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## **United Nations General Assembly Informal debate on the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011**

18 April 2018

### **Statement of the Head of the Mechanism, Ms. Catherine Marchi-Uhel**

Mr. President, Excellencies, distinguished delegates,

It is an honour for me to address this Assembly and to present the first report of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes Under International Law Committed in the Syrian Arab Republic Since March 2011.

Since the beginning of the crisis, there have been repeated reports of atrocities committed on all sides in Syria. Allegations include widespread torture; enforced disappearance; sexual violence against females and males, including sexual slavery; and attacks against civilians and civilian objects, including schools and hospitals.

The horrors suffered by the Syrian people over the past seven years defy description. The continuing widespread death and suffering, including recent allegations on the use of chemical weapons, are a stark reminder of the importance of justice for victims.

The communities most affected by these events have been, understandably, disillusioned by the prospects of accessing that justice. So, when the General Assembly established the Mechanism in December 2016, it took a crucial step towards ensuring accountability for these crimes. The General Assembly emphasized the importance of ensuring credible and comprehensive accountability for serious international crimes as part of any political process to end the crisis in Syria.

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As you know, the Mechanism is not a court and no new criminal law jurisdiction has been created. The Mechanism cannot issue indictments, prosecute cases or render judgments. However, these limitations are, at the same time, important sources of opportunity for the Mechanism to facilitate accountability across a range of different jurisdictions – national, regional and international – now and in the future.

The Mechanism's mandate has two main components: first, to collect, consolidate, preserve and analyse evidence of violations; and second, to prepare files to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law.

Currently, this includes national courts that can exercise jurisdiction over certain crimes committed in Syria. However, in the future, these crimes could also be prosecuted at the

international level, by an existing body that acquires jurisdiction, or by a new *ad hoc* jurisdiction. It is also hoped that, in the future, Syrian courts will be willing and able to comprehensively adjudicate crimes.

The Mechanism is a fully independent body. It will not act on instructions from any entity, nor will it be influenced by the agendas of any external actor. Regarding the material it collects, the Mechanism will not import any conclusion drawn by other bodies from that material. Instead, in all instances, it will make its own objective assessment of material received and draw its own inferences, applying a criminal law standard.

The Mechanism will act impartially, meaning that it will not be biased against, or in favour of, any particular State, group or individual. Instead, it will adopt an evidence driven approach to address crimes committed in Syria regardless of any affiliation of the alleged perpetrators.

The Mechanism fully recognises the fundamental role played by civil society in documenting crimes in Syria. It is also prioritising effective approaches with regard to sexual and gender-based crimes and crimes against children. Furthermore, while its mandate focuses on criminal justice, the Mechanism will also keep in mind broader transitional justice objectives that it could facilitate through the comprehensive evidence collection it is building.

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In terms of the Mechanism's operationalisation there are important developments to report.

The Mechanism has continued to build a multidisciplinary team of professionals in the key areas of investigation, analysis, criminal law, electronic discovery, cybersecurity and information technology, as well as specialists in the areas of sexual and gender-based violence.

The Mechanism is also advancing its work to build a secure evidence collection grounded in the safe and efficient storage and preservation of information and evidence. As mandated in its terms of reference, the Mechanism is setting up a state-of-the-art information and evidence management system. This will allow it to effectively address one of the main challenges in its work, namely processing unprecedented volumes of information and evidence of crimes committed in Syria, including large amounts of images and video material.

Data protection and information security are key priorities for the Mechanism. However, procuring the sophisticated and cutting-edge systems the Mechanism needs is not without its challenges and takes some time within UN processes. While we are sparing no effort to become fully operational as soon as possible, we believe that taking the necessary time to ensure that proper systems are in place from the outset is an important investment that will repay with many efficiencies later on. The Mechanism is firm in its commitment not to compromise the safety and security of information in the Mechanism's possession, including sensitive data of victims and witnesses.

