argued that there has never been a more challenging time to be a humanitarian aid worker. The number of acute humanitarian crises around the world has brought new challenges to the delivery of principled humanitarian aid and pushed humanitarian actors into having to adapt to new operating contexts. This edition of the *VOICE out loud* (VOL) offers an insight into some of the challenges VOICE members face in the delivery of humanitarian aid, including funding, access,

security, and working in contexts in which there are constant violations of International Humanitarian Law (IHL).

Since February 2022, the world's eyes have been on Ukraine. With UN OCHA noting that there are more than 15 million Ukrainian people displaced as refugees or Internally Displaced People, UNHCR has said that the global number of forcibly displaced people has passed 100 million for the first time. Filippo Grandi, the UN High Commissioner for Refugees, described this figure as a "staggering milestone" that "must serve as a wake-up call to resolve and prevent destructive conflicts, end persecution and address the underlying causes that force innocent people to flee their homes."

The conflict in Ukraine and its global economic repercussions have exacerbated humanitarian needs, already at an alltime high because of the impact of the 3 Cs (Conflict, Climate, and COVID-19) and the chronic underfunding of crises. Today, the Global humanitarian Overview is less than 20% funded. In May 2022, the number of people expected to be in need of humanitarian aid this year was increased to 303 million, 29 million more than what had been foreseen in December 2021 (Global Humanitarian Overview Update, May 2022). Up to 181 million people are forecast to be in crisis levels (IPC 3 or above) of food insecurity in 2022 in 41 countries/territories (Global Report on Food Crises – 2022). As is often the case, the most fragile contexts, including protracted and often neglected crises such as Syria, Yemen, the Horn of Africa, and Afghanistan, are likely to be the most impacted by these deepening crises.

In addition to the sheer scale of needs, recent crises have shown the challenges for humanitarian actors in accessing disaster-affected populations and emphasised the importance of IHL and the fundamental humanitarian principles. In addition, recent UN Security Council discussions have highlighted the need to pay more attention to the consequences of counter-terrorism measures on civil society organisations and on humanitarian space. Humanitarian NGOs, thanks to their different expertise and mandates, are crucial frontline responders in emergency contexts and often face acute security challenges to ensure that crisis-affected populations have access to humanitarian assistance and protection. To be able to deliver life-saving assistance where it is most needed, humanitarian NGOs require all parties to conflict to respect IHL and allow safe access for disaster affected people to humanitarian assistance.

In considering some of the above challenges, this edition of VOL reflects on the existing humanitarian funding model, and the impact of IHL violations and donor sanctions regimes on the delivery of humanitarian aid. It also considers questions of how to finance new emergencies while ensuring no diversion of funding from other crises; how to promote and uphold IHL and reduce the level of risk to which humanitarian aid workers are exposed; and how to ensure that sanctions regimes do not undermine humanitarian organisations' ability to apply the humanitarian principles of humanity, impartiality, neutrality, and independence.

Many of the possible answers to these questions are not new. They rely on donors' ability to translate political commitments into genuine actions, highlight the need for donors to maintain efforts to overcome the challenges that humanitarian agencies are facing, and to ensure sustained support for principled humanitarian aid. Additional resources must be made available if we are to tackle the seemingly ever-growing level of humanitarian needs; diplomatic efforts must be put in place to support adherence to IHL and ensure humanitarian access; and humanitarian exemptions must be built into all EU MS sanctions regimes to enable humanitarian organisations to continue providing lifesaving aid for those in need everywhere.

My fear is that we may be at a tipping point, where the failure to address the current record levels of need will result in a spiralling increase that we will struggle to come to terms with, leaving ever more people acutely vulnerable, and an ever-growing gap between the level of needs and the level of funding available to meet them. We must work together to ensure that this potential tipping point is not reached, and the recommendations in this edition of VOL – if taken on board - may help us to do that.

### Dominic Crowley VOICE President

### HUMANITARIAN ACCESS: REFLECTIONS FROM AFGHANISTAN

### THE ISSUE

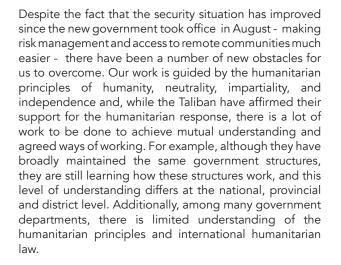
ENABLING PRINCIPLED HUMANITARIAN AID



INTERSOS Medical Center, Panjway ©INTERSOS

"Our work is guided by the humanitarian principles of humanity, neutrality, impartiality, and independence and, while the Taliban have affirmed their support for the humanitarian response, there is a lot of work to be done to achieve mutual understanding and agreed ways of working." INTERSOS has been working in Afghanistan for more than 20 years, providing health, nutrition and protection services in the provinces of Kabul, Kandahar, and Zabul. Our multidisciplinary health and protection teams are focused on fulfilling the emergency needs of the people living in fragile post-conflict areas, and with a particular emphasis on reaching those who live in rural so called "white areas", areas that have not received international assistance for over 20 years. The populations in these remote areas are often over a two-hour walk from the nearest health facility. In these areas we aim particularly to meet the needs of the people who require medical and protection assistance - particularly women, children and GBV survivors.

Providing health and protection services in an environment as complex as Afghanistan is immensely challenging. The challenges include gaining access to remote communities from the local and provincial authorities and securing funding from donors - many of whom are cautious about providing funding to Afghanistan, due to the concerns related to the respect of human rights in the country.



Although the economic situation in Afghanistan had been deteriorating prior to mid-August 2021, the impact of the sanctions imposed on the Taliban, as well as the freezing of Da Afghanistan Bank's assets, have been a major contributor to the rise of inflation, resulting in additional hardship for the entire Afghan population and their ability to purchase essential items such as bread. This has been compounded by the withdrawal of international development funding that supported the vast majority of basic services. Their almost overnight decline has had a massive impact on people in Afghanistan - including on their ability to access existing services. Many government facilities' health workers are still unpaid, and medicines and equipment are in short supply. As a result, many health facilities are barely functioning, and across the country 18.1 million people do not have access to health care - an increase of 20% from 2021.

For women, access to health care has always been challenging, but the withdrawal of funding has made the situation even worse. Women cannot access health care for many reasons, including the limited number of female doctors. It is not culturally appropriate for women to see a male doctor, yet 80% of doctors in Afghanistan are male. Additionally, the challenges experienced by women within society means that they often do not have permission from their families to seek health care on their own. Our midwives report that, most women seek health care only for assistance during pregnancy - very often if they experience a problem. Our midwives are therefore a vital part of our health and protection teams - and they provide essential health care assistance for women. Without female humanitarian staff it would be extremely difficult for women to receive the assistance they require, so under the new government we have advocated strongly for them to be able to continue their work.



