

# **Protocol of Cooperation between the International, Independent and Impartial Mechanism and Syrian Civil Society Organisations participating in the Lausanne Platform**

## **Context and purpose of this Protocol**

Since unrest erupted in Syria in March 2011, Syrian individuals and NGOs, often with great risk to their lives and safety, have been extensively documenting violations of human rights and international humanitarian law, some of which may amount to international crimes.

The International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Those Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 (“the Mechanism”) established under General Assembly Resolution A/71/248 (21 December 2016), is mandated to collect, consolidate, preserve and analyse evidence of violations of international humanitarian law and human rights violations and abuses and to prepare files in order to facilitate and expedite fair and independent criminal proceedings in national, regional or international courts or tribunals.

In the resolution establishing the Mechanism, the General Assembly called upon various entities, including civil society, to cooperate fully with it and, in particular, to provide it with any information and documentation they may possess, as well as any other forms of assistance pertaining to its mandate.

The purpose of this protocol is to outline a set of overarching principles to guide the engagement between the Mechanism and the signatory Syrian NGOs, and to ensure mutual understanding regarding opportunities for collaboration, in furtherance of both parties’ common goal of ensuring justice, accountability, and redress for victims of crimes committed in Syria. This protocol is intended to set out a general consensus between the parties that enables collaborative engagement, rather than addressing operational details or working procedures. These matters may be addressed in individual memoranda of understanding (MoUs) that the Mechanism may enter into with each organization, if needed and requested by either entity.

## **Principles underlying collaboration**

The Mechanism recognizes the importance of Syrian civil society’s role in documenting violations and abuses and mapping the events, and the important contribution it can make to paving the way for justice.

In line with its mandate, the Mechanism will build on the work of Syrian civil society. In doing so, it can ensure that the efforts of Syrian individuals and NGOs significantly contribute to the fight against impunity for international crimes committed in Syria. By collecting, consolidating and preserving information and evidence relating to international crimes committed in Syria, the Mechanism seeks to ensure that such evidence can be used in ongoing and future trials. By assisting national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, it

aims to facilitate and expedite fair and independent criminal proceedings and contribute to accountability.

Recognising the importance of open two-way communication, the Mechanism is committed to engaging in an ongoing dialogue with Syrian civil society organisations, as well as discussing modalities for collaboration and pro-active cooperation, and securing their commitment to providing the Mechanism with relevant information and documentation in their possession.

In approaching its work, the Mechanism will be guided by a victim-centred approach that aims to maximize the empowerment of victims and to acknowledge and promote their dignity.

The Mechanism has been greatly assisted by feedback from Syrian civil society about lessons learned from its past engagement with international actors and is committed to integrating appropriate insights into its work. Likewise, the Mechanism remains open to hearing feedback from Syrian civil society based on its future engagements and undertakes to continuously revise its approach as appropriate.

The signatory Syrian NGOs recognise the importance of collaboration with the Mechanism to further its mandate to achieve justice, accountability, and redress for crimes committed in Syria.

The signatory Syrian NGOs commit to cooperating fully with the Mechanism, including responding to its requests and keeping it updated on relevant activities and projects, such as the filing of cases relating to crimes committed in Syria in national courts.

The parties understand that the Mechanism, in line with its mandate, must retain its independence and impartiality as well as the appearance of the same. As a consequence, the parties recognise the limits inherent in the Mechanism's mandate regarding collaboration with various stakeholders, including Syrian NGOs. In particular, while the Mechanism is committed to regular consultation and hearing the views of Syrian Civil Society, it cannot take direction from any external actor regarding its strategy, selection of cases, preparation of files or any other aspect of its work.

### **Transfer of data to the Mechanism**

The Mechanism welcomes initiatives of Syrian civil society organisations to provide it with the information and evidence in their possession, which can be relevant to establishing the commission of international crimes in Syria.

Besides receiving information, the Mechanism may deem it appropriate, in some circumstances, to directly initiate contact with potential witnesses. On such occasions, the Mechanism may seek the assistance of Syrian NGOs to engage with those individuals.