Although our full evidence management system is not in place yet, I am pleased to announce that the Mechanism has installed interim systems and equipment to store digital evidence, and has begun collecting material from a variety of sources. We have already collected more than three quarters of a million pages of documentation and we are poised to significantly accelerate our collection efforts in the coming weeks.

To facilitate this process, the Mechanism has distributed surveys to a large number of NGOs who are likely sources of material, to get a comprehensive overview of the type, quantity, format and content of material collected by them. The results of the survey

will inform further strategic planning concerning the building of our evidence collection.

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The Mechanism is continuing its engagement with various stakeholders, starting with civil society. We are prioritising engagement with Syrian NGOs, and are firmly committed to maintaining two-way communication and to ensuring that the voices of victims are heard and appropriately factored into our work. On the 3<sup>rd</sup> of April in Lausanne, the Mechanism and 28 Syrian NGOs signed a protocol of collaboration outlining a set of overarching principles to guide mutual engagement. The text of the Protocol is available on the Mechanism's website. It sets out a reciprocal understanding regarding opportunities for collaboration, in furtherance of the parties' common goal of ensuring justice for victims of crimes committed in Syria.

I am very pleased to announce that the Mechanism has concluded a memorandum of understanding with the Independent International Commission of Inquiry on Syria. This has allowed the Mechanism to acquire an important part of the material collected by the Commission over the past seven years, which my team is currently in the process of reviewing and coding.

The Mechanism continues to engage with States, many of which are willing to provide relevant information and evidence in their possession. Consultations on the revision of national laws and procedures to allow full engagement with the Mechanism continue to produce positive results.

The Mechanism is further continuing its constructive engagement with the war crimes units of various States. We have received, and are currently processing, several requests for information or evidence from national war crimes units.

In May, the Mechanism will host a workshop with prosecutors from Member States of the European Union, in the context of the Genocide Network hosted by Eurojust in The Hague. Discussions will focus on identifying areas where the Mechanism can add most value to ongoing investigation and prosecution of crimes committed in Syria. The Mechanism is also prioritising engagement with criminal justice authorities in other regions and is committed to dialogue with all relevant actors to maximise the impact of its work.

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With regard to funding, as you know, the Mechanism must currently rely on voluntary contributions. Initial pledges are encouraging, and the Mechanism has so far received funding commitments from 38 States and the European Union.

The Mechanism's estimated annual operating needs for 2018 amount to just over 14 million US dollars. As of today, the funds pledged for 2018 amount to almost 12 million, of which approximately 8 million have already been received.

I would like to express my gratitude to States that have provided or are planning to provide funds for the Mechanism. At the same time, reliance on voluntary funding for accountability mechanisms is not sustainable in the longer term. In December 2017, the General Assembly called upon the Secretary-General to include the necessary funding for the Mechanism in his next budget proposal. Ensuring regular budget funding for the Mechanism would not only provide a more efficient and effective framework for the Mechanism's work, but, importantly, it would also signal that the international community is genuinely committed to justice for the victims of crimes in Syria.

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I conclude by calling upon you, Member States of the United Nations, to provide all the support needed for the Mechanism to fulfil its important task of ensuring accountability for crimes in Syria.

In particular, I call on you:

- To commit funding, preferably on a multi-year basis, and to continue to support regular budget funding for the Mechanism;
- To implement any changes to national legislative frameworks that may be required to facilitate cooperation between States and the Mechanism;
- To share relevant material about international crimes committed in Syria, including material previously provided to the Joint Investigative Mechanism and to the Organisation for the Prohibition of Chemical Weapons and its Fact-Finding Mission; and to support future cooperation between the Fact-Finding Mission and the Mechanism;
- Finally, I call on you to consider entering into cooperative agreements with the Mechanism to provide witness protection and support services.

Mr. President, Excellencies,

Those responsible for the most serious crimes committed in Syria must be identified, and criminal case files must be built as the basis for prosecutions. Perpetrators of core international crimes must be held accountable.

Only with your continued support can the Mechanism have a real impact in ensuring justice for victims of crimes in Syria. As Head of the Mechanism, I assure you all that my team and I are committed to making this a reality.

I thank you.