Outside Zari Nadi Clinic, Kandahar © INTERSOS

The World Bank's withdrawal of financing has had a devastating impact on basic state services and structures, particularly health. The authorities are well aware of the resources brought to Afghanistan by NGOs, especially to cover the increasing gaps in health services. However, this does not make the bureaucratic constraints go away, and in some instances these constraints have forced us to suspend our activities in order to maintain our neutrality and independence. Our mobile health teams were also forced to become fixed health facilities for seven months following the change in government. This had a serious impact on the ability of thousands of people in remote communities to access health care. Following strong advocacy and negotiations on these issues, we were able to restart these activities and once again provide much-needed assistance to the people in the remote communities we support.

We regularly coordinate with the authorities at all levels of government - national, provincial and local - to ensure that they understand the purpose of our work, to reinforce the impartiality and independence of our operations in line with the Joint Operating Principles, a document that outlines humanitarian policies and established practices for principled humanitarian assistance, endorsed by the Humanitarian Country Team, and to build their knowledge of the humanitarian principles, which should help with access in the future.

Despite many challenges, providing principled assistance in Afghanistan is indeed possible. INTERSOS continues to support the population in need, thanks to our continued, transparent, context-specific access negotiations, with emphasis placed on communication with the Taliban at all levels about our work and humanitarian principles. In accordance with rights-based principles, international donors should support all humanitarian organizations' efforts in responding to Afghanistan's massive humanitarian needs.

> Nasr Muflahi, Country Director Kirsty Cameron, Field Communications Manager INTERSOS

### **CONCRETE GLOBAL POLICY ENGAGEMENTS** TO FOSTER CHANGE REGARDING THE PROTECTION OF HUMANITARIAN AND HEALTH WORKERS

#### THE ISSUE

ENABLING PRINCIPLED HUMANITARIAN AID



Deminer Bijou from the HI and AFRILAM demining team on the Bangboka site in Kinsangani. © Kelvin Batumike / Handicap International, August 2016

In 2022, an estimated 274 million people worldwide required humanitarian assistance and protection.<sup>1</sup> The recent conflict in Ukraine, which has displaced more than 7.7 million people inside the country and 5.5 million people outside the Ukrainian border,<sup>2</sup> will inevitably put further pressure on an already overstretched system. Humanitarian operators continue to face numerous threats while attempting to fulfil their mission and respond to the growing needs. The Aid Worker Security Database (AWSD) reports an increase in incidents, with the highest number of incidents recorded since 2013. In 2020, 484 aid workers were the victims of serious incidents, 117 of whom were killed, 242 wounded, and 125 kidnapped.<sup>3</sup>

Humanitarian and health workers, in particular national frontline humanitarian workers, are necessarily exposed to risks. It is an inherent part of their work, which involves providing relief and assistance to those affected by the consequences of conflict. Such attacks are entirely unacceptable and policy developments must reflect this paradigm.

At policy level, we face a dichotomy: on the one hand, the main causes for concern identified by the analysis of the challenges faced by humanitarian actors are non-compliance with International Humanitarian Law and the rule of law more generally, and the lack of accountability for those who commit crimes. In addition, principled humanitarian responses are increasingly politically polarized or used as a foreign policy tool. States and donors enact new laws and measures which put humanitarian and health workers at risk, delay the response, and impede our access and acceptance. As an illustration, sanctions and counter terrorism regulations threaten our operations by requiring measures such as the request to screen final beneficiaries, which is a red line

<sup>1.</sup> Global humanitarian overview 2022

<sup>2.</sup> https://data.humdata.org/visualization/ukraine-humanitarian-operations/?ga1&gclid=CjwKCAjwgr6TBhAGEiwA3aVulcc8LZ9qQuVnWWT3nCddPe0Hj\_671oGvwYqoOzKwHMRcbocPprAhDxoCnTkQAvD\_BwE as of the 2nd of May

<sup>3.</sup> https://www.humanitarianoutcomes.org/figures\_at\_a\_glance\_2021

for humanitarian actors. Furthermore, the multiplication of administrative and bureaucratic impediments tends to undermine the response and its principles.

On the other hand, thanks to the leadership of some key states and actors, a number of initiatives have emerged to galvanize political action. In 2019, France and Germany launched the call for humanitarian action<sup>4</sup> to bolster respect for IHL. In 2021, a series of discussions<sup>5</sup> on "ensuring the protection, safety, and security of humanitarian workers and medical personnel in armed conflicts" were organised in New York. At UNSC level, the UNSG announced the appointment of a special advisor on the preservation of humanitarian space,<sup>6</sup> this has not yet happened but could play a critical role in this area. Recently, at the European Humanitarian Forum, the commissioner announced the launch of an independent IHL monitoring mechanism or "observatory".<sup>7</sup>

These initiatives have identified the main threats and challenges and formulated policy recommendations. It is now the time for actors to operationalize and set them in motion across the board from Prevention, through Protection, to Prosecution; ensuring that we collectively prevent attacks against humanitarian and health workers, uphold their protection, and prosecute the perpetrators of crimes to fight impunity.

The NGO community in all its constituent parts has a crucial role to play in implementing the main recommendations, notably those which emerged from the "discussion series". It will be crucial to launch policy dialogue to build a concrete action plan and pursue efforts to move from political commitments to concrete action. That is why, ACF, MdM and HI, as part of a programme funded by ECHO, are eager to continue the discussion after the summer and organize dialogues with NGOs, academics, and networks to reach a joint agreement. This policy dialogue will help to support further engagement and work collectively to translate recommendations into concrete action. Should you be interested in participating, please contact Anne Garella, Consortium Coordinator ACF, HI, MDM: agarella@ actioncontrelafaim.org.

> Anne Garella, Consortium Coordinator Action Contre la Faim – Humanity and Inclusion – Médecins du Monde

"In 2020, 484 aid workers were the victims of serious incidents, 117 of whom were killed, 242 wounded, and 125 kidnapped. Such attacks are entirely unacceptable and policy developments must reflect this paradigm."

