



Ways out of Europe's Syria Reconstruction Conundrum

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Principal Findings

What's new? The Syrian war is drawing to a close, but whether the regime in Damascus can also win the peace is uncertain. Few appear willing or able to invest significantly in reconstruction, and Europe, which could make substantial funds available, is withholding support absent a genuine political transition.

Why does it matter? Without reconstruction, Syrians' living conditions could deteriorate and leave the country's recovery indefinitely postponed, perpetuating current instability. Yet many European leaders believe reconstruction support without substantial reforms could have a similar effect, empowering a regime intent on repression, not reconciliation.

What should be done? Europe should consider supporting small-scale rehabilitation projects on condition of no regime interference. It could also test an incremental incentives-based approach – a progressive lifting of sanctions, gradual normalisation of relations and staggered disbursement of reconstruction funds – in exchange for political reforms and regime steps to ease repressive and discriminatory practices.

Executive Summary

During eight years of war, more than a third of Syria's infrastructure has been destroyed or damaged. But while the conflict has started to wind down, reconstruction funds are unlikely to flow anytime soon. The EU and its member states have declared they will not bankroll reconstruction unless they see a political transition "firmly underway". They consider providing unconditional funds as unconstructive and possibly harmful to their strategic interest in long-term stability. This position, along with U.S. and EU sanctions on Syria, prevents major Western investments in Syria's recovery. For their part, Damascus and Moscow show no willingness to accommodate Europe's political expectations. In this stalemate, Europe should explore ways to alleviate Syrians' plight within its political limits, for example by funding small-scale rehabilitation projects on condition of regime non-interference with aid delivery. It could also test an incentives-based approach that provides incrementally more economic support if the regime takes steps toward political reforms and checks repressive and discriminatory practices.

After more than eight years of fighting, the Syrian regime appears to be emerging victorious. Yet it lacks the capacity to address the damage the war has caused to the country's physical infrastructure, human capital and economy. Nevertheless, Damascus shows no willingness to make concessions or pay a political price in exchange for international reconstruction support, whose conditions, if fulfilled, it believes would weaken its hold on power – in other words, it sees no reason to grant in a period of calm what it did not concede when facing severe military pressure. The regime's priority in securing reconstruction support is to create conditions that would allow it to reassert its authority and act like the sovereign power it used to be. For this, it would need the U.S. and EU to lift, or at a minimum relax, sanctions on Syria.

Moscow, the regime's main protector and enabler, has tried to solicit international help to rebuild Syria – partly to re-legitimise the regime and partly to stabilise the country and lay the ground for its own military exit. It appears prepared at most to press the regime into agreeing to a limited political process, including drafting a new constitution, but shows neither willingness nor ability to push the regime to make any significant concession that risks weakening it. It has told European leaders to stop clutching onto the fantasy that playing the sanctions and reconstruction card can still achieve the regime change that eight years of war failed to deliver.

That said, Russia has an interest in persuading Europe to contribute to Syria's reconstruction in order to reduce the cost of its intervention and secure international recognition for its political-military solution for ending the war. This is why Moscow led an intensive campaign in mid-2018 to convince EU member states to support reconstruction, not in exchange for a political transition, but based on the argument that it would help address the Syrian refugee crisis in Europe and Syria's neighbours.

Russia has warned Europeans not to misinterpret its motivations: it may be seeking reconstruction funds to achieve certain goals in Syria, but it has no overriding need for them, because it views its fundamental interests already secured through the regime's survival. It argues therefore that it does not need the Europeans as much as the Europeans need Russia, and that it might take steps toward certain unspeci-

fied reforms in Syria, but only if the EU lifts sanctions and starts providing reconstruction funds first.

For the U.S., EU and many EU member states, this is a non-starter. Neither the U.S. nor the EU is now inclined to lift sanctions. As for reconstruction in regime-controlled areas, since 2016 the EU has conditioned funding on genuine progress toward a political transition, as defined by UN Security Council Resolution 2254. It has framed its assistance policy accordingly, focusing on humanitarian aid and blocking funding for almost anything else. This political stance, led by the UK, France and Germany (the “E3”), assumes that supporting reconstruction without a genuine transition would be a wasted, if not harmful, investment, legitimising a regime they consider criminal. Moreover, they also view the regime’s reconstruction policy as failing to serve the majority of the population and thus aggravating one of the conflict’s main drivers. Above all, Europeans want to use the promise of reconstruction funding to push the regime toward a genuine political transition, which they view as the only way to achieve long-term stability in Syria and thus protect their strategic interests.

Still, Europe’s position has been marked by increasingly visible internal divisions on how to play the reconstruction card and, more broadly, on what political stance to adopt toward Damascus. Some European officials oppose an approach exclusively based on negative incentives; they also underline the potentially harmful impact of an EU aid strategy limited to humanitarian assistance, as this might not suffice to prevent the collapse of public services, triggering greater humanitarian hardship, instability and attendant ripple effects. Others, including the E3, argue that the lack of guarantees that aid will achieve its intended purpose and not reinforce the regime, and no real political opening, prevents them from revising their stance and aid strategy.

Divisions aside, for now Europe’s reconstruction policy remains largely stable due to three factors: the relatively limited amount of funding some EU member states allocate to small-scale rehabilitation projects that others, who apply a less flexible definition of “humanitarian” aid, may find controversial; the consensus-based mechanism for renewing EU sanctions, which militates against a single or even only a few member states opposing the majority; and the narrow financial means at the disposal of member states that might be willing to depart from the reconstruction line.

This mismatch of expectations among principal actors has contributed to the current stalemate. What Europe hopes to gain from withholding reconstruction funding collides with both Damascus’ priorities and Russia’s willingness or ability to affect them. This puts any prospect of stabilising regime-controlled areas into question. For Europe, investing fully in reconstruction may not help place the country on a better footing, but withholding reconstruction funds could hamper economic recovery and leave Syrians in enduring need.

To escape this conundrum, Europe could consider moving beyond humanitarian aid and start providing funds for rehabilitation projects in regime-held areas that could help prevent the collapse of essential public services. Initially this could be done on a small scale, such as repairing not just the broken windows of a hospital or school as some EU member states are already doing, but also rebuilding collapsed walls and roofs. It could do this on condition it can deliver funds independently, without regime interference.

Of course, such a strategy is unlikely to improve prospects for long-term stability. Europe should continue its push for political change, however modest its progress. Europeans could test a phased and incremental approach toward reconstruction based on positive incentives – small-scale rehabilitation projects, a progressive lifting of sanctions, a gradual normalisation of relations and a staggered disbursement of reconstruction funds – in exchange for the regime, with Russian support, beginning to implement Resolution 2254 or taking concrete steps on other important issues relating to ongoing, systematic abuses of the security services (including arbitrary arrest and torture), the internally displaced, property rights, military conscription, detainees and the disappeared. Such steps would not bring the horrendous Syrian conflict to a close, let alone a satisfactory one. But they might bring a modicum of positive change for the Syrian people.

Brussels/Beirut/Amman, 25 November 2019

Ways out of Europe's Syria Reconstruction Conundrum

I. Introduction

After more than eight years of war, the Syrian regime, supported by Russian airpower and Iran-backed ground forces, has retaken almost 70 per cent of the country.¹ Two parts remain out of President Bashar al-Assad's reach: Idlib governorate in the north west, an area under insurgent control whose future largely depends on the state of Russian-Turkish relations; and the partially Kurdish-ruled north east, whose fate is equally precarious in the wake of the October 2019 Turkish incursion, joint Turkish-Russian patrols and the (still symbolic) return of the Syrian army.²

The war's human and material cost has increased dramatically over the years. The conflict displaced half the population and left an estimated 11.7 million people inside the country in need of humanitarian assistance.³ It has inflicted extensive damage on infrastructure, especially in urban areas such as Aleppo, where major public installations often became military targets. At the end of 2017, reconstruction costs reached an estimated \$250 billion.⁴

Despite the need, regime investment in rebuilding, measured by official budget allocations to the reconstruction fund, has been limited.⁵ This suggests it lacks either the capacity or the will to pay or borrow funds for it.⁶ Its international allies Russia and Iran have not made any serious investments either, prioritising resource and infrastructure concessions that benefit their own economic interests more than Syria's.⁷

Countries that are or were opposed to the regime also have given no indication they will provide reconstruction funding. Although some Gulf countries have begun to shift their position, until now they have held off on making financial investments,

¹ See Crisis Group Middle East Report N°196, *Lessons from the Syrian State's Return to the South*, 25 February 2019.

² See Crisis Group Middle East Report N°197, *The Best of Bad Options for Syria's Idlib*, 14 March 2019 and Crisis Group Middle East Report N°204, *Squaring the Circles in Syria's North East*, 31 July 2019.

³ "Humanitarian Response Plan 2018", UNOCHA, www.reliefweb.int/sites/reliefweb.int/files/resources/2018_syria_mid_year_pmr_full.pdf.

⁴ "UN Security Council Briefing on the Situation in Syria, Special Envoy Staffan de Mistura", 27 November 2017. The UN Economic and Social Commission for Western Asia (UNESCWA) provided a more nuanced breakdown in August 2018, estimating that "the volume of destruction in physical capital and its sectoral distribution ... reached over \$388 billion US dollars, while the actual physical cost of destruction was close to 120 billion dollars". "Experts discuss post-conflict reconstruction policies after political agreement in Syria", UNESCWA, 7 August 2018.

⁵ The regime established an inter-ministerial reconstruction committee in 2012 that provides compensation to individuals and private-sector companies for their losses, and funds rehabilitation of destroyed infrastructure. The government allocated SYP 50 billion (around \$100 million) annually between 2013 and 2018 to the committee. "Government Seeking to Relaunch Reconstruction Committee", *The Syria Report*, 19 June 2019.

⁶ Anecdotes suggest the government has started to rebuild state services and reconnect the country's infrastructure in some areas, including the road network, electricity grid, municipal water and 4G cell network. Crisis Group phone interview, person who travelled widely in Syria in June 2019.

⁷ Jihad Yazigi, "Reconstruction or Plunder? How Russia and Iran are dividing Syrian Resources", in *Reconstructing Syria: Risks and Side Effects, Adopt a Revolution*, December 2018.

seemingly because of U.S. sanctions and diplomatic pressure.⁸ The U.S. has linked financial support for reconstruction to the withdrawal of Iran and its proxies from Syria and to “irreversible progress towards a political resolution”.⁹ This second condition accords with the EU position, defined in mid-2016, when the outcome of the battle for Aleppo made clear how the power balance had shifted in the regime’s favour. The EU links its reconstruction assistance to a political transition being “firmly underway”, an “EU objective that will enable the millions of Syrians who have been forced to flee their homes to return to them and live in peace and security in their own lands”.¹⁰ Both the U.S. and the EU have reinforced their position through sanctions and their refusal to restore full diplomatic ties with Damascus.¹¹

This report examines Europe’s approach to reconstruction in regime-controlled areas of Syria in the context of the regime and Russia’s views, and the challenges it poses. It is based on interviews between October 2018 and November 2019 with over 80 EU and European member state officials, current and former Iranian and Syrian officials, Russian diplomats and researchers, U.S. officials and representatives of international governmental and non-governmental organisations.¹² At their request, the report does not always indicate the city in which the conversations took place, nor each official’s position.

⁸ With the exception of Oman, the Gulf monarchies closed or considerably downgraded their missions in Syria after the outbreak of the uprising in 2011. In December 2018, the United Arab Emirates (UAE) reopened its embassy in Damascus. Bahrain kept its embassy open but at a lower level of representation. See “Bahrain says no interruption to diplomatic ties with Syria”, Reuters, 28 December 2018, and “U.S. pressing Gulf states to keep Syria isolated: sources”, Reuters, 18 February 2019.

⁹ U.S. Secretary of State Mike Pompeo said in a January 2019 speech in Cairo: “There will be no U.S. reconstruction assistance for areas of Syria held by Assad until Iran and its proxy forces withdraw and until we see irreversible progress towards a political resolution”. “A Force for Good: America Reinvented in the Middle East”, U.S. Department of State, 10 January 2019.

¹⁰ “EU Council Conclusions on Syria”, Council of the European Union, 16 April 2018. The Council of the European Union, known informally as the EU Council, represents member state governments. It is where ministers from each EU country meet to adopt laws and coordinate policies. See also “EU Council conclusions on Syria”, Council of the European Union, 17 October 2016.

¹¹ The U.S. embassy suspended operations, including consular services, on 6 February 2012. The EU never closed its delegation to Syria – except during a short withdrawal to Beirut from December 2012 to April 2013 – but maintains local staff only. The head of delegation, with the title of *Chargé d’Affaires*, and European staff are based in Beirut but visit Damascus on a regular basis. They have no contacts with the Syrian authorities except with the Ministry of Foreign Affairs, and not above the level of vice minister. Crisis Group interview, EU official, July 2019.