The Mechanism shall use advanced information technology tools, including state-of-the art software, to ensure that all the material received is processed and stored safely, and is protected at all times.

### **Transfer of data by the Mechanism to investigative or prosecuting authorities**

The Mechanism shall not disclose to any investigative or prosecuting authority material transferred to it by an NGO without the agreement of the latter. In particular, the Mechanism shall not disclose to any investigative or prosecuting authority material transferred to it by an NGO, when such material is covered by a confidentiality agreement between the source and the NGO.

The Mechanism proposes to engage further with NGOs regarding the issue of informed consent and how it applies in different contexts, including when NGOs reach out to individuals to seek their agreement for their information to be shared with the Mechanism.

## **Protection of victims and witnesses**

The protection of witnesses and victims is of paramount concern to both the Mechanism and the signatory Syrian NGOs. The signatory parties are cognisant that many people have braved danger to secure information relevant to ongoing or future criminal proceedings and that some may be willing to testify before a court of justice.

### *Protection of personal data*

The Mechanism and the signatory Syrian NGOs are responsible for ensuring that the material in their possession, in particular the personal data of individuals who have shared information with them, is collected, stored and processed safely and securely.

The Mechanism will put in place strong security measures to minimise risks in the transfer of material, to protect the confidentiality of data in its possession, and to maximise the safety and security of victims and witnesses, including those referred to it by the signatory NGOs. Concrete measures will be taken to ensure the safe storage of physical evidence, avert cyber security threats and process electronic data in a safe and secure manner.

### *Physical protection*

The Mechanism is committed to following an integrated approach to witness protection and support, which envisages the involvement of witness security programs within relevant jurisdictions. While the Mechanism does not have the capacity to itself provide full-fledged protection coverage, such as close personal protection or a relocation programme, according to the circumstances and based on a case-by-case assessment, States may agree to provide such forms of protection at the Mechanism's request when the need arises. When the Mechanism identifies the need for special measures to ensure the physical protection of certain individuals, it may recommend that relevant States take such measures, for instance when it facilitates contacts between national prosecutorial or judicial authorities and individuals willing to testify before them.

## **Support to victims and witnesses**

The Mechanism is committed to providing services referral pathways to assist victims with whom it interacts, including for medical and psychosocial support.

The Mechanism is mindful of the risk of re-traumatisation that victims are exposed to when asked to provide an account of the facts they have witnessed. The Mechanism is committed to minimising such risk and will plan its information collection strategy accordingly.

## **Transparency and outreach**

The Mechanism will appoint a member of its team as contact point for civil society and NGOs, to facilitate coordination efforts and ensure continuity in outreach and communication.

### *Public reporting*

As established by the Mechanism's Terms of Reference, the Head shall submit reports to the General Assembly twice a year on the implementation of its mandate. Such reports will not include material or information shared confidentially with the Mechanism.

The Mechanism shall endeavour to keep Syrian civil society and the wider public abreast of developments and progress in its work. Whenever possible, and subject to operational constraints,

protection concerns and confidentiality obligations, the Mechanism will seek to share information about its progress, in particular with regard to information of a non-confidential nature.

*Feedback to Syrian NGOs that have shared information and evidence with the Mechanism*

The Mechanism, whenever possible, and subject to operational constraints, shall endeavour to provide feedback to Syrian NGOs that have submitted information and evidence, in order to allow them to build on lessons learned and also with a view to strengthening further collaboration with the Mechanism.

Feedback may include, whenever possible, indications and recommendations on the type, quality, subject-matter and format of data submitted.

**Ensuring continuous dialogue between the Mechanism and Syrian civil society**

The Mechanism is committed to ensuring a continuous dialogue with Syrian civil society.

The Mechanism welcomes the possibility for Syrian civil society to express its views, in particular regarding their collaboration with the Mechanism. To this end, the Mechanism commits to ensuring that the opportunity be given to Syrian NGOs to engage in a constructive dialogue with it on a regular basis, including in the context of meetings to be held twice a year.