<sup>4.</sup> https://www.diplomatie.gouv.fr/en/french-foreign-policy/united-nations/multilateralism-a-principle-of-action-for-france/the-call-for-humanitarian-action/

<sup>5.</sup> https://www.eeas.europa.eu/sites/default/files/outcome\_document\_-\_discussion\_series.pdf

<sup>6.</sup> https://reliefweb.int/report/world/under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator-martin

<sup>7.</sup> https://www.eeas.europa.eu/sites/default/files/eu\_cssr\_janez\_lenarcic\_ihl\_hle\_unga76\_20210922.pdf

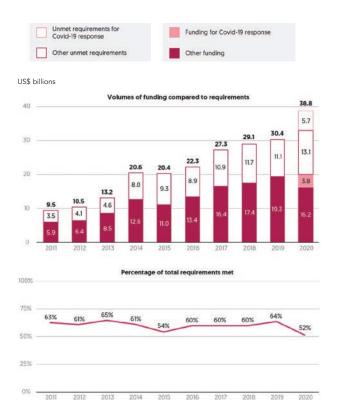
### **IN LIGHT OF THE WAR IN UKRAINE,** THE EUROPEAN UNION HAS A CRITICAL ROLE TO PLAY IN URGENTLY CHANGING THE FUNDING MODEL FOR HUMANITARIAN AID

### THE ISSUE

#### ENABLING PRINCIPLED HUMANITARIAN AID

The war in Ukraine is driving the world into a humanitarian crisis of epic proportions due to its enormity, intensity, and extent of the damage it is creating. The ensuing solidarity has resulted in a strong mobilization of citizens, associations, and states. We can only rejoice at this. However, the question of how to finance this new emergency as well as its potential consequences on the global humanitarian system arises immediately. This new tragedy occurs at a time when previous major and longlasting crises are still unresolved and tend to be forgotten.

With the Covid 19 outbreak, the financial resources have already reached an unprecedented level of deficit in the funds collected in 2020. For the first time in ten years, the amount of money considered necessary by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) has fallen to only 50% of expected commitments this year.



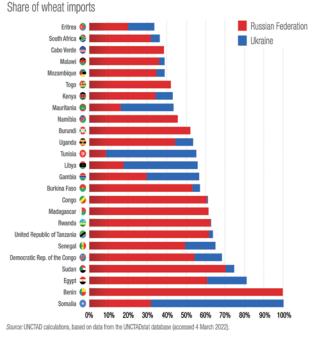
Graphic 1. Global Humanitarian Assistance, report 2021. Figure 2.2, "Volumes of assistance compared with appeal requirements", p33.

Even before the crisis in Ukraine, the economic model of the humanitarian system appeared to be flawed, if not obsolete.

Over the last decade, government funding has consistently represented 75% of the financial resources mobilised to respond to humanitarian crises. However, nearly all the money raised comes from a small group of 20 countries.

The Russian-Ukraine conflict had an immediate impact on oil and food prices. African countries are potentially the most vulnerable to the impacts of the European conflict.

# African dependence on wheat from the Russian Federation and Ukraine



Graphic 2. UNCTAD Rapid Assesment, 16 March 2022, « Wheat Dependence in Africa and Least Developed Countries », p5.

All of this inevitably raises concerns, especially given that international financial support to Yemen fell by 40% in 2020, and that only 50 per cent of the sums asked at the last donors' conference on Afghanistan for the year 2022 have been pledged to date. The shockwaves caused by the war in Ukraine highlight the fragility of the current funding model on which humanitarian aid is based.

On the one hand, this model puts us in a constant state of shortage of funds to distribute. On the other side, it portrays international aid as a tool derived from a Western interventionism. Both of these factors work together to help reduce humanitarian space.

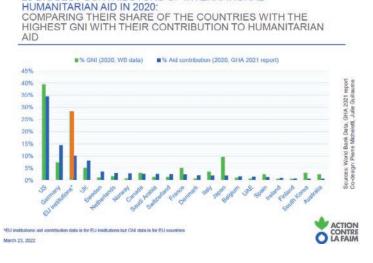
The European Humanitarian Forum was an opportunity for INGOs to advocate for changes in funding modalities.

### PROPOSALS FOR URGENT CHANGES THAT THE EU CAN INITIATE AND CHAMPION

These proposals were the subject of a recent bilateral meeting between ACF and EU Commissioner Lenarčič on the margins of the European Humanitarian Forum in Brussels in March. It is important to highlight that the funding from the EU Institutions combined with the funding from a limited number of Member States makes the EU one of the world's largest donor of humanitarian aid. This gives legitimacy to the EU, but also a responsibility to change the system.

1. More than 57 countries make up the group defined by the World Bank as high income. All these countries should logically contribute to the financing of emergency aid.

The EU's mobilization can help to change the current finance system, starting with applying this rule to all 27 EU member states.



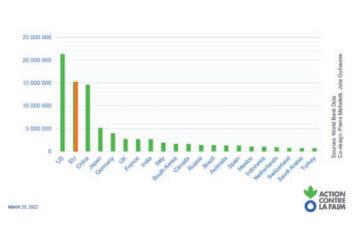
20 BIGGEST CONTRIBUTORS OF INTERNATIONAL

Graphic 3. Source : Action Contre la Faim – France, Julie Guillaume and Pierre Micheletti. Alternatives économiques/Alternatives Humanitaires (joint publication), March 2022. According to the previous graph, just 10 out of 27 EU countries were voluntarily, outside the funding provided by the European institutions within the framework of the overall budget of the Union, contributors to humanitarian aid in 2020, for a total of USD 8.2 billion, i.e. 20.5% of the USD 40 billion in humanitarian aid.<sup>8</sup> The support of European donor countries is not always correlated to their Gross National Income (GNI). The combined GNI of the 27 EU Member States amounts to 15,320 billion USD2 or 17.8% of the world's GNI, and 28.4% of the GNI of the 57 high-income countries.

2. If the EU implements this rule of contribution for the 27 Member States, beyond the response to the crisis in Ukraine, it will be able to take this extension to the United Nations (UN), in order to vote on an enlargement of the contributions to all 57 richest countries.

Graphic 4 below particularly shows that the major economic powers, among the 20 countries with the highest GNI, are not contributors to the humanitarian aid envelope. China, Russia and Indonesia are among them.





Graphic 4. Source: Action Contre la Faim - France, Julie Guillaume and Pierre Micheletti. Internal document ACF - France, March 2022.

3. The EU - and then the UN - should be encouraged to change the funding system from one based on voluntary contributions alone to one in which the UN General Assembly votes on mandatory contributions, calculated for each country on the basis of its GNI. This measure may seem unrealistic, or it may meet with a lot of resistance from high"How can we accept the existing incapacity of the world's wealthiest nations including the EU Member States, to raise a sum of money for global humanitarian aid that represents only 10% of the annual turnover of a private company like Amazon?"

income countries. However, it should be noted that it represents a minimal effort from rich countries. Based on the economic results of the year 2020, each one should contribute 0.07% of its GNI!

