Janez Lenarčič is currently serving as Commissioner for Crisis Management in the European Commission, a mandate he took up in December 2019. In this capacity, he is responsible for EU civil protection as well as humanitarian aid. Mr Lenarčič served as Ambassador and Permanent Representative of Slovenia to the European Union (EU) in Brussels from 2016 to 2019. From 2014 to 2016, he held the Secretary of State position in the cabinet of the Slovenian Prime Minister. His previous experience also includes the position of Director of the Organization for Security and Cooperation in Europe’s (OSCE) Office for Democratic Institutions and Human Rights, in Warsaw, from 2008 to 2014. He has also served as Secretary of State for European Affairs, including representing Slovenia during the Lisbon Treaty negotiations in 2007 and later representing the Slovenian EU Council Presidency to the European Parliament in 2008. In 2002 and 2003 he held the position of State Secretary in the cabinet of the Slovenian Prime Minister, after which he served as Slovenian Ambassador to the OSCE. In 2005, he was also Chairman of the Permanent Council of the OSCE in Vienna. In 2000 he served as Adviser to the Minister for Foreign Affairs, and the following year he became the Diplomatic Adviser to the then Slovenian Prime Minister. Between 1994 and 1999 he was posted to Slovenia’s Permanent Representation to the United Nations (UN) in New York, where he also served as the alternate representative of Slovenia on the UN Security Council. Mr Lenarčič holds a degree in international law from Ljubljana University.
To begin with, could you describe your role and responsibilities as the Commissioner for Crisis Management? Under this broad question, could you briefly explain to us where the Directorate-General for European Civil Protection and Humanitarian Aid Operations [DG ECHO] is situated within the rather complex EU institutional structure? What is the scope of your and DG ECHO’s mission in relation to humanitarian action?

Solidarity is one of the fundamental values of the European Union. The action carried out within my portfolio is the expression of this moral responsibility that we, as the EU, carry together with the rest of the international community. My role and responsibilities, as Commissioner for Crisis Management, if I were to sum them up in a few words, are about how the EU translates this solidarity from words into action in emergencies.

The mandate within which we act is explained in the Treaty on the Functioning of the European Union. We act to “encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters”¹ and “to provide ad hoc assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations”.² It is, therefore, a mandate that covers both civil protection and humanitarian response to crises.

Each response has its own tools and mechanisms, such as the EU’s Civil Protection Mechanism or the EU’s Humanitarian Implementation Plans. Depending on needs and contexts, these instruments are deployed separately or in complementarity to each other. To give a tangible example of how this works in practice, in the wake of the Beirut blasts last year, the EU coordinated the sending of in-kind assistance and specialized teams, all requested by Lebanon, provided by member and participating States though the EU Civil Protection Mechanism. At the same time, the EU mobilized emergency humanitarian funding to provide life-saving assistance to the affected people and operated three EU Humanitarian Air Bridge flights to deliver essential aid. Therefore, the mandate and the instruments available to us allow us to address a crisis from different angles.

The tools which we have at our disposal are implemented through DG ECHO. For those who are unfamiliar with the structure of the European Commission, a directorate-general could be compared to a ministry at the national level. While DG ECHO’s headquarters are based in Brussels, it has a field network around the globe, with field offices in more than forty countries. We also count on 155 international humanitarian experts that help us assess needs on the ground, tailor the response to needs and monitor implementation.

When it comes to humanitarian aid, the EU and its member States are the leading donors worldwide. This year alone, the European Commission has an initial

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² Ibid., Art. 214.
annual humanitarian budget of €1.4 billion. This is funding that is provided to humanitarian organizations so that they can assist people in need. This year’s funding represented an increase of more than 60% compared with the initial humanitarian budget adopted last year. With it we will strive to provide a meaningful contribution to the response to global humanitarian needs, which are steeply and steadily growing.

The COVID-19 pandemic brought an additional layer of challenges to already fragile communities. To meet these challenges, the EU is acting on different fronts. The EU was among the first to support the World Health Organization’s Coronavirus Response Plan. We mobilized additional humanitarian funding. We organized EU Humanitarian Air Bridge flights to fragile countries to help unblock the transport of essential humanitarian aid and workers, as well as of much-needed medical supplies that were held up by transport restrictions. At this stage of the pandemic where vaccines are available, we are also providing humanitarian funding of €100 million to support the roll-out of vaccines in countries with critical humanitarian needs and fragile health systems in Africa. This is in addition to the significant contribution – €2.47 billion – given by the EU to the COVAX Facility, which will allocate up to 100 million doses of COVID-19 vaccines for use in humanitarian contexts.

In your answers to the European Parliament in October 2019, before even taking up your mandate, you declared: “I will firmly advocate for EU humanitarian aid to be delivered in accordance with International Humanitarian Law and the humanitarian principles. The Commission’s experience clearly shows that respecting International Humanitarian Law and humanitarian principles is an operational necessity helping to provide access to assistance, to protect the most vulnerable and to ensure the security of humanitarian workers.”