¹² Crisis Group conducted interviews with EU officials, based in Belgium, Lebanon and Jordan, from three branches. The European External Action Service (EEAS) is the EU’s diplomatic service. It helps the EU’s foreign affairs chief – the high representative for foreign affairs and security policy – carry out the EU’s Common Foreign and Security Policy. The Directorate-General for Neighbourhood and Enlargement Negotiations (DG-NEAR) is in charge of the EU enlargement process and implements assistance actions in Europe’s eastern and southern neighbourhoods to promote stability and security. The Directorate-General for European Civil Protection and Humanitarian Aid Operations (DG-ECHO) is in charge of humanitarian assistance to populations affected by natural disasters and man-made crises. At these officials’ request, Crisis Group will refer to these interviews as being with “EU” or “European” officials. Crisis Group also conducted interviews with officials of EU member states stationed in Europe (Brussels and main capitals) and the Middle East (Beirut and Amman). At these officials’ request, Crisis Group will refer to these interviews as being with “European” officials, either with or without naming the pertinent member state.

II. Damascus and Moscow Face Post-Conflict Reconstruction

A. *Putting Reconstruction Needs in Perspective*

After more than eight years of conflict, Syria's physical destruction is staggering. Cities that became battlefields between the regime and the opposition, such as Aleppo, Douma and Deraa, or that experienced fighting against the Islamic State (ISIS), such as Deir al-Zour and Raqqa, were worst affected. According to the World Bank, about 45 per cent of housing stock has suffered damage, with a quarter fully destroyed; more than half of health-care facilities have been damaged or destroyed; some 40 per cent of educational facilities have been damaged, destroyed or occupied (used as shelters for the displaced or confiscated by conflict parties); and the water and sanitation sector, which was additionally affected by damage to the energy infrastructure (with 13 per cent of installations partially or fully destroyed), has suffered severely as well.¹³

Yet a singular focus on physical infrastructure obscures the full scale of the disaster and will not suffice to resurrect the country. The loss in human resources needs to be factored in as well.¹⁴ The country suffers from a shortage of physicians and nurses; that, along with physical destruction, inevitably significantly limits access to health care.¹⁵ Half of the population remains displaced: more than 5.6 million people are officially registered as refugees in the Middle East, most of them in neighbouring Turkey, Lebanon and Jordan, while one more million reside in Europe; and 6.2 million remain displaced inside Syria, almost a third of them for a second or third time.¹⁶ The UN Office for the Coordination of Humanitarian Affairs (UNOCHA) estimates that 1.4 million internally displaced persons (IDP) returned to their homes between January and December 2018, while the UN Refugee Agency (UNHCR) recorded just over 198,565 refugees returning to Syria as of 2016.¹⁷

¹³ The highest overall destruction of housing stock is in al-Qusayr, Deraa, Douma and Homs. See "The Mobility of Displaced Syrians, an Economic and Social Analysis", World Bank, 6 February 2019. The highest overall destruction of healthcare facilities is in Deraa, Douma, Raqqa and Deir al-Zour. "The Mobility of Displaced Syrians", op. cit. Aleppo has seen the greatest deterioration: only three of ten households has access to a functioning water network. "The Mobility of Displaced Syrians", op. cit. A UN official specified that infrastructure damage was most severe in eastern Aleppo and the old city, areas long held by rebel groups. Crisis Group phone interview, July 2019.

¹⁴ A World Bank analyst said: "The question is not just about infrastructure; it is also about human resources, such as doctors. To assess access to services, you need to take into account displacement, destruction and disorganisation [such as the availability of personnel or supplies]". Crisis Group interview, June 2019.

¹⁵ The drop by half in the number of physicians and nurses in Syria (except for Damascus and Tartous) between 2011 and 2018 is a prominent indicator, as are standard indicators such as the ratio of hospital beds and other health infrastructure to population. "The Mobility of Displaced Syrians", op. cit.

¹⁶ According to the UNHCR, more than half of Syrian refugees in Europe reside in Germany. See "Global Trends, Forced Displacement in 2018", UNHCR. See also "Regional Strategic Overview, 2019-2020", UNHCR.

¹⁷ "Humanitarian Needs Overview 2019", UNOCHA, March 2019, www.reliefweb.int/sites/reliefweb.int/files/resources/2019_Syr_HNO_Full.pdf. These are numbers verified by the UNHCR and do not reflect total returns. "Syria Regional Refugee Response: Durable Solutions", UNHCR, 31 August 2019, https://data2.unhcr.org/en/situations/syria_durable_solutions.

The World Bank cites other less visible factors impeding the country's recovery, such as "diminished economic connectivity, reduced incentives to pursue productive activities, and broken economic and social networks and supply chains".¹⁸ These, a World Bank analyst estimated, have affected the economy significantly more than physical destruction.¹⁹

B. *Damascus: No Reconstruction Is Better than Conditional Reconstruction*

If reconstruction is not taking place to any significant degree, it is not only because the regime lacks financial capacity, but also because it does not consider it a sufficient priority to justify giving in to Western conditions. Its primary concern is to maintain and strengthen its hold on power and it is not prepared to take steps it was unwilling to take when military pressure was at its height for the sake of economic help. What it wants is a lifting of U.S. and EU sanctions without having to undertake genuine political changes as well as reconstruction money without strings attached.

Damascus faces an economic and financial crisis that leaves prospects for recovery uncertain at best. The conflict has caused regular economic activity to collapse; GDP has fallen by nearly two-thirds over seven years of conflict, and currently hovers around \$20 billion a year, compared to \$55 billion in 2010.²⁰ This means that the cost of reconstruction (conservatively estimated at \$250bn) could be equivalent to no less than twelve times GDP at present rates. The Syrian pound's exchange rate is the lowest it has been since the beginning of the war, and inflation is expected to rise considerably, depressing purchasing power.²¹

In order to increase state revenues, Damascus has implemented different fees and taxes, such as the "martyrs' fee" and a "reconstruction tax".²² More importantly, the regime has tried to fill the gap by drawing on foreign exchange reserves and borrowing money, especially from Russia and Iran, as well as from Syrian banks.²³ But

¹⁸ See "The Toll of War: The economic and social consequences of the conflict in Syria", The World Bank Group, 10 July 2017.

¹⁹ Crisis Group interview, World Bank analyst, June 2019. See "The Toll of War", The World Bank Group, op. cit.

²⁰ Crisis Group interview, Jihad Yazigi, economist and editor of The Syria Report, Paris, 1 November 2019.

²¹ A Swiss-Syrian economist said that in response: "The government, private sector associations and businessmen close to the regime launched a campaign to support the Syrian currency". Crisis Group interview, Joseph Daher, September 2019. "Syrian Pound Falls to Historic Low Following Pressures on Lebanese Currency", The Syria Report, 3 September 2019.

²² A European diplomat said: "This martyrs' fee is like an allegiance tax the regime has imposed on Syrian businesspeople to generate income, which it then reinvests in the economy". Crisis Group interview, May 2019. The government imposed a 5 per cent surcharge on all direct and indirect taxes in 2013, except on income tax and electricity fees; it increased this to 10 per cent in 2017. See "The Reconstruction of Syria", Friedrich-Ebert-Stiftung, December 2018.

²³ The drop in foreign exchange revenues affects imports, especially since local production capacity is largely destroyed. In September 2019, the Central Bank of Syria restricted the list of basic imports to thirteen items that it allows banks to finance. See "Central Bank Reduces Further List of Imports that Banks Can Fund", The Syria Report, 2 October 2019. A Beirut-based Syrian development researcher commented: "Syria will need to borrow money. But Russia and Iran say: 'you owe us'. The Russian price tag, mainly the cost of its military presence and arms shipments, is around \$40 billion. Iranian support, in the form of loans to cover oil shipments and deposits in Syrian banks to

prospects for boosting its financial resources will remain limited as long as Western sanctions remain in place. In addition to contributing to shortages of goods and services, sanctions hamper trade and investment, and limit the regime's ability to increase its revenues.²⁴ A Damascene pharmacist said:

American and European sanctions directly affect the availability of pharmaceutical products and drugs from these countries, because we cannot transfer money to their companies. We have used third states to get around sanctions, like Lebanon, the Emirates, Iran, Russia and China. Between 2013 and 2015, in particular, it was hard to import our pharmaceutical needs, but we made it through smuggling, mainly from Lebanon, but also from Jordan, Iraq and Turkey. And then there is inflation on top of that. The pharmaceuticals we bring in are priced in dollars, and the value of the dollar rises every day.²⁵

Yet Damascus does not seem to see reconstruction as a pressing priority. The reconstruction committee it established in 2012 to disburse funding for rehabilitation of destroyed infrastructure is not fully functional and its allocations are almost negligible compared to needs.²⁶ The government is expected to allocate only \$115 million to the committee from this year's \$8.9bn budget.²⁷ The National Development Programme for Post-War Syria (NDP) it launched in February 2017 to prepare a ten-

stabilise the currency, represents around \$15 billion. Local banks also have provided loans to the regime. The government owes the bulk of official public debt to commercial banks". Crisis Group interview, Beirut, May 2019. According to a Swiss-Syrian economist: "The total assets of commercial banks in the country were SYP 2 trillion (around \$4.4bn) at the end of 2018. The assets of state-owned banks are larger, but these banks have extremely high debts". Crisis Group phone interview, Joseph Daher, September 2019.

²⁴ According to the Swiss-Syrian economist: "Apart from international sanctions, several others factors badly affect the economic situation and people's living conditions in Syria, such as the lack of security, high-level corruption, destruction of productive sectors of the economy (agriculture and industry) and the monopolies of businessmen close to the regime. This makes it extremely difficult to assess precisely the impact of international sanctions. But sanctions maintain or even increase the development of smuggling and a black market by regime cronies and elite networks, who do not hesitate to use shortages to raise the price of goods". Crisis Group phone interview, Joseph Daher, September 2019. A Syrian entrepreneur said: "I believe that the key problem in Syria is corruption, not sanctions. Alawite officers in the military and security organs, the Fourth Division and Republican Guard are covering up their corruption, smuggling and non-payment of taxes by pushing state customs and consumer protection employees out of their businesses and factories". Crisis Group interview by remote messaging app, October 2019.

²⁵ Crisis Group interview by remote messaging app, October 2019.

²⁶ See "Government Seeking to Relaunch Reconstruction Committee", *op. cit.* Moreover, a government technocrat explained that while his ministry had allocated SYP80bn (about \$123m) in its budget to remove destroyed buildings and debris from cities and towns, "no one at the ministry knows where that money was spent". Crisis Group interview, October 2019.

²⁷ Its allocations hovered around 50 billion Syrian pounds (\$115 million based on the Syrian government's fixed conversion rate) annually between 2013 and 2018. Joseph Daher, "Reconstructing Syria: How the al-Assad regime is capitalizing on destruction", in *Reconstructing Syria: Risks and Side Effects*, Adopt a Revolution, December 2018.

year plan for the country's "restoration" has yet to roll out concrete and comprehensive reconstruction plans for major infrastructure, housing stock and basic social services.²⁸

Some people with access to the regime attribute its approach to a lack of vision for the future. An informal regime adviser said: "There is no clear thinking in Damascus about the way forward. The problem is that the war cost the regime its brightest people, and if you think that current decision-makers are dogmatic, wait until you see those who will come after them".²⁹ A Damascus-based development expert with access to the regime called this a form of denial regarding the economic and social challenges ahead, based on the assumption that Damascus sees its interests as sufficiently secured.³⁰

To the extent the regime seeks to rebuild the country, its priority is to ensure reconstruction serves to strengthen its rule. This means it would want to control any potential external funding and shape the eventual return of the displaced. It has adopted a set of legal measures to this end.³¹ For example, it has presented Law 10 of April 2018 as an answer to the need to rebuild the country and, additionally, to the problem of informal housing, which existed before the war (between 30 and 40 per cent of all housing).³²

But international human rights organisations have expressed serious concerns regarding the law, alleging that it legalises expropriations without due process or compensation. Law 10 allows for the creation of development zones by decree all across Syria,³³ putting local councils in charge of managing construction projects in

²⁸ "Syrian Government Assesses Progress on Reconstruction Plan", The Syria Report, 13 February 2019. During the August 2019 Damascus International Fair, Prime Minister Imad Khamis stated that the government was working on developing an economic vision to pave the way for reconstruction as part of a comprehensive development process. "Khamis: Damascus International Fair represents a message that Syria is strong and recovering", Syrian Arab News Agency, 29 August 2019. The National Development Programme for Post-War Syria was initiated by the Prime Minister Imad Khamis. It gathers a wide range of expert, businessmen and government figures. Its last report, entitled "Vision, Objectives and Policies", dated 25 October 2018, has not been released publicly. It identifies five main axes: "institution-building and the promotion of integrity; reconstruction and modernisation of infrastructure; economic growth and development; human development (social, educational and cultural); and national dialogue".