- 4. It is also important to renounce from the logic of "earmarked donations" which allows a country to pick and choose which crises it supports. Governmental donations, which will be mobilized in accordance with the new guidelines, will be utilized to develop a "humanitarian pooling fund," which will combine all contributions from all countries without distinction.
- 5. A non-partisan international body (such as a tripartite commission, OCHA, the Red Cross movement and a representative of the coordination of international NGOs) will meet regularly to decide, on the distribution of the annual financial envelope, on the basis of the needs identified by the coordinated UN appeal(except in the case of new emergencies). This body must be protected from the Security Council's internal political disputes.
- 6. To maintain their ability to act in any crises, NGOs should be exempted from the application of anti-terrorism laws (COTER). They should be exempted from any injunction to participate in the screening of their programme beneficiaries for suspected terrorists. This strategy puts them at risk in relation to certain belligerents.
- 7. Within the framework of the funding provided to NGOs, the amount of administrative costs assigned to them must be increased. Over the years, legitimate but costly administrative procedures have emerged (prevention of sexual violence, computer security, financial traceability in the fight against terrorism, etc.). These expensive procedures puts a strain on the financial balance

of NGOs and, in an effort to preserve the budget to deliver humanitarian aid to the most vulnerable, exposes them to unhealthy work rhythms and managerial practices that generate social tensions.

8. It is critical to put the Istanbul Summit's recommendations into action, in a binding manner, which aim to ensure that 25% of the yearly financial envelope is made up of funds managed by local actors.

Only national actors committed to strict compliance with the humanitarian aid principles should be eligible for this envelope.

The mobilisation of European civil society organisations - based on the competence and operational involvement of international and national NGOs - is fundamental to promoting a structural change.

How can we accept the existing incapacity of the world's wealthiest nations including the EU Member States, to raise a sum of money for global humanitarian aid that represents only 10% of the annual turnover of a private company like Amazon?

It should be remembered that INGOs contribute to raising 25% of the annual budget mobilized by humanitarian responses through their donor appeals, and that they implement nearly 40% of the financial envelope on the ground. This financial and operational reality is the basis of their legitimacy to influence the current shortcomings of the economic model for humanitarian action.

The main issue at stake when reforming the funding system is to preserve humanitarian aid efforts and the universal principles which underpin their legitimacy – the latter themselves constituting the fundamental pillars for action: humanity, neutrality, impartiality, and independence.

#### Pierre Micheletti, Chairman of Action Contre la Faim – France (Action Against Hunger).

Last book published: 0.03 % ! Let's transform the international humanitarian movement!, Parole, 2020. Also published in French 0,03 %. Pour une transformation du mouvement humanitaire international, Parole, 2020.

### THE IMPACT OF SANCTIONS ON PRINCIPLED HUMANITARIAN ACTION

### THE ISSUE

An evacuation train from the city of Kramatorsk in Donetsk Province in eastern Ukraine Photo: Christian Jepsen/NRC

In the last few years, the consequences of sanctions on principled humanitarian action have received significant attention, stemming from their growing impacts as well as from the large body of research which has identified and analysed these impacts. Sanctions, according to research, can have a wide-ranging negative impact on principled humanitarian action. They affect the actors' ability to engage with non-state armed groups (NSAGs), who may be designated as terrorists, they hinder the actor's attempts to secure access and their ability to carry out certain types of programmes, such as providing of cash-based assistance Furthermore they block the organisation efforts to transfer money needed to sustain our activities into our areas of operations.

### PRINCIPLED HUMANITARIAN ACTION

Sanctions may undermine humanitarian organisations' ability to apply the humanitarian principles such as humanity, impartiality, neutrality, and independence.<sup>9</sup> Guided by these principles, humanitarian organisations work to ensure that assistance and protection go to those most in need. As well as forming the basis of our work,

the principles enable humanitarian organisations to gain and maintain acceptance from communities and parties to conflicts, helping ensure the safety of staff. The ability to uphold these principles has never been more crucial, given the increasingly complex nature of today's humanitarian problems.

## THE EMERGENCE OF HUMANITARIAN CARVE OUTS

One way to address and mitigate the impact of sanctions on principled humanitarian action is through the application of humanitarian exemptions. Humanitarian exemptions carve out a space in sanctions regimes for principled humanitarian action, ensuring that sanctions do not impede humanitarian actors from providing principled humanitarian assistance and protection to populations in need.

In 2010, the UN Security Council (UNSC) set a precedent by issuing a humanitarian exemption to the sanctions regime for Somalia, stating that the sanctions "shall not

<sup>9.</sup> See, for example, Kate Mackintosh and Patrick Duplat, Study of the Impact of Donor Counter-Terrorism Measures on Principled Humanitarian Action, United Nations Office for the Coordination of Humanitarian Affairs (OCHA) and Norwegian Refugee Council (NRC), July 203; Jessica S. Burniske and Naz K. Modirza-deh, Pilot Empirical Survey Study on the Impact of Counterterrorism Measures on Humanitarian Action, Harvard Law School Program on International Law and Armed Conflict, March 207; Emma O'Leary, Principles under Pressure: The Impact of Counter-Terrorism Measures and Preventing/Countering Violent Extremism on Principled Humanitarian Action, NRC, June 208. Emma O'Leary, Politics and principles: The impact of counterterrorism measures and sanctions on principled humanitarian action, IRRC No. 916-917, February 2022.

apply to the payment of funds, other financial assets, or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia. $^{10}$ 

Humanitarian exemptions are often regarded by humanitarian organisations and by some States as the best way to safeguard humanitarian space and protect principled humanitarian action from the detrimental implications of sanctions. Humanitarian exemptions "create a space in sanctions and counterterrorism regimes for forms of principled humanitarian action, allowing humanitarian actors to deliver their services without the risk of contravening those measures."<sup>11</sup>

However, there is not yet consensus among States regarding the use of humanitarian exemptions in sanctions regimes, with some States supporting their use, and others raising concerns about the possibility of 'loopholes'. In the absence of this consensus, some States and regional bodies have introduced licenses (known as derogations at EU level) within their sanctions regimes as an alternative measure. However, humanitarian organizations may be required to seek for permission to do activities that might otherwise be sanctionable on a caseby-case basis. These are not considered the best option the application process can be extremely because bureaucratic and complicated making them incompatible with humanitarian programming when combined with a slow response time.<sup>12</sup> In addition, the process can place principled humanitarian actors in the position of seeking permission from some States to carry out their activities, potentially undermining perceptions of neutrality.

## RESOLUTION 2615: AN IMPORTANT NEW PRECEDENT?

Advocacy initiatives making the case for humanitarian exemptions came to a head in response to the unprecedented humanitarian crisis in Afghanistan following the Taliban takeover in August 2021. Some members of the new de facto government have been sanctioned by the UNSC. The lack of humanitarian safeguards in the UNSC sanctions on Afghanistan resulted in major operational challenges to humanitarian organisations, as essential coordination with government ministries put humanitarian organisations at danger of violating UN sanctions and domestic laws.<sup>13</sup> Furthermore, due to fears about the

sanctions, banks became exceedingly hesitant to provide bank transactions to Afghanistan.