Could you elaborate on why you insisted on the respect for international humanitarian law [IHL] and humanitarian principles as an operational necessity?

IHL and humanitarian principles face a number of challenges, but these challenges do not, in my view, call into question the absolute validity and necessity of this set of rules. On the contrary, they call on our collective responsibility to relentlessly remind all involved, in the interest of victims of conflicts and natural disasters and of humanitarian workers, that they not only exist but need to be known and respected.

One of the paradoxes, though, is that IHL, whose importance and necessity is very broadly recognized – with the 1949 Geneva Conventions being among the most widely accepted legal instruments, and most of their provisions having become customary law – is nevertheless all too frequently violated. We have been observing an alarming trend in the last couple of years where the basic principles of humanitarian law have been dramatically and blatantly violated. Zones

established to shelter the wounded, the sick and civilians, like hospitals or schools, have been deliberately targeted. This has a critical effect on civilians, including millions of children affected by conflicts. Violations of IHL are also one of the drivers of conflict-induced hunger. Trucks delivering food and medical equipment to millions have been destroyed on purpose, recently again in northeast Syria. Not least, the recurrent disrespect for humanitarian norms and principles makes the delivery of critical aid increasingly difficult and dangerous for humanitarian and medical workers. Humanitarian workers have been the target of attacks, with 481 aid workers being victims of major attacks in 2019.

In addition to IHL, the fundamental humanitarian principles of impartiality, neutrality and non-discrimination guarantee that aid is provided solely based on existing humanitarian needs. These principles are not mere declarations of intent. They guide and safeguard the operations of our partners in the field on a daily basis. They have, in the EU order, the highest legal value as they are enshrined in Article 214 of the Treaty on the Functioning of the European Union. As a principled donor, we implement this mandate together with our partners.

So yes, I can only reiterate that compliance with IHL and humanitarian principles is at the core of the EU’s humanitarian action. Humanitarian principles need to be respected by all – parties to the conflict, donors, humanitarian organizations – as a means to guarantee, in practice, that aid reaches the most vulnerable. On our side, we will continue to use the EU’s existing toolbox in support of IHL, as outlined in the EU’s dedicated IHL Guidelines that we have had at our disposal for over a decade. But we are also committed to putting IHL at the heart of the EU’s external action, using all instruments available to us to promote compliance with IHL. This is one of the key messages of the Communication on the EU’s Humanitarian Action which we recently adopted.

The recitals of Directive (EU) 2017/541 on Combating Terrorism contain an “IHL saving clause”: “This Directive should not have the effect of altering the rights, obligations and responsibilities of the Member States under international law, including under International Humanitarian Law. This Directive does not govern the activities of armed forces during periods of armed conflict, which are governed by International Humanitarian Law.” Why was such a clause considered necessary?

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4 The humanitarian principles are defined, inter alia, in the European Consensus on Humanitarian Aid, OJ 2008/C25/1, 30 January 2008, Part 2.
Over recent years, we have seen an increase in the number of counterterrorism frameworks, both globally and in the EU. These may serve legitimate security objectives. Their aim should be to protect the safety and security of the same civilians that humanitarian organizations serve. But in many cases, counterterrorism measures have over the years made it increasingly difficult for humanitarian organizations to deliver aid to people who may need it most. The need for assistance is often highest in complex environments where designated terrorist groups are parties to an armed conflict. It is also estimated that over 60 million people live in areas where non-State actors exercise control, including some that are designated under counterterrorism regimes.

It is important that all counterterrorism measures are in accordance with international law, including IHL, but also international human rights law and international refugee law. One of the critical aspects in this respect is safeguarding the space of humanitarian organizations in armed conflicts.

This is why it is important that Directive (EU) 2017/541 includes an IHL saving clause. The purpose is to ensure that activities which are governed by, and not prohibited under, IHL are not prosecuted under counterterrorism legislation. It is really critical that IHL remains respected and relevant in all contexts of armed conflicts, in order to maintain the integrity of IHL, to safeguard the humanitarian space, and to ensure that vulnerable communities in areas living under the control of these groups are not left behind.

In recent years, there has been an increase in global, regional and local regulatory measures in the field of international sanctions regimes, including with regards to EU sanctions, also called “restrictive measures”. In May 2020, you declared: “Sanctions should not impede the delivery of humanitarian assistance, including medical assistance, in line with International Humanitarian Law.”

What kind of impediments were you thinking of?

Our partners—non-governmental organizations, international organizations and national agencies—often implement actions in countries for which sanctions apply, and in such environments they have to comply both with the obligations created by sanctions regimes and with humanitarian principles. Whilst sanctions are not intended to stand in the way of or impede the delivery of humanitarian assistance, they can create difficulties for the provision of humanitarian aid on the ground, as frequently reported by humanitarian organizations, including our partners.