²⁹ Crisis Group interview, Geneva, June 2019. A government official said: "The prime minister and ministers keep talking about rebuilding without giving a clear timetable, schedule or budget. They keep giving press statements and making big promises, but are not providing clear technical scientific plans and studies". Crisis Group interview, October 2019.

³⁰ He said: "Damascus has no capacity and can't spell out what the problem is. Of course they are in a deep trouble. It's still living on pre-conflict assumptions about state power and authority and therefore thinks it can push back to secure its interests". Crisis Group interview, Beirut, May 2019.

³¹ The legal framework regulating reconstruction is extremely complex because of overlapping administrative, economic, property and urban laws, both old and new.

³² "The New Urban Renewal Law in Syria", Syrian Law Journal, 14 May 2018.

³³ Law 10 is a nationwide extension of Decree 66 of 2012, which allowed the government to designate two informal (not part of any planning process) areas in Damascus (around the Mazzeh district) as development zones. For the text of Decree 66, see Parliament of Syria, http://parliament.gov.sy/laws/Decree/2012/m_66_2012.html. For the text of Law 10, see Syrian Arab News Agency, www.sana.sy/?p=733959. Only the minister of local administration and environment can propose issuing a decree establishing a development zone. Within one week of Parliament issuing such a decree, local administrative authorities must request the list of local property owners from the gov-

these zones, including by establishing private-sector partnerships.³⁴ Human Rights Watch has pointed to a series of barriers erected by Law 10 that in practice would impede owners from reclaiming their properties. This would create a significant obstacle to those displaced wishing to return home.³⁵ A Damascus-based development expert contended that the regime is using Law 10 and related legislation additionally to impose a political agenda to prevent a repeat of 2011:

The government's recent internal National Development Programme for Post-War Syria is indicative of its aim to use urban planning and reconstruction to define and impose social control. The governmental new elites who wrote the report concluded that they need to create conditions that will prevent the type of social cohesion that enabled the 2011 demonstrations, no matter how long it takes.³⁶

Despite the financial and economic difficulties it faces, the regime is disinclined to offer any concession or pay any genuine political price for reconstruction money. It has made clear it does not want Western support, which is conditional, but only funding and investments from what it considers friendly countries.³⁷ Assad told the Russian TV channel NTV in June 2018: "We won't allow them [the West] to be part of it

ernmental Public Real-Estate Authority, which has to respond within 45 days, and publish it in at least one local newspaper. Owners whose property does not appear on the list must provide documented proof of ownership within 30 days if they wish to retain it. If the owner is absent, relatives up to the fourth degree or a legally recognised attorney can do it in the owner's place. Persons unable to prove ownership will receive no compensation and their property will be transferred to local or national authorities. Persons whose names do appear on the list or are able to prove ownership will receive ownership shares in the development zone and will have the right to apply for financial compensation and alternative housing. Law 10 stipulates that, in the absence of legal documents, owners need to provide relevant information regarding their property, such as location, boundaries, type of property, previous lawsuits, etc. Law 10 was amended in November 2018 by Law 42, which extends the period for inhabitants to prove their ownership from 30 days to one year and establishes a dedicated judicial committee to process and adjudicate claims. For the text of Law 42, see Syrian Arab News Agency, www.sana.sy/?p=842393.

³⁴ Law 10 places all decision-making powers with respect to development plans with local councils, in keeping with the 2015 decentralisation law (Local Administration Law and Legislative Decree 19). Partnerships with the private sector fall under Law 5 of 2016. "President al-Assad issues law on public-private partnership", Syrian Arab News Agency, 10 January 2016.

³⁵ Barriers include people's fear of arbitrary arrest if they return to regime-held areas, the requirement that they obtain security clearance before they can submit a claim, and the difficulty of providing proof of ownership. "Q&A: Syria's New Property Law", Human Rights Watch, 29 May 2018. Sara Kayyali, Human Rights Watch's Syria researcher, said that, in addition, Law 10 and related legislation "is very vague, so it creates all sorts of abuses, especially if you look at all the various agencies you need to talk to". Crisis Group phone interview, 17 April 2019.

³⁶ Crisis Group interview, Beirut, July 2019. See also "The reconstruction of Syria: Socially Just Re-integration and Peace Building or Regime Re-consolidation?", Friedrich-Ebert-Stiftung, December 2018.

³⁷ Syria's foreign minister said: "We welcome any assistance with reconstruction from those countries that were not part of the aggression on Syria and those that have come out clearly and explicitly against terrorism. However, the priority is for our friends that stood by us in our war on terror. As for the countries that offer only conditional assistance or continue to support terrorism, they are neither invited nor welcome to help". Statement of Syria Minister of Foreign Affairs at the UN General Assembly, 27 September 2018, https://gdebate.un.org/sites/default/files/gastatements/73/sy_en.pdf.

[reconstruction], whether they come with money or not, whether they come with a loan, or with a donation, with a grant, whatever; we don't need the West".³⁸ At this stage, the regime seems to bet on attracting local and foreign investments from non-Western sources, mainly through public-private partnerships, which, combined with Law 10, enable lucrative real-estate contracts for mega-projects such as Marota City on the outskirts of Damascus.³⁹

But Western sanctions stand in the way of significant unconditional investment, including from non-Western sources (because of U.S. diplomatic pressure and the threat of extraterritorial application of some U.S. sanctions, in particular). A regime adviser said:

The regime is not interested in Western reconstruction money. It does not intend to allow the West to use reconstruction as a way to weaken its political grip. The general mood is: there is no need for reconstruction money; everything is going to get self-reconstructed. You need to forget about reconstruction in the way the West sees it. Our friends will help to rebuild Syria and this will be mutually beneficial. The only thing we need from the West therefore is the lifting of sanctions.⁴⁰

Damascus has repeatedly accused Western countries of "laying siege" to Syria, blaming international sanctions for the financial and economic crisis.⁴¹ But it has not made clear what it would be prepared to do to get Western countries to release economic pressure. Assad has said he will not allow "enemy countries to accomplish through politics the aims they couldn't reach through war".⁴² An informal regime adviser said: "I don't think there is clear thinking in Damascus about how to get sanctions lifted. They are incapable of coming up with anything that makes sense in terms of engaging with the West".⁴³ A European diplomat suggested that in exchange for agreeing on the composition of a constitutional committee, Damascus is expecting some economic gain in the form of a partial sanctions lifting.⁴⁴

³⁸ "Syrian Government Assesses Progress on Reconstruction Plan", op. cit.

³⁹ Syrian Prime Minister Imad Khamis said that financial resources for the programs and projects proposed by the National Development Program for Post-War Syria will come from public-private partnerships, loans from local banks, as well as local and foreign investment. "Premier Khamis chairs open discussion of the Post-War Syria Development Program", Syrian Arab News Agency, 9 February 2019. Approved in 2012, Marota City is Syria's largest development project of luxury residential and shopping centres enabled by Decree 66 and Law 10. See the official Marota City website: <http://marotacity.sy>. To pursue its project, the government forced thousands of area residents to leave, with or without compensation. See Daher, "Reconstructing Syria", op. cit.

⁴⁰ Crisis Group interview, Geneva, June 2019.

⁴¹ See Assad's televised speech in Damascus to the heads of local councils. "President al-Assad: The war was between us Syrians and terrorists exclusively", Syrian Arab News Agency, 17 February 2019.

⁴² Ibid.

⁴³ Crisis Group interview, Geneva, June 2019.

⁴⁴ Crisis Group interview, European diplomat, October 2019.

C. *Moscow: In Search of Reconstruction Support
– and Regime Rehabilitation*

Moscow considers the war over and that the time for rebuilding has arrived. Assad, as they see it, has won, even if Idlib and the north east are not yet under his control. Presenting itself (unconvincingly) as above the fray, Moscow has started calling on all players to be pragmatic: they should support reconstruction because it is key to Syria's future stability, to the return of refugees and the avoidance of new refugee flows – an interest all share.⁴⁵ A Russian diplomat said: "We need reconstruction so that Syria becomes a living nation again, a nation getting back on track. We don't need it because of Bashar; we need it because of Syria".⁴⁶

In effect, no significant reconstruction funds have made their way to Syria so far, not even from Russia or Iran. A Syrian government technocrat said: "The government makes promises based on Iranian and Russians technical expertise and financial gifts and loans. But until today, these countries have given nothing for removing debris and rebuilding destroyed areas".⁴⁷ While providing some financial support to Syria, Russia and Iran face internal economic difficulties that limit their ability to help, even assuming they would be willing to do so.⁴⁸ A Russian diplomat said: "We're involved in reconstruction, and focus on vital areas such as electricity, hospitals, power lines, bridges and other critical infrastructure, but our resources are limited, not like those of the United States or Europe".⁴⁹

Iran and Russia seem rather more interested in the regime compensating them for their military support through lucrative contracts. While some of these contracts might contribute to the rebuilding of essential infrastructure, others offer almost exclusive rights to the exploitation of natural resources.⁵⁰ Through these contracts, Russia

⁴⁵ Crisis Group interview, Russian diplomat, April 2019. A Russian international relations expert commented: "There is a shared understanding in Moscow that development and security are linked in Syria. Russia understands the long-term risk of not doing enough on the development side". Crisis Group phone interview, Moscow, June 2019.

⁴⁶ Crisis Group interview, Russian diplomat, April 2019.

⁴⁷ Crisis Group interview, October 2019.

⁴⁸ Russia has provided some assistance to Syria and Iran has provided lines of credit, mainly for fuel imports, but precise data is difficult to come by. See "Russia and Iran: Economic Influence in Syria", Chatham House, March 2019.

⁴⁹ Crisis Group interview, May 2019.

⁵⁰ Russia has built new power plants as well as the Latakia-Damascus and Homs-Damascus railways, and has signed contracts, for example one in early 2018 to provide Russian technological and financial aid to rebuild Syria's energy sector and transport infrastructure. For an overview of the Russia-Syria cooperation, see Ruslan Mamedov and Tatyana Shmeleva, "Post-War Rebuilding of Syria: Russia's Perspective" in *Squaring the Circle: Russian and European views on Syrian Reconstruction*, Russian International Affairs Council, May 2019. The rush for access to natural resources has led to growing competition between Russia and Iran. Damascus has enjoyed privileged cooperation with Russia so far. See "Russia and Iran", op. cit. This has led to growing frustration in Iran, which has mainly invested in real estate and religious tourism. A former Iranian official said: "Iranians don't have economic returns from their investments in Syria and Iraq. The business network between Iran and Syria consists of only five persons. Syrians are connected with Jordan, Saudi Arabia and Egypt; there is no place for Iran. We can build a power plant but what influence does that bring us? There is a dichotomy between our political influence and our economic gains". Crisis Group interview, Tehran, January 2019. See, for example, "Russian Company to Invest Millions in

and Iran also intend to position themselves as ultimate beneficiaries if significant foreign investments start flowing into Syria and reconstruction takes off.⁵¹ This has been a frustrating business, because some contracts remain unimplemented due to the regime's failure to secure the necessary funds. For example, despite having signed memorandums of understanding with Damascus to rehabilitate the electricity sector in September 2017 and January 2018, respectively, Tehran and Moscow pulled out in the absence of regime funding.⁵²

Moscow has looked for alternate funding sources, especially without strings attached. In doing so, it wants to reduce its own financial commitment, encourage a process of normalisation that would re-legitimise the regime, and pave the way for its own military drawdown once it believes the regime is firmly back in the saddle, all of which would represent a diplomatic victory for Moscow.⁵³ It seems particularly eager to engage Gulf states, whose funding, according to Russian Syria experts, "relies on a logic that is opposite to the European approach of political settlement first and possible investment later".⁵⁴

To that end, Moscow has pushed to transform the United Arab Emirates (UAE) and Bahrain's first steps toward normalisation into a broader Arab re-engagement with Syria. It has tried to capitalise on some Arab states' feeling that continuing to keep the regime at arm's length will prevent them from having a say in a future political settlement, which could leave the field to Iran and Turkey, and deprive them of future commercial benefits.⁵⁵ If it has not made major progress, this is primarily because of U.S. diplomatic pressure and sanctions.⁵⁶

Phosphate Washing Plant", *The Syria Report*, 31 July 2018. A Russian Middle East expert said: "Russia's main task – and what is being discussed right now – is how to bring money back from this operation. Russia did not get anything economically from Syria. Iraq is much more interesting for Russian business than Syria. Russian companies' investments in Syria total not more than half a billion dollars, and economic trade between us and them amounts to nothing. Iraq is another story". Crisis Group phone interview, Ruslan Mamedov, MENA program coordinator, Russian International Affairs Council, June 2019.

⁵¹ Ruslan Mamedov said: "Russia signed a deal to rebuild and modernise the port of Tartous, which has been in a very bad condition for decades. Stroytransgaz will invest half a billion dollar there. The company is already under U.S. sanctions, so it doesn't care. Once reconstruction takes off, goods will move through that port". Crisis Group phone interview, June 2019.