In response to these very real challenges for the humanitarian community, in December 2021 the UNSC passed Resolution 2615 stating that 'humanitarian assistance and other activities that support basic human needs in Afghanistan are not a violation' of the sanctions in relation to Afghanistan.<sup>14</sup> Member States were obligated to transpose Resolution 2615 into national policy which resulted in humanitarian carve outs being issued by the EU, US, UK and other jurisdictions. While Resolution 2615 does not address all the issues and challenges that humanitarian organisations face in Afghanistan, the adoption of the carve out has allowed them to continue delivering aid and has provided banks with crucial reassurance that they can continue providing their services to relief agencies working in the country.

Resolution 2615 was adopted after months of intense negotiations and advocacy efforts, with extensive time and resources invested from all stakeholders, including Member States and humanitarian organisations. This was done not just to avoid a humanitarian disaster on a level never seen before in Afghanistan, but also to establish a new precedent for a humanitarian exemption that may be used as a template for additional sanctions.

### UKRAINE AND A LACK OF ALIGNMENT ON HUMANITARIAN CARVE OUTS

At the time of writing, the humanitarian crisis resulting from the war in Ukraine has entered in its second month and has resulted in the issuing of sanctions in an unprecedented scope and scale. The humanitarian community is currently attempting to navigate this complex web of sanctions as well as differing models of exemptions and exceptions introduced by individual States and by the EU.

The US has issued two general licenses enabling non-governmental organisations to carry out specific humanitarian activities in Ukraine.<sup>15</sup> At the time of writing, the UK had not issued an exemption for humanitarian organisations; nonetheless, specific licenses are possible but require an organisation to apply for them. The European Union (EU) has issued different exemptions in its financial and trade sanctions. The financial exemption is limited only to the

14. https://digitallibrary.un.org/record/3952024?ln=en

<sup>10.</sup> https://digitallibrary.un.org/record/678952?ln=en

<sup>11.</sup> Katie King, Naz K. Modirzadeh and Dustin A. Lewis, Understanding Humanitarian Exemptions: UN Security Council Sanctions and Principled Humanitarian Action, Harvard Law School Program on International Law and Armed Conflict Counterterrorism and Humanitarian Engagement Project, April 2016, p. 8.

<sup>12.</sup> Peter Maurer, "Without Urgent Action to Protect Essential Services in Conflict Zones We Face Vast Humanitarian Disaster", speech given to the UN Security Council Open Debate on the Protection of Objects Indispensable to the Survival of the Civilian Population, 27 April 2021, available at: https://www.icrc.org/ en/document/without-urgent-action-protect-essential-services-conflict-zones-we-face-vast-humanitarian

<sup>13.</sup> https://blogs.icrc.org/law-and-policy/2022/02/03/carve-out-kabul-resolution-humanitarian-afghanistan/

<sup>15.</sup> https://home.treasury.gov/system/files/126/ukraine\_gl23.pdf

https://home.treasury.gov/system/files/126/russia\_gl27.pdf



Zaimati became an IDP settlement in Qala-e Naw city of western Badghis province. Photo by Christian Jepsen/NRC

"Humanitarian exemptions carve out a space in sanctions regimes for principled humanitarian action, ensuring that sanctions do not impede humanitarian actors from providing principled humanitarian assistance and protection to populations in need."

UN, IFRC and ICRC, while other organisations are obligated to apply for a derogation through an EU member state. The trade exemption is broader and applicable to other humanitarian organisations.<sup>16</sup>

In relation to the situation in Ukraine, not providing the same level of comfort to all humanitarian organizations across all sanction regimes can lead to delays, confusion, and self-censorship – some organizations may choose activities and operational locations that are deemed less risky for fear of running foul of EU sanctions. The EU exceptions have also included a facility to allow Member States to issue their own licenses and stipulates that in view of frequent delays experienced by organisations an authorisation shall be considered granted if a Member State does not respond within five working days. This is a new and innovative approach in the absence of a general humanitarian exemption, and we are yet to see how this will be implemented in practice across Member States.

The complex web of sanctions has made it difficult for organisations trying to navigate their exposure to risk based on their country of registration and sources of funding. Delays between the issuing of sanctions and humanitarian carve outs has created an environment of uncertainty resulting in difficulties in planning operations thus diverting resources away from operational priorities. An opportunity has been missed to learn from Resolution 2615 on Afghanistan, using it as a blueprint to issue similar humanitarian exemptions across the board at national and regional levels. Humanitarian organisations call on States and regional bodies to coordinate on the design of humanitarian carve outs, ensuring alignment of scope and language. Humanitarian safeguards should be built into sanctions regimes as they are drafted, not only when the negative consequences of sanctions surface. This enables humanitarian organisations to continue providing lifesaving aid where it is most needed. The burden of risk should not slip back onto the shoulders of those organisations on the front line of this crisis. The complex nature of the humanitarian crisis in Ukraine has created a situation where the protection of principled humanitarian action is particularly vital. Humanitarian exemptions such as the one so hard fought for in UNSC Resolution 2615 set a strong precedent to progress in our joint commitments to safeguard principled humanitarian action.

Cherise Chadwick,Norwegian Refugee Council Project Manager- Impact of Counterterrorism and Sanctions on Principled Humanitarian Action

<sup>16.</sup> https://www.consilium.europa.eu/en/press/press-releases/2022/04/13/eu-introduces-exceptions-to-restrictive-measures-to-facilitate-humanitarian-activities-in-ukraine/?utm\_source=dsms-auto&utm\_medium=email&utm\_campaign=EU+introduces+exceptions+to+restrictive+measures+to+facilitate+humanitarian+activities+in+Ukraine

### **FROM EMERGENCY TO LONG TERM RECOVERY:** GOAL'S CRISIS TO RESILIENCE FRAMEWORK IN SYRIA

### THE ISSUE



GOAL's bread market system. Bakery in Harbanoush in Idlib, Northwest Syria. © GOAL Global

Responding to the needs of people affected by humanitarian crisis has been at the core of GOAL's DNA for the past 45 years. In its work, GOAL stands with local populations and actors, to assist them overcome crisis and support them on their journey from crisis through recovery to longer-term resilience.

For GOAL, crises occur when local systems are unable to respond to or continue to function when confronted with risk events. GOAL works to deeply understand the shocks and stresses that threaten the health, safety, security and wellbeing of affected populations.

GOAL maximises the impact of its interventions by applying its Crisis to Resilience (CTR) Framework, that focusses on protecting, stabilising and strengthening local systems in crisis affected contexts. The ultimate objective being to enable local systems to address urgent humanitarian needs, to prepare for and respond to crises, and to function and thrive when faced with crises.