⁵² "Russia and Iran", *op. cit.*

⁵³ At a 28 December 2018 press conference, Russian Foreign Minister Sergey Lavrov asserted: "Russia has already helped the Syrian government create normal living conditions, including ensuring water and electricity supply, education for children, medical services in the settlements, where tens of thousands of refugees have returned and continue coming back". "Lavrov blasts West's refusal to participate in Syria's reconstruction", TASS, 28 December 2018. The Russian defence ministry lists its economic and diplomatic efforts in Syria at: <https://syria.mil.ru/en/index/syria.htm>.

⁵⁴ "Post-War Rebuilding of Syria", *op. cit.*

⁵⁵ For an expression of this sentiment, see the Emirati foreign minister's remarks alongside Lavrov's: "Abdullah bin Zayed: Absence of an Arab role in Syria is unacceptable", *Emirates News Agency*, 7 March 2019. According to *The Syria Report*, powerful figures in Damascus "managed to continue travelling to the UAE, keep bank accounts and run their business" over the course of the war. Since the reopening of the UAE embassy in Damascus, it has resumed issuing business visas. "Business Event Boosts Syrian Regime Ties with UAE", *The Syria Report*, 22 January 2019.

⁵⁶ A European diplomat said: "The U.S. made the UAE understand that any further steps toward normalising relations with Syria or any further investments would not be welcome". Crisis Group

Other players such as China also have expressed an interest in rebuilding Syria.⁵⁷ But Moscow is not betting on Beijing either. It assesses that Beijing engaging in Syria could only further complicate China's relations with the U.S., and that Chinese firms would be less inclined to risk investing in Syria when Russia and Iran already have primary rights of access to natural resources such as oil, gas and phosphates.⁵⁸

The actors most capable of providing financial support for major infrastructure projects are the EU and its member states, but Moscow sees European conditions as unnecessary and counterproductive. A Russian diplomat said: "Our main approach to reconstruction is that the government should not be ostracised. That would be counterproductive. We tell the Arabs, the Europeans and the Americans to accept reality".⁵⁹ In particular, it is telling Europe that it should stop holding on to the fantasy that playing the reconstruction card can deliver the change of regime that war failed to achieve.

Countering the EU position that links the possibility of reconstruction funding to genuine progress in a political transition, Moscow argues that rebuilding infrastructure is a necessary precondition for refugees to return from Europe and the Middle East.⁶⁰ Moscow accuses Europe of "politicising the issue of reconstruction" by condi-

interview, March 2019. A U.S. official said that the U.S. has pressed Gulf states and others not to re-engage with the regime. "We told them, don't be lured by the idea that you can have a presence there and start having influence". Crisis Group interview, Washington, April 2019. On 27 August 2019, the U.S. embassy in Syria (located outside of Syria) warned regional businesspeople against participating in the Damascus International Trade Fair, stating that "anyone doing business w/ Assad regime or its associates is exposing themselves to the possibility of US sanctions". Tweet by the U.S. Embassy in Syria, @USEmbassySyria, 9:47am, 27 August 2019. The UAE has not followed up its December 2018 decision to reopen its embassy in Damascus with other major steps toward normalisation for fear of provoking U.S. anger. A senior UAE official explained: "Our position is not quite one of rapprochement. We're open to providing humanitarian aid to government-held areas as long as it doesn't go via the regime; it could go via Russia, for example. Anyone but the Iranians. The details have to be right. But we are very excited, for example, about the possibility of assistance in mine-clearing". Crisis Group interview, Abu Dhabi, November 2018. Moscow's overtures toward Gulf states are also related to Russia's hope for cooperation from Europe. A Russian diplomat said: "We have been trying to persuade Arab countries to allow Syria to rejoin the Arab League, because if the Arabs accept that, why wouldn't Europeans [normalise relations with Damascus]? So far, we haven't managed to convince the Arabs to fully restore their ties with Syria". Crisis Group interview, April 2019.

⁵⁷ See "Chinese Interest in Real Estate and Construction Sectors Grows", *The Syria Report*, 16 October 2019.

⁵⁸ A Russian diplomat said: "China has big issues to solve with the U.S. Syria is not a priority for them". Crisis Group interview, May 2019. Prudence seems to be China's watchword. While the government has announced several investments, none of them has translated into concrete action. In July 2017, Beijing hosted the first trade fair on Syrian reconstruction, announcing plans for \$2bn in Chinese investments to establish industrial parks in Syria. "China extends helping hands to rebuild Syria", *China Daily*, 10 February 2018.

⁵⁹ Crisis Group interview, Russian diplomat, April 2019.

⁶⁰ Since mid-2018, Moscow has promoted the idea in Europe that since the Syrian crisis is over, refugees should go home, but the absence of key infrastructure is deterring them. "Putin urges Europe to help rebuild Syria so refugees can return", *The Guardian*, 18 August 2018. A Russian analyst commented that Russia views refugee returns as a means toward stabilising Syria, not only because it would encourage Western countries to invest in reconstruction, but also because it would help

tioning funding on political gains, when the outcome affects principally the Syrian people's well-being and refugees' ability to return.⁶¹ Russia has launched several initiatives to facilitate returns, organising the process and obtaining security assurances from the regime.⁶² But its efforts have failed to convince, mainly due to the absence of credible security and safety guarantees, and Russia's inability or unwillingness to press the regime to provide them.⁶³

In this context, Moscow has fallen back on the argument that reconstruction, while desirable, is not indispensable for the pursuit of its interests in Syria. Ruslan Mamedov, a Russian Middle East expert, said:

Moscow does not need to convince anybody. This is the main mistake Europeans make, and the Syrians as well. Russia can decide to do nothing, to freeze the situation, to support Syria at the lowest parameters, and it will be ok. Even if there is

jumpstart the Syrian economy and provide potential manpower for the Syrian armed forces, which Russia aims to rebuild. Crisis Group interview, July 2019.

⁶¹ "Russia's Putin says Europe should leave politics out of Syria reconstruction", Reuters, 18 May 2018. Foreign Minister Lavrov stated: "I believe that the West's refusal at this stage to do the same and help Syrians reconstruct normal life conditions across the country, which would enable refugees to return calmly and confidently, is counterproductive and against the norms of international humanitarian law and human rights". "Lavrov blasts West's refusal to participate in Syria's reconstruction", TASS, 28 December 2018.

⁶² In February 2019, Putin said that "Syria could now accommodate up to 1.5 million people", referring to returning refugees, and that "the [Syrian] government has provided firm guarantees of a non-discriminatory approach to all those who wish to return home". "Press statement and answers to journalists' questions following meeting of presidents of Russia, Iran and Turkey", 14 February 2019, op. cit. Russian officials have launched several initiatives designed to facilitate returns, such as the establishment of a Lebanese-Russian committee to coordinate refugee return and a centre for the reception, allocation and accommodation of refugees in order to "monitor the return of all temporarily-displaced people and Syrian refugees from foreign countries to their places of permanent residence" in Syria. Press Statement by the Russian Defence Ministry, 18 July 2018. See also, "Russian and Syrian authorities set up centre for refugees returning to Syria", Reuters, 18 July 2018. European officials have questioned the voluntary nature of returns to date from countries like Lebanon, where refugees face substantial official and popular pressure to return. Crisis Group interviews, European officials, October-December 2018. Moscow presented a "Refugee Return Plan" to European governments in mid-2018, which it says specifies the type of infrastructure needed in each specific location to which refugees would return. Crisis Group interview, European official, December 2018.

⁶³ "Fourth regional survey on Syrian refugees' perceptions and intentions on return to Syria", UN-HCR, July 2018. A Russian analyst said: "Russia sees problems in the Syrian government's behaviour: that it isn't sticking to its commitments; that it is refusing to grant clearances to many refugees applying to return from Lebanon; and that it continues to imprison people arbitrarily. President Assad's public promises to returnees haven't been implemented. Russia has reminded the government of these promises, but with zero-to-minimal results". Crisis Group interview, July 2019. Moreover, said a Russian international relations analyst, "I don't think that everyone here agrees fully with the Syrian government's understanding of the situation. But the Syrian government is not Moscow's satellite. It has its own priorities. Exerting leverage and dictating are two completely different things". Crisis Group phone interview, Moscow, June 2019. In October 2018, the regime declared a temporary amnesty for men who had evaded military service. "Syria offers amnesty to deserters and draft dodgers", Reuters, 9 October 2018. A UN official said: "Announcements made by Damascus concerning security issues (military exemptions, amnesty), while positive, remain unclear for many Syrians. Others are sceptical. There is a need for more clarity and more information on how and if these announced measures are implemented". Crisis Group interview, October 2018.

growing discontent among loyalists, they won't be able to overthrow the government. Russia's interests in Syria are practically secure.⁶⁴

In other words, Moscow believes that it is Europe that needs to convince Russia, not the other way around. While Moscow says it shares the European view that Syrian governance should become more inclusive, it expects Europe to provide incentives first, such as lifting sanctions and providing reconstruction funding.⁶⁵ This, it claims, would provide Russia with the tools to take action in Syria. The expert said:

The official EU approach in Syria is based on wishful thinking – that the EU can provide support for reconstruction simultaneous to a credible political transition. But the question in Moscow is always: what is a credible transition? Russia can start to push for meaningful reforms only if Europe engages with Damascus comprehensively. The EU could take one small step to show its seriousness and start this process, namely by lifting sanctions, at least partially. I'm not even talking about reconstruction funds. If it provides those, Russia could start to push for real reforms.⁶⁶

⁶⁴ Crisis Group phone interview, June 2019. He added that Russia's main interest is in the Mediterranean, and this it has secured: "Russia can be there for decades".

⁶⁵ A Russian diplomat said that Moscow's efforts to set up a constitutional committee illustrated its understanding of the need for reform: "It's obvious you need to create a new Syria. The constitutional committee should be presented as a milestone – to show that it is not only talk but a reality, something Russia wants. To push for a political dimension was our idea from the beginning". Crisis Group interview, April 2019.

⁶⁶ Crisis Group phone interview, Ruslan Mamedov, June 2019.

III. Europe's Dilemma

From 2016 onward, the EU, led by the UK, France and Germany (the “E3”), has made clear that it would condition any reconstruction funding on a political transition in Syria being “firmly underway”. Its motivation has been twofold: it sees investing in reconstruction without a meaningful political transition as wasteful and even counterproductive, as it would reward, re-legitimise and entrench a regime that continues to pursue repressive, discriminatory policies. And it views its hold on a major reconstruction purse, along with sanctions, as one of its very few levers to push for a political process that could bring durable stability in Syria. To the extent that dissent from this general line exists within EU institutions and among member states, it concerns not whether but how to play that reconstruction card.

EU and U.S. sanctions on Syria, described below, act as a further brake on a change of the EU's approach to reconstruction, and indeed allow Europe to maintain its strict no reconstruction line. Sectoral sanctions in particular, far more than individual sanctions targeting regime linked-figures, have a knock-on effect on the Syrian economy.

A. *International Sanctions as the First Barrier to Reconstruction Aid*

Europe's approach to reconstruction is intertwined with, if not dependent on, the EU and U.S.'s sanctions policies. Since European Council conclusions preventing EU reconstruction funding without a political transition “firmly underway” are not legally binding on member states, it is EU sanctions that prevent European companies from investing in Syria.⁶⁷ In addition, European officials believe that U.S. sanctions against Syria reinforce the EU's position, especially because some of these sanctions have extraterritorial application and thus deter third parties with significant financial capabilities, such as the Gulf states, from investing in Syrian reconstruction.⁶⁸ Of course, as is the case with all unilateral U.S. sanctions with extraterritorial reach, they could backfire on the EU if and when its Syria policy evolves.

⁶⁷ According to Article 35 of the Regulation on EU restrictive measures, EU sanctions apply: (a) within the territory of the Union, including its airspace; (b) on board of any aircraft or any vessel under the jurisdiction of a Member State; (c) to any person inside or outside the territory of the Union who is a national of a Member State; (d) to any legal person, entity or body which is incorporated or constituted under the law of a Member State; and (e) to any legal person, entity or body in respect of any business done in whole or in part within the Union. See “EU restrictive measures in Syria – FAQs”, European Commission, 1 September 2017. In September 2019, UK authorities seized an Iranian oil tanker in British territorial waters off Gibraltar which they accused of carrying oil destined for Syria. Patrick Wintour, “UK accuses Iran of selling oil from seized tanker to Syria”, *The Guardian*, 10 September 2019. The UK authorities soon released the ship, which proceeded on its way to Syria. The legality of the seizure is contested. Crisis Group interview, senior EU official, Brussels, September 2019.

⁶⁸ A European official explained: “European leverage on reconstruction would be partly undermined if large financial actors, such as the Gulf states and China, were to start investing in Syria. But the threat of additional U.S. extraterritorial sanctions seems to work already: we do not see any significant investment so far”. Crisis Group interview, April 2019. A Beirut-based Syrian development expert said that European policy aims to tell Damascus that “you might not need our money for reconstruction but you will still need our approval”. Crisis Group interview, Beirut, May 2019.

Beginning in 2011, the EU adopted a series of restrictive measures against the Syrian regime and its supporters.⁶⁹ By May 2019, the EU had in place sanctions on 269 (Syrian and non-Syrian) persons and 69 entities, including all government ministers and public and private banks, in the form of a travel ban and asset freeze on those “responsible for the violent repression against the civilian population in Syria, benefiting from or supporting the regime, and/or being associated with such persons or entities”.⁷⁰ It also placed export restrictions on goods and technology that could be used for internal repression; an import ban on crude oil and petroleum products from Syria by its citizens and from its territory; an export and investment ban on equipment and technology for the oil and gas industry; a ban on investment in companies engaged in building power plants for electricity production; and an export ban on equipment, technology and software for monitoring or intercepting internet and telephone communications.⁷¹ A EU member state can only make exemptions for “humanitarian or civilian purposes”.⁷²

European sanctions on Syria are subject to annual renewal by unanimous vote.⁷³ While a single member state could block renewal, in reality countries typically do not wish to incur the political cost of disrupting broad EU consensus over an issue they do not consider a high priority.⁷⁴ EU sanctions can therefore be expected to remain in place as long as a substantial majority of member states – including the E3 especially – remains supportive.

Unlike EU sanctions, U.S. sanctions on Syria, which started in 2004 and were strengthened after 2011, do not only target specific sectors, such as banking and arms exports, but also prohibit “transactions or dealings in or related to petroleum or petroleum products of Syrian origin”, the “exportation, re-exportation, sale, or supply of any services to Syria”, and “new investment in Syria” to “a U.S. person, wherever located”.⁷⁵ Another central difference between U.S. and EU sanctions is that the

⁶⁹ See “Syria: EU renews sanctions against the regime by one year”, Council of the European Union, 17 May 2019.

⁷⁰ In May 2019, the European Council extended EU sanctions against the Syrian regime until 1 June 2020. See “Syria: EU renews sanctions against the regime by one year”, *op. cit.*

⁷¹ “EU response to the Syrian crisis”, EEAS, 8 March 2019. This provides an exhaustive list of EU sanctions in an annex.

⁷² “Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria”, Council of the European Union, 31 May 2013.

⁷³ A European official said: “There is no specific regulation regarding the procedure to renew EU sanctions; different procedures can be applied according to the country under sanctions. In the case of Syria, it takes place by consensus – or what we could call a gentlemen’s agreement. There is no precedent for a member state breaking the consensus regarding sanctions”. Crisis Group interview, October 2019. The most recent sanctions renewal took place on 17 May 2019. See “Council Decision (CFSP) 2019/806”, Official Journal of the European Union, 20 May 2019.

⁷⁴ Crisis Group interview, EU official, Brussels, March 2019.

⁷⁵ Syria has been subject to U.S. economic sanctions since 2004 under the Syria Accountability Act in order “to deal with the Government of Syria’s policies in supporting terrorism, continuing its occupation of Lebanon, pursuing weapons of mass destruction and missile programs, and undermining U.S. and international efforts to stabilize Iraq. Following events in Syria beginning in March 2011, subsequent Executive Orders have been issued in response to the ongoing violence and human rights abuses taking place in Syria”. For the list of U.S. sanctions, see “Syria Sanctions”, U.S. Department of the Treasury, 2 April 2019.

U.S. sanctions on Syria overlap with those against Iran and its non-state allies such as Hizbollah.⁷⁶

Above all, contrary to EU sanctions, some U.S. sanctions have an extraterritorial application, whose impact is significant even if their scope is relatively limited compared to sanctions on Iran or Russia.⁷⁷ Third-party actors can face sanctions if they contribute to shipping crude oil and petroleum products to Syria.⁷⁸ Such sanctions have contributed to shortages of energy products.⁷⁹ More broadly, third actors can be subject to sanctions if they conduct “transactions for or on behalf of any person subject to United States sanctions concerning Iran or Syria”.⁸⁰ This means that the U.S. can sanction any foreign person or entity engaged in a prohibited transaction with the Syrian government or other persons or entities on its list of Specially Designated Nationals and Blocked Persons.

The threat of a new round of extraterritorial sanctions is further deterring companies from investing in Syria. The U.S. Congress is currently reviewing the so-called “Caesar Syria Civilian Protection Act”. If it were to pass it in one of the two versions under consideration, it would further block the flow of funds to Syria, as the law would extend the list of sectors subject to sanctions to reconstruction, among others, and apply the law extraterritorially.⁸¹ This means that, in theory, third parties can invest in reconstruction for now, for example to build housing or hospitals, without necessarily violating U.S. sanctions. But the banking sector’s tendency to “over-comply” with current restrictions, investors’ fear of running afoul of current or future sanctions, and the fact that it is almost impossible to engage in reconstruction without having to deal with sanctioned government personnel all militate against putting money into rebuilding Syria.⁸²

⁷⁶ On 10 September 2019, U.S. Executive Order 13886, “Modernizing Sanctions to Combat Terrorism”, updated Syria’s and Iran’s designations while amending counter-terrorism sanctions authorities. “Executive Order 13886”, U.S. Department of the Treasury, 10 September 2019.

⁷⁷ A European official said: “In some way, the legal debate is redundant, because regardless of the nature and extent of American sanctions, no one is going to take any risk the moment there is doubt. It’s a deliberate policy of OFAC not to provide clear instructions”. Crisis Group phone interview, 23 October 2019.

⁷⁸ In November 2018, the U.S. imposed a ban on shipments of crude oil and petroleum products to Syria, “regardless of the location or nationality of those facilitating such support”. “OFAC Advisory to the Maritime Petroleum Shipping Community”, U.S. Department of the Treasury, 25 March 2019.

⁷⁹ “Where We Stand on the Syria Sanctions”, The Syria Report, 6 March 2019. Oil shortages are a product of other factors as well, including corruption.

⁸⁰ “Executive Order 13608”, U.S. Department of the Treasury, 1 May 2012.

⁸¹ The bill is designed to impose sanctions on anyone who provides significant financial, material or technological support to the Assad regime, including anyone who deals with regime military activities or the defence industry, and anyone who provides significant construction or engineering services to the regime. See “H.R.31 – Caesar Syria Civilian Protection Act of 2019”, U.S. House of Representatives, 3 June 2019.

⁸² Sanctions on banking, in particular, have had a ripple effect, deterring Western financial institutions from conducting any business with Syrian, or Syria-related, entities. Crisis Group phone interview, European official, July 2019. The U.S. and the EU first imposed sanctions on the Central Bank of Syria, the Commercial Bank of Syria and other public and private banks since 2011. An EU member state can exempt the Central Bank or Commercial Bank of Syria from sanctions on a case-by-case basis, namely if an NGO or international organisation seeks to deliver humanitarian aid. Discussions between NGOs, European banks and European officials aim to mitigate the risk of the

While U.S. sanctions align with EU policy toward Syria and reconstruction at the moment, they could become a liability if and when that policy evolves. U.S.-EU coordination regarding sanctions is limited by Washington's declared objective to force "the withdrawal of Iran and its proxies from Syria", an objective the EU does not share.⁸³ The Caesar Act, if passed, could also significantly weaken European leverage if some European leaders were to decide to negotiate with the regime, as it would reduce the impact of a potential EU decision to lift its sanctions.

B. Rebuilding Syria Once a Transition is "Firmly Underway"

From the beginning of the Syrian war, the EU has supported the centrality of UN mediation in ending the conflict and based its position on relevant UN Security Council resolutions. It argues that a sustainable peace is unattainable by military means. In April 2018, Federica Mogherini, the EU high representative for foreign affairs and security policy, declared: "The solution to this war can only come from meaningful political talks between the Syrian parties, under the UN auspices. It can only be a political negotiated solution". Then she asked: "The war can lead to a military victory, maybe. But would it lead to winning the peace?"⁸⁴

The EU has conditioned any reconstruction funding on genuine progress in a meaningful political transition under UN auspices, a policy it first articulated in October 2016 and repeated in April 2017 and April 2018.⁸⁵ In its most recent declaration, it said:

The EU reiterates that it will be ready to assist in the reconstruction of Syria only when a comprehensive, genuine and inclusive political transition, negotiated by

banking sector's "over-compliance" with banking sanctions, which could harm NGOs' ability to deliver humanitarian aid in Syria. Crisis Group interviews, European officials, September 2019.

⁸³ See U.S. Department of State, "A Force for Good: America Reinvigorated in the Middle East", op. cit.

⁸⁴ EEAS High Representative Federica Mogherini, "Supporting the Future of Syria and the Region", Second Brussels Conference on Syria, 25 April 2018. As the European Council stated in April 2018: "The EU repeats that any sustainable solution to the conflict requires a genuine political transition in line with UNSCR 2254 and the 2012 Geneva Communiqué negotiated by the Syrian parties within the UN-led Geneva process and remains committed to the unity, sovereignty and territorial integrity of the Syrian state". "Council Conclusions on Syria", Council of the European Union, 16 April 2018, op. cit. The 2012 Geneva Communiqué laid out principles agreed between the members of the Action Group for Syria (the UN secretary-general, the Arab League secretary general, UN Security Council members, the EU, Turkey, Iraq and Qatar) for a UN-facilitated, Syrian-led political process, with the establishment of a transitional governing body that could include members of the government and the opposition, a national dialogue process, the drafting of a new constitution which would be subject to popular approval, and "fair and free" multiparty elections. UN Security Council Resolution 2254 of 18 December 2015 calls for a ceasefire and endorses a roadmap for a peace process in Syria, according to the principles of the 2012 Geneva Communiqué, setting timetables for UN-facilitated talks between the government and opposition, including the establishment of a "credible, inclusive and non-sectarian governance" within six months, the drafting of a new constitution, and "free and fair elections" under UN supervision to be held within 18 months with all Syrians, including the diaspora. The ceasefire will not apply to "terrorist groups" as designated by the Security Council.

⁸⁵ See "Council Conclusions on Syria", Council of the European Union, 17 October 2016; "Council Conclusions on Syria", Council of the European Union, 3 April 2017; and "Council Conclusions on Syria", 16 April 2018, op. cit.

the Syrian parties in the conflict on the basis of UN Security Council Resolution 2254 (2015) and the 2012 Geneva Communiqué, is firmly underway.⁸⁶

Accordingly, while the EU provides aid to Syria in both regime- and rebel-held areas, this does not include reconstruction funds. Aid covers three categories: humanitarian aid (the bulk, which is unconditional and based on assessed needs), “resilience” aid (which differs between opposition-held and regime-controlled areas) and “stabilisation” aid (only in the north east).⁸⁷

Because these three aid categories are vaguely defined, however, member states can interpret them flexibly.⁸⁸ For example, some member states refer to aid for a small-scale rehabilitation project as “humanitarian plus”, while others call it “early recovery”, “resilience”, or even “stabilisation”. A European official explained: “In terms of projects, it is really difficult to draw clear lines. The point is the aim of the aid. Why are you giving it? In which context?”⁸⁹ For instance, member states, the E3 in particular, have financed projects in the north east, such as rehabilitation of water pumping stations or clinics, as part of “stabilisation” efforts, aimed in particular at helping people and also preventing a resurgence of insurgent groups. These are not longer-term, large-scale “reconstruction” projects.⁹⁰ (In November 2019, all of these projects were at risk as a result of a partial U.S. withdrawal from the north east following a Turkish military incursion.)

The official EU position is based on the assumption, strongly supported by the E3, that to fund reconstruction without a genuine peace process would be a wasted investment. It favours an approach in which assistance aims to create conditions that, in its view “will mitigate or prevent the recurrence of violence and to respond to the grievances that sparked the conflict in the first place”.⁹¹ It follows that, under this

⁸⁶ Council of the European Union, “Council Conclusions on Syria”, 16 April 2018, op. cit.

⁸⁷ “Council adopts EU strategy on Syria”, Council of the European Union, 3 April 2017. Humanitarian aid is by far the largest in terms of EU projects and budget for Syria (€170m in 2019). Its aim is “saving lives and alleviating suffering by addressing the humanitarian needs of the most vulnerable Syrians across the country”. See Council of the European Union, “Council Conclusions on Syria”, 16 April 2018, op. cit. It is disbursed by DG-ECHO, the EU instrument for humanitarian aid, in more or less equal parts between the International Committee of the Red Cross, UN agencies and NGOs. DG-NEAR provides non-humanitarian “resilience” aid, amounting to €10-15m in 2019. And the EU Instrument contributing to Stability and Peace (IcSP) adopted a €18m program in May 2019 “to support stabilisation work in areas liberated from Da’esh by the Global Coalition in north-eastern Syria”. It includes provision of basic services, such as water supplies and demining, in Raqqa and Deir al-Zour governorates. See “EU strengthens its support to stabilisation in areas liberated from Da’esh”, European Commission, 2 May 2019.