No matter how fragile or collapsed the local situation, there are always systems of some sort in place, albeit often overwhelmed or under attack. There are always local actors with unique knowledge and capabilities. In GOAL, we analyse the local context in order to design a response that provides life-saving emergency assistance and contributes to building resilience in health, nutrition, food security and livelihoods. Our focus is on stabilising and strengthening systems via a four pillar approach;

#### **PILLAR 1: ANALYSING THE SYSTEMS**

Even in the most fragile contexts there are pre-existing local systems and GOAL works to understand these before offering assistance in emergencies, health, WASH, nutrition, food security and livelihoods. GOAL maps existing systems and identify gaps that can be filled and linkages that can be made. In this way, we will support the maintenance of essential goods and services and build readiness for future crises.

### PILLAR 2: PARTNERING AND LOCALISING WITH MULTIPLE ACTORS

Understanding that Local systems are made up of multiple actors that are the principal catalysts of change. GOAL will facilitate change alongside these permanent local actors, knowing that they will remain in the system long after GOAL has departed. This ensures that our efforts support established local systems and avoid duplication being carried out by resident actors. This is part of GOAL's commitment to progressing the ambitions of the localisation agenda.

#### PILLAR 3: ADAPTING TO CHANGE AND RISK

As crises are characterised by unpredictability, risk and threats, GOAL operates with a proactive approach to risk-monitoring, and a readiness for adaptation.

### PILLAR 4: BUILDING TRUST IN COMPLEX, HIGH-RISK SCENARIOS

Humanitarian crises are characterised by risks to all stakeholders present. GOAL is deeply aware of the risk of corruption, fraud, abuse, discrimination and violence in crisis settings which often exacerbate conflict, inequality and exclusion. To gain the trust necessary to contribute to long-term resilience, GOAL commits to the highest standards of transparency and accountability to all its stakeholders.

### THE CRISIS TO RESILIENCE FRAMEWORK IN PRACTICE – GOAL'S RESPONSE IN SYRIA

In Syria, GOAL provides humanitarian assistance to help local communities meet their basic needs in a way that minimizes contributing to conflict through "do no harm" practices and builds coping strategies to navigate future shocks related to both conflict and disaster. GOAL's programming focuses on providing immediate relief and basic humanitarian support to communities in Idleb and North Aleppo, including displaced populations, while the broader focus on stabilizing and strengthening local systems helps build longer term resilience.

GOAL's bread market system programming is designed to provide bread, a staple food in Syrian society, at a reduced price to communities. GOAL provides critical flour and yeast inputs to 34 bakeries that supply bread at agreed subsidized rates and agreed conditions to a network of 400 plus vendors across northwest Syria. Bread is purchased from GOAL-supported bakeries at a reduced price (38% reduction from the market price), in order to increase access to fresh bread to more than 560,000 people. GOAL works with a range of stakeholders in the market system to support its operation and monitor market prices. GOAL's Water system programming provides sustainable access to clean, piped drinking water each day for more than 1 million people. When the conflict left no state institutions to manage the water system network in Idleb, GOAL stepped in to temporarily replace the state's function in four of the largest municipal water units. The program does this through 66 water pumping stations and four Water Units, the water supply coordination mechanism, mainly through investments in critical infrastructure and fuel provision for the operation of pump stations. The program provides capacity building to Water Units and salary support for the over 300 staff that operate these water systems. These activities support increased water needs due to the arrivals of displaced populations, and they also improve the governance and accountability of the water supply system in the long run.

GOAL's successful work in northwest Syria highlights how the Crisis to Resilience Framework can successfully achieve a Disaster Risk Reduction (DRR) and support local systems in Fragile and Conflict Affected Contexts (FCACs), responding to immediate humanitarian while engaging local systems to minimize doing harm and maximize contextual opportunities to build longer term resilience.

This work highlights how programming that integrates immediate and long-term needs has the potential to effectively respond to crisis conditions triggered by conflict, while also reducing disaster risks over the long term. It also shows that a systems approach can also build resilience where opportunities exist by leveraging, building and supplementing local capacity throughout the supply and service chain in a protracted conflict area.

GOAL Global



GOAL's bread market system. Bakery in Harbanoush in Idlib, Northwest Syria. © GOAL Global

### **CARITAS CZECH REPUBLIC:** SUPPORTING UKRAINIANS AT HOME AND ABROAD



Refugees fleeing Ukraine. © Philipp Spalek / Caritas

The war in Ukraine has entered its fourth month. Since the beginning, we have seen a remarkable outpouring of support for the Ukrainian people, with donors, companies and organization generously supporting the humanitarian response. Thanks to their support, Caritas Czech Republic is able to assist both Ukrainians in their country, as well as those who have had to flee it.

#### HUMANITARIAN AID TO UKRAINE

From the onset of the Russian aggression, Caritas Czech Republic (CCR) knew that it would be involved in the humanitarian response . The fact-finding team (which included our director) quickly set out towards the Ukrainian border to confirm the needs on the ground. Simultaneously, we launched a public collection that became the first source of funding for our humanitarian shipments. In collaboration with local Caritas organisations in Ukraine, we began gathering requests for particular items, such as non-perishable foodstuffs, hygiene products and later medical supplies as well as electric generators. Everyone in CCR's headquarters was instantly involved in this extraordinary surge of solidarity, regardless of their typical professional tasks, from procurements, to logistics, to fundraising. The beneficiaries of our aid were local Caritas organisations, such as the one in Marioupul or in Tyachiv. Our shipments were also destined to psychiatric hospitals in Kyiv and Zaporozhye.

### **HELP IN MOLDOVA**

Moldova was another country where the CCR intervened. Our longtime presence in the country enabled us to be part of the humanitarian response from the start. As hundreds of thousands of Ukrainian refugees crossed the border, they were in dire need of temporary shelters, food and hygiene items as well as psychological support. CCR responded to the reception centers across the country with beds and linen as well as refrigerators and washing machines. Our colleagues provided also immediate psychological support to people traumatized by bombings and combats that took place in proximity of their homes.

Recently, Caritas Czech Republic has launched an ECHO funded project to support refugees that have remained in Moldova. This project will provide both financial assistance to numerous beneficiaries (MPCA) as well as social security through transitional safety net. Aside from that, we will keep delivering supplies to reception centers and provide mental health assistance to the most vulnerable.

#### SUPPORTING REFUGEES IN THE CZECH REPUBLIC

Nearly 350,000 people fleeing the war have already arrived in the Czech Republic, the majority of whom are women with children and the elderly. CCR assist them in basic needs such as accommodation, clothing, food and help with visas, school, medical care, and interpreting.

The Young Caritas movement was particularly active in providing support. In the beginning, our volunteers assisted newly arrived refugees in the process of obtaining humanitarian visa as well as settling down in their new environment. Recently, the biggest meeting room of CCR head-quarter building in Prague, was transformed into an adaption center for Ukrainian children aged from 2,5 to 7 years. They play while their parents work, and they learn the language so that they may integrate into the mainstream education system in autumn.



Provisions to reception centers © Caritas

#### IT IS NOT OVER...

CCR will continue to support both Ukrainian refugees in the Czech Republic and people in need in Ukraine. We recently obtained funds from the Czech Ministry of Foreign Affairs and Irish Aid to conduct initiatives together with Caritas Ukraine with the aims of increasing access to health and shelter for the country's internally displaced people.

> Jan Liska, Institutional Funding Coordinator Caritas Czech Republic

## ICRC Interview with Knut Dörmann,

Head of Delegation to the EU, NATO and the Kingdom of Belgium International Committee of the Red Cross (ICRC)

### VIEWS ON THE EU



#### I. Ensuring compliance with International Humanitarian Law is among the key challenges humanitarians face. Why is it so important?

International Humanitarian Law (IHL) stems from a recognition that even wars have limits. What would stop conflicts from escalating to barbarity if IHL did not exist? Or in the words of the ICRC's President Peter Maurer in front of the Human Rights Council – IHL is the line between barbarity and our common humanity.

The rules of IHL set out what can and cannot be done during an armed conflict. The main purpose of IHL is to maintain some humanity in armed conflicts, saving lives and reducing suffering. It applies independently from the reasons and the origins of the conflict, and all parties, governmental forces and non-State armed groups, are bound by it. IHL is a recognition that those who are not or no longer participating in the hostilities must be protected under all circumstances. Civilians, detainees, the wounded and sick - all these people who do not or no longer take a direct part in hostilities, and thus do not influence the calculus of winning a war - deserve to be protected. That is why all parties of a conflict must adhere to the obligation of humane treatment, the prohibitions of torture, of rape and sexual violence, but also other important provisions related to the protection of medical, relief and humanitarian personnel, and their facilities. Under all circumstances, those who are there to serve the persons affected by an armed conflict must be respected and protected.

Respecting IHL is crucial first and foremost for those immediately affected by armed conflicts, but respect of the rules also has an impact on what happens in the aftermath of an armed conflict. The more destruction is caused through violations of IHL, the more resources will be necessary in reconstruction after conflicts; the more violations have been committed, the more difficult it will become in the long run to hope for reconciliation and to re-build peace. A conflict fought in disregard of IHL is more likely to leave enduring grievances that could erupt again.

#### 2. The principles of neutrality and impartiality, which are fundamental to humanitarian action, have been under attack in the recent conflict in Ukraine. Can you briefly describe their vital importance for the ICRC?

These are not merely lofty principles, they represent a means to an end, a way of working that allows us to reach, help and in many cases save the lives of civilians, no matter what side. Conflicts are generally characterised by polarisation, with at least two sides with opposing interests and positions. In such situations, to gain and maintain access, the ICRC must build and sustain the trust of all the parties involved, and neutrality is vital for this. Respect of neutrality must happen at all times. If the ICRC were perceived as acting in a non-neutral way in a particular conflict, as taking sides, or having a political agenda, this would also be watched by actors in other conflicts globally, and would almost certainly affect its perception more widely.

Neutrality is one of the fundamental principles of the Red Cross Red Crescent Movement – the seven principles being humanity, impartiality, neutrality, independence, voluntary service, unity and universality – and they guide us under all circumstances. Neutrality means that we would not engage in any type of dispute of a political, racial, religious, or other nature. We are not neutral or indifferent when it comes to the suffering of the people, we are on the side of all people affected by an armed conflict and suffering from violations of IHL and we make this heard to those who have a responsibility and influence on their plight.

To us, neutrality means maintaining a dialogue with all parties – state or non-state –, because they are the ones who are ultimately responsible for compliance with IHL, and we need to draw their attention to the obligations of the law. If we have reason to believe that IHL has been violated, it is only through dialogue and the ability to engage with all parties that we can make a difference. The ICRC is indeed mandated to engage in such humanitarian dialogue under the Geneva Conventions, ratified by all States. We conduct humanitarian diplomacy and bilateral and confidential dialogue all over the world. Such dialogue is also essential for the ICRC to be accepted as a neutral intermediary on humanitarian issues.

For our operating model, it is equally important that we obtain the required security guarantees for our staff. To obtain such assurances, we need to speak with all parties, independent of the causes or origin of a conflict. For all these reasons, the principle of neutrality is an integral part of what we do and how we operate.

Impartiality is another key principle of our work, and it has been explicitly recognised in IHL treaties. These treaties give specific prerogatives and protections to the ICRC and any other impartial humanitarian organization. Impartiality means to provide assistance and protection to people based on their needs without any adverse distinction.

The ICRC's confidential working modality is tightly linked to the principles of neutrality and impartiality, and the related states' expectation that we act in a neutral and impartial way. As a consequence, international tribunals have recognized for the ICRC an exemption from testimony in front of a court so that we cannot be compelled to reveal any findings about violations observed. Such findings are part of our bilateral confidential dialogue with the states.

In present times, we live in a polarised world where a narrative is taking shape that you are either with us or against us. In such times and for the benefit of persons that IHL tries to protect, the need for neutral and impartial humanitarian action is more necessary than ever.

3. ICRC has condemned the campaign of misinformation about its work in Ukraine. How does your organization react to misinformation campaigns? And more generally, how does disinformation, misinformation or hate speech challenge humanitarian action?

It In general, we are seeing that misinformation, disinformation and hate speech (MDH) are increasing, often amplified through social media. It is true that quite often, particularly in the European Union, but also elsewhere, this phenomenon has been mostly associated with interferences into electoral processes, into democratic processes and so forth. However, MDH increasingly impacts conflict settings as well. MDH can change conflict dynamics, thus it is essential to analyse its extent and effects much more closely. It can heighten violence and hatred, or simply harden positions. With the use of social media, misinformation is amplified and spreads more widely in a shorter time frame. One should bear in mind that is not limited to contexts with a high level of digitalisation. In fact, whatever goes online will also travel offline and will be propagated by more traditional channels.

In contexts where people are already vulnerable, the risks will be even bigger as they do not necessarily have the same means to respond to misinformation and disinformation. For example, in peacetime situations, societies might be able to debunk a fake news, but this would be more difficult in conflicts zones. It is therefore important to approach MDH through a conflict lens and a protection approach.

Misinformation also affects organisations like the ICRC. It has happened in the Ukraine/Russia conflict but also in other conflicts. For example, the ICRC was wrongly accused of participating in forced evacuations – something that ICRC would never engage in. We would not support any operation that would go against the people's will and our principles.