⁸⁸ Council Conclusions express a political position on a topic related to the EU’s areas of activity. As such, they are not legally binding on member states and can be revised only by consensus.

⁸⁹ Crisis Group interview, European official, November 2018.

⁹⁰ In April 2018, French President Emmanuel Macron announced a contribution of €50m, mainly for stabilisation projects in the north east. See “French contribution to support the Syrian people in North Eastern Syria”, French Ministry of Foreign Affairs, April 2018.

⁹¹ “The EU and the crisis in Syria”, EEAS, 20 September 2019. Crisis Group interview, E3 official, December 2018.

perspective, reconstruction should be tied to political and governance reforms.⁹² A European official said:

The civilian population is living in horrible conditions. Reconstruction could help alleviate their suffering. But how sustainable would that be? Funding reconstruction needs to make sense. Today, it would not. Without the regime's willingness to undertake governance reforms, reconstruction cannot be sustainable.⁹³

In the EU's view, reconstruction support under existing conditions would also be counterproductive, legitimising and even empowering a regime they consider criminal. In its own words: "The EU's reconstruction support cannot be invested in a context that would exacerbate pre-war inequalities and grievances. It will only do so if it can lead to genuine reconciliation and peace building".⁹⁴ European officials likewise denounce what they refer to as the regime's "exclusivist" reconstruction policy.⁹⁵ For instance, the EU has expressed great concern about the legal framework the regime has established for the reconstruction process, particularly Law 10.⁹⁶ It has denounced the housing, land and property provisions, especially regarding expropriations that they say would prevent the displaced from returning home, warning that reconstruction without guarantees of a fair property restitution process would enable international law violations and contribute to property disputes as well as prolonged displacement.⁹⁷

⁹² Mogherini said: "Peace in Syria can only be sustainable if it is just, inclusive and democratic. Peace in Syria will only be sustainable if it is built on the foundation of a strong and reconciled society with your voices, fully being citizens of this society. We have the European experience. We have gone through thousands of years of war. We know that reconciliation and sustainable peace is only possible when you rebuild not only the bridges, the highways, the hospitals and the schools, but mainly the social fabric of the country". "Remarks by HR/VP Mogherini at the Days of Dialogue at the Third Brussels Conference on 'Supporting the future of Syria and the region'", EEAS, 13 March 2019.

⁹³ Crisis Group interview, European official, March 2019.

⁹⁴ EEAS, "The EU and the crisis in Syria", op. cit.

⁹⁵ In one official's words: "We are not only concerned about legislation adopted for setting the basis for reconstruction, but also about the overall trend, which is symptomatic of the regime's exclusivist policy". Crisis Group interview, March 2019.

⁹⁶ In January 2019, the EU, seeking to condemn the regime's expropriation policies, adopted sanctions against eleven businessmen and five entities involved in the Marota City project. See "Council Implementing Decision (CSFP) 2019/87 of 21 January 2019", Council of the European Union, 21 January 2019. Several months later, in June 2019, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) added to its list of sanctions 16 individuals and entities "associated with an international network benefiting the Assad regime", targeting more specifically a leading Syrian businessman, Samer Foz, who has been involved in the Marota City project. See "Treasury Designates Syrian Oligarch Samer Foz and His Luxury Reconstruction Business Empire", U.S. Department of the Treasury, 11 June 2019.

⁹⁷ See "Remarks by HR/VP Mogherini at the Days of Dialogue at the Third Brussels Conference", op. cit. The EU Council stated: "The EU will not engage in early recovery/stabilisation efforts that could support social and demographic engineering". "Council adopts EU strategy on Syria", Council of the European Union, 3 April 2017. A UN official said "At this stage, we don't have the tools to ensure that large-scale reconstruction projects will not endorse illegal expropriations because of the difficulty owners face in proving their ownership, especially IDPs and refugees". Crisis Group interview, October 2018. See also, "Return is a Dream: Options for Post-Conflict Property Restitution in Syria", Syria Justice and Accountability Centre, September 2018.

Europeans also have questioned the regime's grip on aid delivery, which has undermined the humanitarian principles of humanity, neutrality, impartiality and independence.⁹⁸ They claim that the regime has put in place multiple layers of interference, which affect humanitarian organisations' due diligence efforts.⁹⁹ It has complicated registration procedures for NGOs and imposed local partners, such as the Syrian Arab Red Crescent (SARC) and the Syria Trust for Development (headed by First Lady Asma al-Assad), denied sustained and direct access to populations in need, especially in former opposition-held areas, and thus prevented the collection of reliable and independent data for "needs assessments".¹⁰⁰ Several UNDP-funded rehabilitation projects have become controversial as a result.¹⁰¹ In the words of a European official:

To engage in reconstruction today would be worse than not doing anything. We could not guarantee that the reconstruction of houses, schools or hospitals would benefit the population as a whole. Reconstruction in the current context would be rooted in inequality and exacerbate the roots of the conflict.¹⁰²

EU diplomats emphasise that ascertaining that EU-funded projects do not cause harm or violate international law; imposing transparency; and ensuring traceability of money spent does not amount to taking a political stance. EU criteria, these officials say, would continue to apply even if the EU were to lift sanctions and normalise its relations with Damascus.¹⁰³ A European official said:

How would we be able to trace our funds? Given the level of corruption in state institutions and the world of regime cronies, this is impossible without reforms.

⁹⁸ Crisis Group interviews, European officials, January-July 2019.

⁹⁹ For an in-depth treatment of the subject, see "Rigging the System, Government Policies Co-opt Aid and Reconstruction Funding in Syria", Human Rights Watch, 28 June 2019.

¹⁰⁰ Most international NGOs are working through SARC and the Syria Trust. A few have a partnership directly with the ministry of social affairs or with churches. There is no official registration process or standard memorandum of understanding for international NGOs. Crisis Group interview, NGO official, Beirut, May 2019. Donors worry about what they see as a deliberate regime strategy to divide humanitarian actors by not applying policies equally. Crisis Group interview, European official, September 2019. A UN official said: "The regime insists that everything goes through the SARC, but the SARC is driven by a security agenda; it therefore doesn't meet quality control criteria". Crisis Group interview, October 2018. All access and movement inside Syria requires government permission, except for sub-offices in the field, which need only to provide notification. Crisis Group interview, international humanitarian, Beirut, May 2019. An international humanitarian said the UN's access from Damascus had generally improved several months after the change of control and the end of multiple sieges but remained limited in certain areas in May 2019: "Access in Syria has improved in general. In northern rural Homs, the UN has blanket access. But there also are areas where the UN has problems, including some 'reconciled' areas in the south, such as the Yarmouk Valley, and some areas in eastern Ghouta. The question is how much of these are security issues". Crisis Group interview, May 2019. Donors complain about a lack of visibility regarding UN and NGO activities in Syria and the difficulty of ensuring regular and reliable accountability for their funding, though the UN has made some improvements in this regard. Crisis Group interviews, European officials, May-July 2019.

¹⁰¹ Crisis Group interviews, European diplomat and a former UN official, July 2019.

¹⁰² Crisis Group interview, Beirut, May 2019.

¹⁰³ Crisis Group interview, EU official, October 2018.

Syria is a money-laundering operating theatre. The EU cannot support major infrastructure building in such an environment. Other countries in the region that are a good deal more transparent do not meet the conditions of suitability for these kinds of projects. How can you seriously imagine we could go to Syria?¹⁰⁴

The EU's position is also based on the broad assumption that the absence of political steps risks fostering further instability and that an inclusive political transition is needed to combat the lingering jihadi threat and prevent renewed radicalisation.¹⁰⁵ Russia's argument that without reconstruction there will be no refugee return has some resonance in Europe, where many leaders recognise that perpetuation of the refugee crisis places a tremendous strain on the EU's Mediterranean partners and could jeopardise European unity, especially if new refugees were to arrive. But European officials tend to note the absence of conditions that would ensure refugees' safe, voluntary and dignified return, primarily because of the regime's failure to provide guarantees regarding refugees' primary concerns (military conscription, arrests and restrictions on humanitarian access).¹⁰⁶ And they insist on a judicial process for those who have committed crimes to ensure a transition to sustainable stability.¹⁰⁷

Most EU member states – particularly the E3 – have made clear they intend to use their limited tools to encourage a political transition in Syria; one of these, they say, is withholding reconstruction funds and technical expertise.¹⁰⁸ A European official said: “The regime needs money for reconstruction. It is unable to deliver services to the population. The reconstruction issue will put more pressure on the regime in

¹⁰⁴ Crisis Group interview, October 2018. Another official said: “European conditions for supporting reconstruction are based not only on political principles. There are objective factors to take into account [...] We are already seeing signs of demographic engineering and a war economy. We have to be able to verify where our funding goes. The EU has never participated in reconstruction projects in a country where it cannot verify where its funds go”. Crisis Group interview, October 2018. And a UN official said: “We don't have a system in place to guarantee that reconstruction won't cause a lot of harm”. Crisis Group interview, October 2018.

¹⁰⁵ The EU Council stated: “The EU continues to support the efforts of the Global Coalition to Counter Da'esh and reiterates that only a genuine political settlement in line with UNSCR 2254 and 2012 Geneva Communiqué that addresses the root causes of violent extremism and terrorism will lead to its lasting eradication in Syria and the wider region”. Council of the European Union, “EU Council Conclusions on Syria”, 16 April 2018, *op. cit.* An EU diplomat said: “Addressing the Syrian population's grievances is essential to enhancing stability in Syria and in the region”. Crisis Group interview, Brussels, December 2018.

¹⁰⁶ Crisis Group interviews, European officials, January-June 2019. See also “Fourth regional survey on Syrian refugees' perceptions and intentions on return to Syria”, UNHCR, July 2018. A UN representative said: “The UNHCR's position is to respect the decision of refugees [to stay or return], not to decide on their behalf. But the UNHCR still faces obstacles in Syria to organise returns at this stage, such as military conscription, security conditions and humanitarian access. It is up to the Syrian government first and foremost to guarantee the security of returnees”. Crisis Group interview, February 2019. E3 officials say they therefore reject the Russian narrative linking limited refugee returns to the absence of reconstruction, and are calling for improvements in security first. Crisis Group interviews, April-June 2019.

¹⁰⁷ A European official said: “What would be the message we'd be sending if we re-engaged with Damascus without regard for accountability? It would not only be bad for the EU's credibility with respect to upholding the rule of law, but it would also send a message of impunity to other leaders in the region”. Crisis Group interview, May 2019.

¹⁰⁸ Crisis Group interview, EU official, December 2018.

the longer term”.¹⁰⁹ Rhetoric aside, Europeans no longer expect the regime to make political concessions, regardless of its economic straits. Instead, they hope to influence Russia to nudge the regime in that direction. They believe Moscow wants a viable exit strategy from Syria, for which it requires stable Syrian institutions. A European official said: “The Russians are conscious that their military victory is biodegradable. For how long will Syrians bear the ruined state of their country and the mafia networks that are enriching themselves at their expense?”¹¹⁰ Or as another official put it: “The Russians want normalisation in Syria. This war is costly for them and they would rather have it end soon. There’s our leverage”.¹¹¹

C. *Playing the Reconstruction Card*

1. Providing aid without normalising relations

The EU and its member states have been able to maintain consensus on what they do in Syria by agreeing to stay well below the threshold definition of reconstruction as “an orderly, large-scale process with regional and sectoral priorities, long-term planning (five to ten years), and requiring major funding”.¹¹² By plotting activities along a spectrum – from humanitarian aid to stabilisation, early recovery, rehabilitation and humanitarian infrastructure, none of which is clearly defined – they choose the ones their government feels politically comfortable supporting without engaging in reconstruction.

One government may decide to allocate funds to fixing windows in Syrian schools, for example, whereas for others this comes too close to reconstruction.¹¹³ France refuses to fund so-called resilience activities, such as rehabilitation of basic services, in regime-controlled areas, and unlike other member states has no bilateral agreement with the UN Development Programme (UNDP) for such projects.¹¹⁴ Germany does not necessarily oppose supporting small-scale rehabilitation projects in regime-controlled areas under the UN Humanitarian Response Plan, but gives greater priority to activities addressing life-saving and protection needs by bolstering aid delivery through improved access, needs assessment and monitoring.¹¹⁵ Countries belonging to the so-called Visegrád group (the Czech Republic, Hungary, Poland and Slovakia)

¹⁰⁹ Crisis Group interview, December 2018.

¹¹⁰ Crisis Group interview, October 2018.

¹¹¹ Crisis Group interview, E3 official, January 2019.

¹¹² Crisis Group interview, European official, October 2018.

¹¹³ A Crisis Group interview, European official, May 2019.

¹¹⁴ These are listed in Pillar III (“building resilience”) of the UN’s “whole of Syria” Humanitarian Response Plan. This approach specifies activities needed to meet humanitarian needs and coordinates donor action. It is anchored in three strategic objectives: saving lives and alleviating suffering (Pillar I), enhancing protection (Pillar II) and building resilience (Pillar III). See “2018 Syrian Arab Republic Humanitarian Response Plan: January–December 2018”, UNOCHA, https://reliefweb.int/sites/reliefweb.int/files/resources/2018_2018_hrp_syria.pdf. Crisis Group interview, E3 official, July 2019. The UNDP had a total budget of \$50m for Syria in 2018, the top donors being Japan and Germany before UN agencies, Switzerland and Norway. See “Syria: Funding and delivery”, UNDP, 2019.

¹¹⁵ Some 85 per cent of Germany’s total budget for the UN Humanitarian Response Plan goes to Pillars I and II (life-saving and protection), and 15 per cent to Pillar III (resilience). Crisis Group interviews, German officials, May 2019.

tend to support activities near the top of the range.¹¹⁶ For example, in mid-2018, Poland announced a plan to build 100 houses for Christian Syrian refugees in Lebanon to enable them to return home.¹¹⁷ Nordic countries have found a middle ground, providing significant support to small-scale rehabilitation projects.¹¹⁸

These differing approaches reflect diverging political stances toward Damascus that go back to the start of the conflict in 2011. Some governments kept their embassies open with the ambassador (Czech Republic) or just a chargé d'affaires present (Bulgaria); others maintained only their local staff in Damascus with their ambassador (Poland, Romania) or just a chargé (Austria, Italy, Spain, EU) residing in Beirut – a diplomat who might do double duty as ambassador to Lebanon (Finland, Sweden and Denmark). Still others, including the E3, entirely shut down their embassies. As a European diplomat said, the “willingness to depart from [the EU line on reconstruction support] depends on whether you have cut your ties with the regime”.¹¹⁹

Some officials, especially from countries that did not cut all diplomatic relations with the regime, believe that European leverage regarding Syria is too weak to push for a fundamental political change in Syria, whether initiated by the regime or Moscow. As they see it, the time has come for Europe to accept realities on the ground and at least begin a “technical” dialogue with the regime about concrete European political demands. These would include the release of prisoners, international access to detention centres and improvements in international organisations’ access and operational independence. They say this would be the only way for Europe to have some influence over Damascus without normalising relations.¹²⁰ A European official who is of this view argued that “the ‘no reconstruction’ line doesn’t get us anywhere”.¹²¹

Other European officials say that European leverage, if it exists, is irrelevant, because Assad has won and it may therefore be in Europe’s interest to accommodate the regime. As one member state official put it: “at this point – it is controversial to say, but true – our core interests are better served by a strong Syrian state than by a weak one: whether it is fighting ISIS, preventing a new wave of refugees or beginning to lessen Iran’s influence”.¹²²

The varying European approaches underscore the dilemma member states face in implementing their aid policy in regime-controlled areas. Some European officials

¹¹⁶ Crisis Group interview, European official, December 2018.

¹¹⁷ “Syria Hails Poland’s Assistance to Create Suitable Circumstances for Return of Syrian Refugees”, *The Syria Times*, 28 August 2018. Poland has not yet implemented the project, mainly because of European and U.S. pressure. Crisis Group interviews, European officials, December 2018-January 2019.

¹¹⁸ Crisis Group interviews, European officials, May 2019.

¹¹⁹ Crisis Group interview, European official, May 2019.

¹²⁰ A European diplomat said: “Europe cannot have a position that will matter in the long term without accepting reality. We have already lost a lot of time. It’s important to talk to the Syrian authorities (even at a low level) to have a technical dialogue. To achieve progress, it’s necessary to negotiate. This requires a minimum of contact”. Crisis Group interview, April 2019.

¹²¹ Crisis Group interview, European official, December 2018.

¹²² Crisis Group interview, January 2019. Another European official said: “We’re having an internal debate now on Syria: should we accommodate ourselves to the fact that Bashar has won, that the rest of the world is accepting it and therefore, beyond humanitarian assistance, we should start engaging in stabilisation and reconstruction? Or should we maintain our present policy of rejecting such assistance until the regime truly reforms?” Crisis Group interview, January 2019.

stress the risk of hewing to a strategy that remains confined to humanitarian aid, arguing that it limits their ability to influence the country's future and is neither a genuine nor a long-term solution. As a European official put it, "saving lives is a good thing but without jobs or an education, the population will remain in need".¹²³ Over time, they point to the risk of a possible collapse of public services, arguing that a failed state is in neither the region's nor Europe's interest; it could only trigger new refugee flows across the region and into Europe, while renewed chaos and violence could provide new oxygen to radical movements. A European official drew a parallel with Iraq, where international sanctions in the 1990s contributed to the post-2003 collapse of institutions and the rise of violent insurgencies:

The red line we should insist on, regardless of who is in charge in Damascus, is to prevent the collapse of public services. In Iraq [during the 1990s], the sanctions targeted human and technical capital, and after the [2003] war everything collapsed.¹²⁴

This view is broadly countered by other member states, notably the E3. They argue that, beyond political considerations, the lack of guarantees that aid will meet its objectives and not be usurped by the regime stands in the way of reviewing the EU's aid strategy. As a European official put it:

How do you want us to consider going beyond humanitarian aid when the regime is interfering even with this aid according to its own priorities? It's true that the civilian population in Syria is living in terrible conditions. And it's also true that reconstruction would contribute somewhat to alleviating their suffering. But how sustainable would it be? And how could we make sure that reconstruction will allow for refugees and IDPs to return without a clear process of property restitution? This is a dilemma we won't be able to solve: the needs are there but the regime is not ready to take any of the required steps.¹²⁵

They also push back against some member states' inclination to stretch the definition of acceptable assistance. As a European official put it: "If small-scale projects are carried out in a lot of places, how would this differ from reconstruction? Then it would undermine our leverage".¹²⁶

The fraying consensus about which types of aid are acceptable, and which come too close to the line of normalising with the regime has generated some confusion. So far, however, funds that member states allocate to "controversial" projects – such as small-scale rehabilitation – remain relatively insignificant.¹²⁷ European sanctions remain in place, sharply curtailing investments in Syria and member states most

¹²³ Crisis Group interview, European official, May 2019. Another European official said: "Humanitarian aid cannot solve all the ills in Syria. Like a Band-Aid, it's to alleviate suffering when politics has failed to find a solution". Crisis Group interview, December 2018.

¹²⁴ Crisis Group interview, European official, May 2019.

¹²⁵ Crisis Group interview, European official, July 2019.

¹²⁶ Crisis Group interview, March 2019.

¹²⁷ The allocation to Pillar III projects in the 2018 budget was about \$54m out of a total of \$2.18bn in contributions to the UN Humanitarian Response Plan for Syria. See "Syria Humanitarian Response Plan", UNOCHA. To this should be added the UNDP's overall budget for Syria, estimated at around \$50m in 2018. Crisis Group interview, former UN official, July 2019.

inclined to break with the EU policy line have only limited financial means. As a European official from the Visegrád group put it:

The E3 and the rich European countries won't change their minds. They could tell us: 'If you don't agree with the EU line, go ahead and give money to Syria'. But we don't have the same financial means as they do. And the Visegrád countries don't have the power to change EU policy. In the end, internal disagreement in the EU reflects mere differences of opinion, nothing more.¹²⁸

2. Toward an incremental approach?

While European states continue to stick to the official line of no reconstruction assistance until a meaningful political transition is fully underway, most member states appear to agree that a more incremental approach would offer a more realistic way forward.¹²⁹ High Representative Mogherini made the most detailed public proposal in this respect, in March 2017, when she suggested that the EU could adopt “a logic of more for more” by becoming gradually involved in certain areas, in cooperation with international institutions such as the International Monetary Fund and the World Bank, but “only in response to concrete and measurable progress”.¹³⁰

This was the first time a senior EU official referred to the possibility that the EU would consider offering positive incentives in exchange for regime steps consistent with Resolution 2254. These would entail a review of “restrictive measures against Syria to support early recovery and reconstruction”; “resuming bilateral co-operation” and the mobilisation of “appropriate tools under the EU Neighbourhood Policy and other programs to boost the economy and tackle governance and accountability challenges”; and ultimately the “mobilisation of funding for reconstruction” – although Mogherini did not offer details on the steps the regime would be expected to take to trigger these.

But the High Representative's initiative – more like a trial balloon – has not progressed since her public remarks.¹³¹ European governments that prefer keeping a strict line on reconstruction reportedly shut down the discussion early on.¹³² The E3, in particular, considered it premature, given that the regime has yet to make any substantive concession.¹³³ Nor have member states come close to agreeing on potential

¹²⁸ Crisis Group interview, June 2019.

¹²⁹ Crisis Group interviews, European officials, January-March 2019.

¹³⁰ “Elements for an EU Strategy for Syria: joint communication to the European Parliament and the Council”, EEAS, 14 March 2017.

¹³¹ Crisis Group interview, EU official, March 2019.

¹³² Crisis Group interview, European official, March 2019.

¹³³ A European official said: “We need concrete progress to engage in any kind of negotiations with the regime. We welcome the formation of the Constitutional Committee, but Europe won't move before we see some kind of progress”. Crisis Group interview, October 2019. An E3 official said that the regime's inflexible attitude stands in the way of even the prospect of a transactional approach. Crisis Group interview, May 2019. European officials say that, likewise, Russia has yet to put a serious offer on the table. One official said: “The Russians are not giving anything meaningful at this stage. Look at their refugee plan. It was just about how much cement would have to be delivered to relocate the refugees”. Crisis Group interview, November 2018.

benchmarks, how to sequence the aid or what to require from Damascus in return.¹³⁴ Some member states said that they had defined only internally what could be potential benchmarks,¹³⁵ while others reported that they had not reached internal agreement on what minimal conditions for their engagement with Damascus should be.¹³⁶ According to an EU official, the difficulty in reaching consensus among member states has made such an incremental approach *de facto* “non-operational” for the time being.¹³⁷

¹³⁴ Crisis Group interview, European official, March 2019.

¹³⁵ In November 2019, a European official suggested Europeans could eventually take steps in response to meaningful Syrian ones but pointed out Syria and Russia are unwilling to compromise, especially after the U.S.’s partial withdrawal from the north east, and gave the November meetings of the constitutional committee as an example of how the regime does not seem serious. This European official mentioned, as an example of meaningful step, guaranteeing property rights and treating returning refugees fairly. Crisis Group interview, senior French official, November 2019. Another European official said: “We have two instruments of leverage. One is recognition. Some Arab states are using this. I told them – notably King Abdullah [of Jordan] – to try to get something in exchange, such as border security or reducing the Iranian presence in some areas, and not to give it up for free. But Europe should hold back on this one. As for reconstruction, we should dole it out based on steps the regime takes”. Crisis Group interview, European official, January 2019.

¹³⁶ A European official said: “The regime has not yet met the minimal conditions for us to start providing reconstruction assistance. Of course, we still need to define those minimal conditions. These need to be hard on the regime, but not unrealistically so. We still have more work to do on this”. Crisis Group interview, European official, March 2019.

¹³⁷ Crisis Group interview, European official, March 2019.

IV. Navigating a Way Forward

European, Syrian and Russian expectations with respect to rebuilding the ravaged country are a complete mismatch. The conditions Europe places on providing reconstruction funds collide with the regime's refusal to countenance any requirement that would diminish its political control, as well as with Russia's unwillingness or inability to press the regime toward reforms that Europe would deem sufficiently meaningful.

This leads to a clear conclusion, which is that Europe cannot reasonably expect that its hand on the purse will provide sufficient leverage to effect a comprehensive political transition. The regime has given no sign that it would agree to change its political behaviour to obtain European funding, nor does Moscow seem to sufficiently fear that its interests in Syria are endangered by the absence of significant reconstruction. While the cost Russia incurs from its intervention might increase in the long run, there is reason to doubt it would persuade Moscow to press Damascus to make meaningful political concessions. In short, reconstruction funding alone is not a workable tool to produce meaningful steps toward a political transition.

Europe faces a dilemma. Denying reconstruction funds and investments would increase economic dislocation, worsen people's living conditions and make it all the more difficult to envisage refugee returns; instability could, in turn, give ISIS the room it needs to revive its fortunes, already boosted by the announced U.S. withdrawal and Turkey's incursion into the north east. Conversely, providing them risks empowering and legitimising a regime deemed off-limits by many in Europe, one that is highly likely to use the assistance in ways that benefit the few at the expense of the many, and one whose policies led to the uprising in the first place.

For Europe, this leaves three options. The first would be not to work with the regime but continue to provide substantial aid in areas beyond the regime's writ.¹³⁸ In particular, Europe could bolster support for Syrian refugees in Lebanon, Jordan and Turkey to prevent their enduring presence from destabilising these countries.