Our organisation was certainly harmed as a result of this. Such events can undermine the trust in the work of the ICRC, in addition to impacting the security of our people in the field. It may also have further implications for other members of the Red Cross and Red Crescent Movement. It is vital to assess on a case-by-case basis how to respond and put an effort to debunk and to give our explanations. In this particular incident in Ukraine, we issued a press release and had several key members of the organisation explain our work.

#### 4. Cyberattacks are a real threat to humanitarian actors. In recent years the number of these attacks have grown, and your organization has also been under attack. What are the risks related to these attacks and how are you addressing them?

Cyber attacks are not a new occurrence, but we are seeing that there are more capabilities created in recent years, more actors resorting to them. Outside of armed conflicts, we have witnessed several attacks with malwares and ransomware affecting medical infrastructure or intellectual property. During the COVID-19 pandemic, certain cyber-attacks were launched against hospitals and vaccination production facilities. Eminent figures, including our President, have made a call to the international community and states to work together to ensure the sanctity and safety of health facilities. Now we are witnessing cyber warfare along kinetic attacks in situations of armed conflict and it is having an impact on assets and facilities that would ordinarily be protected under international humanitarian law.

We and the humanitarian community have warned repeatedly that attacks on humanitarian actors, humanitarian data could happen, and they did, tragically.

The ICRC itself was hit end of last year and suffered a serious data breach, we were the object of a sophisticated targeted attack, and the data of 500,000 already vulnerable people – missing people and their families, detainees and other people receiving services from the Red Cross and Red Crescent Movement – were breached. If such information becomes public, this would further exacerbate their vulnerability and their difficulties. The ICRC decided to make the breach public: to explain what happened, how the lives of the beneficiaries could be at risk and the measures we have taken.

Fortunately, the breach was contained to these 500,000 people and it did not spread elsewhere. We were also able to detect the breach thanks to our cyber protection measures. Once detected we immediately took all the affected servers offline and now, with the support of external, highly specialized firms, we are rebuilding the system. The humanitarian work that was affected by the attack needed to continue. At the same time, we have advanced and accelerated planned initiatives to improve cyber security.

In the aftermath of the data breach, we also immediately took precautions to inform the people whose data had been affected so that they would be aware and necessary steps could be taken.

Another reason that motivated the ICRC to make the attack public was to engage more broadly with the international community, states and other actors to strengthen the legal and policy framework protecting humanitarian organizations at all times. We would like this to be recognised internationally and have submitted a draft resolution to the upcoming Council of Delegates, which is the body where all national societies of the Red Cross and Red Crescent, the ICRC, and the IFRC come together. The resolution aims at serving as a basis for the Red Cross and Red Crescent Movement's collective work towards a firm consensus that humanitarian data must never be breached and that humanitarian activities must be protected online as they are protected offline.

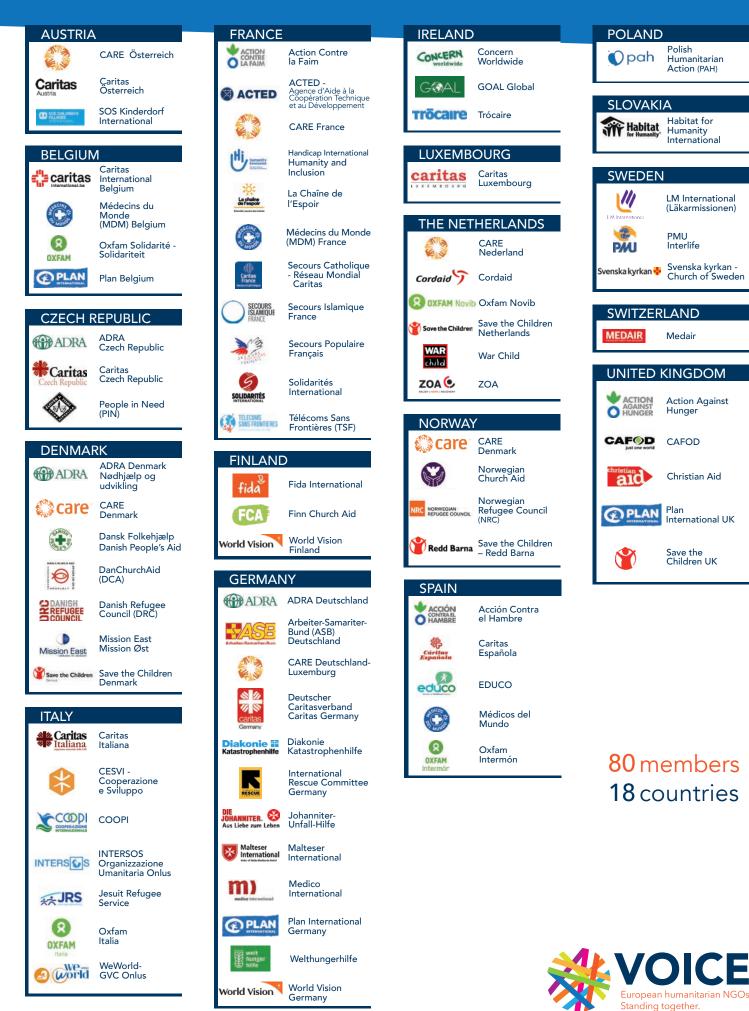
### **5.** How is digitalization changing security risk management in the humanitarian sector?

The first thing to observe is that digitalisation can have and has already had positive effects on the way humanitarian action is delivered and there are enormous benefits that come with it. Unfortunately, there are also risks, and the attack on ICRC servers mentioned above is one of them. While digitalization is advancing and is being put to the benefit of humanitarian action, in parallel it should be assessed what kind of impact digitalization can have on people living in situations of armed conflict, in situations of violence, or in other humanitarian contexts, and prevent and mitigate identified risks. It will be crucial to consider how people will cope with new IT and digital tools, how they are perceived in different contexts and to invest in digital literacy. It will be important to have a people-centric and protection approach (protection in the digital space), adopting a do no harm approach with technology.

As the humanitarian sector increasingly embraces digitalization, it will need to think at the same time about what is necessary and legally required in terms of cyber security, data security and personal data protection.

Interviewed by Roberta Fadda on 14 June 2022

### **VOICE MEMBERS 2022**



VOICE is the network of 80 European NGOs promoting principled and people-centred humanitarian aid. Collectively, VOICE aims to improve the quality and effectiveness of the European Union and its Member States' humanitarian aid. The network promotes the added value of NGOs as key humanitarian actors.

### www.VOICEeu.org voice@VOICEeu.org +32 (0) 2 541 13 60 Second Content wolceeu\_

VOICE asbl Rue Royale 71 1000 Brussels Belgium Company number: 0475213787 RPM Brussels





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