A second option would be for Europe to keep its red lines on reconstruction, but explore the possibility of supporting activities in regime-held areas beyond the current humanitarian and resilience aid that would benefit the Syrian population while limiting regime gains. Such activities could include small-scale rehabilitation of essential public services, such as schools, hospitals, electricity and water. The EU and member states could condition such aid on regime adherence to the principle of operational independence. A focus on small-scale rehabilitation of public infrastructure would allow Europe to help ordinary Syrians without getting mired in controversies linked to property claims. It would also allow Europe to mitigate the effects of the war on an entire generation of young Syrians. To rehabilitate partially damaged or destroyed schools, for example, would be an essential step for 2.1 million children to be able resume their studies.

¹³⁸ European states restricted their aid programs in north west Syria (mainly Idlib) after Hei'at Tahrir al-Sham established dominance in the area in early 2019, mainly because of the difficulty of ensuring that their assistance would not benefit the jihadist group.

This option depends on the regime's willingness to agree to a process it would not entirely control, which so far it has appeared loath to do. Because the option is by definition modest, it also would have only limited impact on the situation on the ground and do little to further voluntary refugee returns, which are linked primarily to security and observance of housing, land and property rights. This option nonetheless is worth exploring insofar as the collapse of essential public services would create a humanitarian crisis with a knock-on effect well beyond government-controlled territories, while potentially affecting countries beyond Syria in both the short and long term, if it were to foment a new outflow of Syrians trying to escape desperate conditions.

To proceed with this option, the EU and its member states could:

- ❑ Appoint a representative within the EU, such as the EU Delegation to Damascus, to negotiate assistance directly with the regime.
- ❑ Appoint an independent third party to undertake a detailed assessment of damage and needs and identify local partners not tied to entities responsible for human rights abuses.
- ❑ Restore basic services and infrastructure, for example by fixing school windows and roofs, and repairing and reconnecting water pipes.
- ❑ Build consensus on the conditions required to ensure that projects benefit the population and address needs with a minimum of regime interference.
- ❑ Require any small-scale rehabilitation projects funded by the EU or its member states be carried out within the above framework.
- ❑ Select a third-party monitoring mechanism that could ensure project implementation in accordance with the above conditions.

A third option for Europe would be to put in place an incremental approach – the so-called more-for-more approach – tying its steps on reconstruction funding (or the progressive lifting of sanctions) to meaningful political and other Syrian steps. These steps could reflect elements of UN Security Council Resolution 2254 while also taking into account additional, arguably more realistic measures to be taken by the regime. To base an incremental approach entirely on Resolution 2254 could legitimise the mere appearance of a political transition, since some of the benchmarks (such as the creation of a constitutional committee and drafting of a constitution) are difficult to measure or may be meaningless in the absence of the rule of law. To avoid this risk, donors could, for example, add concrete benchmarks relating to progress on issues such as the systematic abuses of the security services, housing, land and property rights, military conscription, the treatment of detainees, the status of the disappeared and, more generally, the safety of all Syrians.

Such an approach would force Europe to identify and agree on such benchmarks, clarifying what it expects from Damascus (and Moscow) in exchange for financial and diplomatic concessions. Some European states may be concerned that Damascus will reverse its steps; as a protection, Europe ought to be prepared to halt reconstruction aid in case of regime non-compliance.

The EU could for example consider the following regime steps as possible benchmarks:

- Phase 1: Verified functioning of the constitutional committee and progress on drafting a constitution as a first sign of political opening.
- Phase 2: Confidence-building measures such as allowing refugees to return safely, including through suppression of discriminatory laws such as Law 10, and establishment of a technical committee to launch a property restitution process; creation of a mechanism to provide information to families of the disappeared; amnesty for army deserters; regular access to formal and informal detention centres to qualified international organisations such as the International Committee of the Red Cross; and release of political prisoners.
- Phase 3: Observable progress on implementation of confidence-building measures; vote on a draft constitution by referendum.
- Phase 4: Organisation of local, parliamentary and presidential elections (with UN supervision), in which all Syrians, including refugees, are eligible to participate.
- Phase 5: Holding of elections whose results are validated by the UN.

In turn, the EU, would offer the following incentives:

- Phase 1: Ensuring effective implementation of EU sanctions exemptions for humanitarian aid to address the problem of over-compliance by banks and commercial enterprises.
- Phase 2: Planning small-scale rehabilitation projects prioritised by urgency of need, focused on access to services and housing for returnees; partial lifting of sectorial sanctions to facilitate investment and trade (not including sanctions on entities or persons accused of human rights abuses or involved in trading in equipment that could be used for internal repression);
- Phase 3: Resuming bilateral cooperation at a technical level and implementation of small-scale rehabilitation projects; starting to plan reconstruction alongside the International Monetary Fund and World Bank.
- Phase 4: Launch of some reconstruction projects.
- Phase 5: Diplomatic recognition of the new elected bodies and full implementation of reconstruction plan. Delisting of sanctioned persons and entities on a case-by-case basis.

How Syria and Russia would react is unknown, but there is at least some reason to think they would have an interest in this approach. The Syrian regime controls only about 70 per cent of its territory, not including the oil fields or primary wheat-growing areas (although developments in mid-October 2019 suggest that the momentum may be swinging to its side); its international allies lack the will or means to provide major funds for reconstruction; and, while dissensions exist among Europeans, the EU position regarding sanctions and reconstruction has remained solid to date. Although phases 4 and 5 in particular are likely well beyond what the regime can contemplate at this stage, it might conceivably see benefit in the early mutual concessions. As for Moscow, such a transactional approach could help it stabilise regime-held areas as the basis for a future exit.

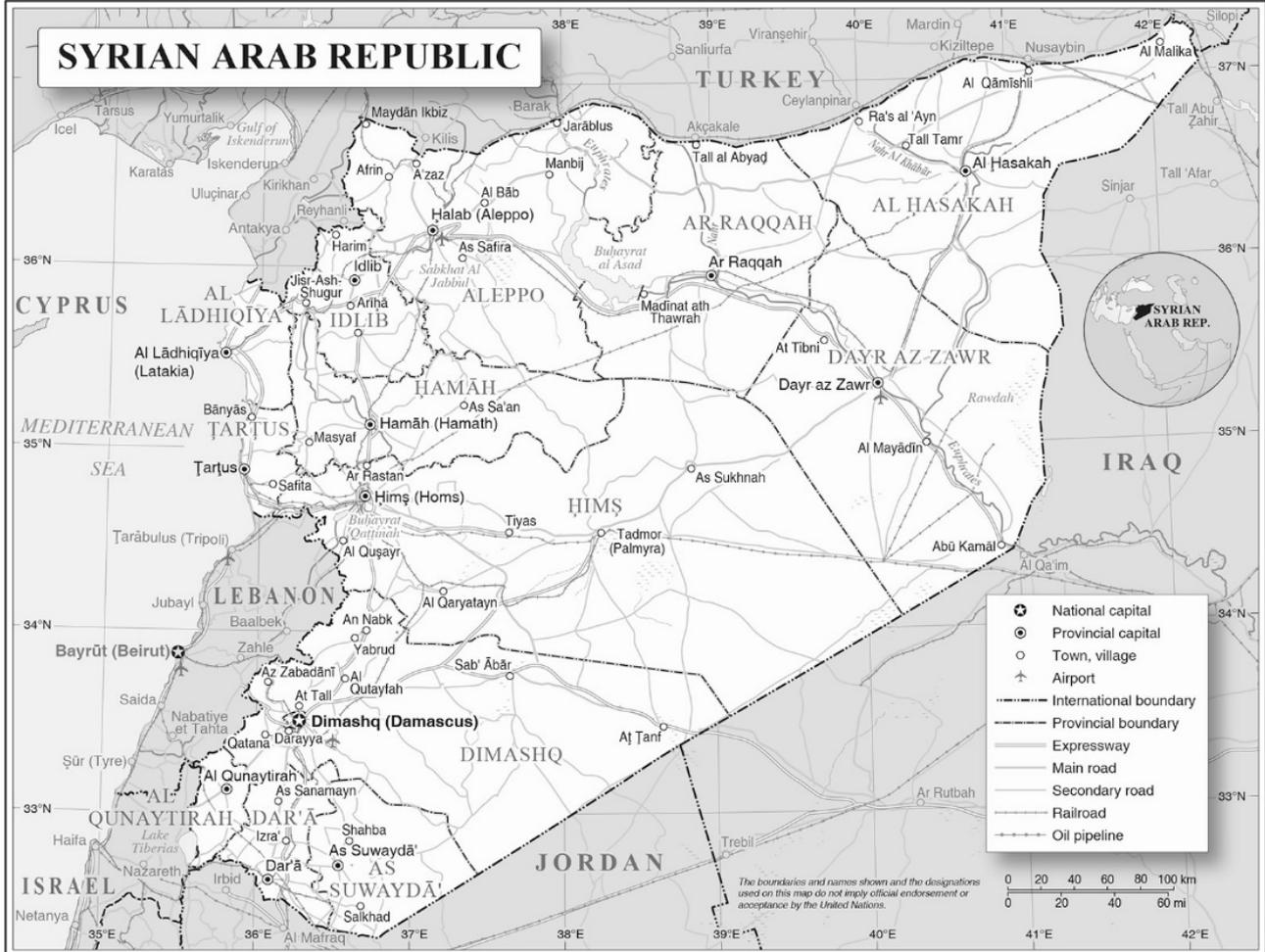
V. Conclusion

The question of assistance to Syria and, in particular, reconstruction aid has bedevilled Europe for some time. Understandably disinclined to do anything that would signal acceptance of the Syrian regime, empower it, or enable it to decide who will benefit from assistance, Europeans also confront the fact that withholding reconstruction funds leaves Syrians in continuous need, with potential longer-term consequences for their ability to recover from the conflict and for refugee returns.

There are only few and sub-optimal options to deal with this conundrum. The two identified in this report – increasing European aid in exchange for guarantees on the independent implementation of aid projects; or adopting a phased, incremental approach – are nonetheless worth exploring for lack of satisfactory alternatives. And because the status quo is good neither for Europe, nor for the Syrian people.

Brussels/Beirut/Amman, 25 November 2019

Appendix A: Map of Syria



Appendix B: About the International Crisis Group

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early-warning bulletin, providing a succinct regular update on the state of play in up to 70 situations of conflict or potential conflict around the world.

Crisis Group's reports are distributed widely by email and made available simultaneously on its website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policymakers around the world. Crisis Group is chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord (Mark) Malloch-Brown.

Crisis Group's President & CEO, Robert Malley, took up the post on 1 January 2018. Malley was formerly Crisis Group's Middle East and North Africa Program Director and most recently was a Special Assistant to former U.S. President Barack Obama as well as Senior Adviser to the President for the Counter-ISIL Campaign, and White House Coordinator for the Middle East, North Africa and the Gulf region. Previously, he served as President Bill Clinton's Special Assistant for Israeli-Palestinian Affairs.

Crisis Group's international headquarters is in Brussels, and the organisation has offices in seven other locations: Bogotá, Dakar, Istanbul, Nairobi, London, New York, and Washington, DC. It has presences in the following locations: Abuja, Algiers, Bangkok, Beirut, Caracas, Gaza City, Guatemala City, Hong Kong, Jerusalem, Johannesburg, Juba, Mexico City, New Delhi, Rabat, Tbilisi, Toronto, Tripoli, Tunis, and Yangon.

Crisis Group receives financial support from a wide range of governments, foundations, and private sources. Currently Crisis Group holds relationships with the following governmental departments and agencies: Australian Department of Foreign Affairs and Trade, Austrian Development Agency, Danish Ministry of Foreign Affairs, Dutch Ministry of Foreign Affairs, European Union Emergency Trust Fund for Africa, European Union Instrument contributing to Stability and Peace, French Development Agency, French Ministry of Europe and Foreign Affairs, German Federal Foreign Office, Global Affairs Canada, Irish Aid, Iceland Ministry for Foreign Affairs, Japan International Cooperation Agency, Principality of Liechtenstein, Luxembourg Ministry of Foreign and European Affairs, New Zealand Ministry of Foreign Affairs and Trade, Norwegian Ministry of Foreign Affairs, Qatar Ministry of Foreign Affairs, Swedish Ministry of Foreign Affairs, the Swiss Federal Department of Foreign Affairs, the UK Department for International Development, and the United Arab Emirates Ministry of Foreign Affairs and International Cooperation.

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November 2019

Appendix C: Reports and Briefings on the Middle East and North Africa since 2016

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Exploiting Disorder: al-Qaeda and the Islamic State, Special Report N°1, 14 March 2016 (also available in Arabic and French).

Seizing the Moment: From Early Warning to Early Action, Special Report N°2, 22 June 2016.

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