Many humanitarian organizations report that complying with sanctions regimes can affect their ability to conduct life-saving operations. They point out that sanctions regimes can create difficulties for them in carrying out money transfers necessary for their operations, in engaging with non-State armed groups, and in purchasing and importing equipment. Other indirect adverse effects, such

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as over-compliance, bank de-risking and an overall chilling effect, can also translate to operational difficulties for partners who operate on the ground. Some humanitarian partners have become reluctant to engage in areas impacted by sanctions, due to the high costs and uncertainty involved in ensuring compliance; when they do continue to engage, they have to spend significant resources on ensuring compliance.

I attach the utmost importance to these concerns and difficulties shared by our humanitarian partners. A consistent implementation of sanctions regimes is essential to ensuring that EU funds cannot be diverted from their purpose and used, for instance, to finance illicit or criminal activities such as terrorism. At the same time, the European institutions are committed to ensuring unimpeded access of humanitarian assistance to the most vulnerable and that it is delivered in full compliance with international law and humanitarian principles.

Several practical guidance notes have been published in 20209 by the European Commission on how to comply with EU sanctions when providing humanitarian aid, in particular medical assistance, to fight the coronavirus pandemic. They were much appreciated by the humanitarian community. What are the concrete reasons that triggered the drafting of these guidance notes? In general, what are the elements of the EU sanctions policy aimed at minimizing potential obstacles to humanitarian action? Can you identify other possible measures to support humanitarian actors, including EU-funded organizations, operating in countries subject to EU restrictive measures?

The European Commission takes seriously the concerns relating to any possible obstacles to the swift and effective delivery of humanitarian aid and is committed to preserving the humanitarian space. That is why the Commission has developed guidance notes that are aimed at providing further clarity to our partners on regulatory requirements.

We have, for example, developed guidance for humanitarian organizations and economic operators on the provision of humanitarian aid to fight the COVID-19 outbreak in environments subject to EU restrictive measures.10 Over the last year, the scope of this guidance was gradually expanded and it currently covers sanctions regimes in Syria, Iran, Venezuela and Nicaragua. I would particularly stress the principle that final beneficiaries of humanitarian assistance cannot be subject to vetting against sanctions lists. We have had positive feedback on the guidance from our partners, which has prompted the European Commission to develop further guidance, for instance on the implementation of the EU Global Human

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9 The European Commission released and then expanded its guidance note on how COVID-19-related humanitarian aid can be provided to countries and areas around the world that are subject to EU restrictive measures (sanctions), namely Syria (published in May 2020), Iran and Venezuela (published in October 2020) and Nicaragua (published in November 2020). See European Commission, Guidance Note on the Provision of Humanitarian Aid to Fight the Covid-19 Pandemic in Certain Environments Subject to EU Restrictive Measures, C (2020) 3179, Brussels, 11 May 2020, 9 October 2020, 16 November 2020 (EU Guidance Note).

10 Ibid.
Rights Sanctions Regime, published in December 2020, and on restrictive measures related to the situation in Myanmar/Burma, in May 2021. A horizontal guidance on the provision of humanitarian aid in environments subject to EU sanctions is currently in preparation.

Our support to humanitarian organizations goes beyond that, however. An EU-level single contact point was set up in March this year, in the context of the COVID-19 pandemic. This is a dedicated channel to help humanitarian organizations identify the authorities competent for granting humanitarian assistance derogations, when these are included in sanctions regimes.

We can also provide comfort letters to our partners, aimed at facilitating their interactions with banks and financial institutions for financial transfers linked with EU-funded humanitarian actions. An overview of the support provided to our partners and related information can be found on the DG ECHO partners’ website.11 Furthermore, we promote a continuous dialogue between all parties involved in order to facilitate the delivery of humanitarian assistance to all those in need and to find practical solutions to obstacles. We actively participate in various advocacy and awareness-raising activities and continuously engage with our partners.

A humanitarian exemption is included in the recital of Directive (EU) 2017/541.12 There is a strong call from humanitarian organizations for the systematic introduction of such exemptions in EU sanctions regimes as well. In EU language, the term “exemption” means that “a restriction does not apply when the purpose of the action is to provide humanitarian aid”, and that humanitarian operators can carry on without delay as their humanitarian activities would be considered outside the scope of EU restrictive measures.13

How do you assess this option in comparison to derogations – i.e., ad hoc authorizations? What is the stance of the EU on humanitarian exceptions overall?

In order to preserve the humanitarian space and to guarantee the delivery of humanitarian assistance to people in need, sanctions regimes may provide for humanitarian exceptions. EU restrictive measures can contain two types of exceptions: exemptions and derogations. Exemptions – similar to the one included in Recital 38 of Directive (EU) 2017/541 – mean that a restriction does not apply when the purpose of the action is to provide humanitarian aid. Any conditions established in the sanctions regime to guarantee the genuine humanitarian character of the operations concerned must of course be met for the exemption to apply. In that context, humanitarian organizations can carry out their activities without any prior authorization. In case of a derogation, a restricted action can be carried out only after an authorization is granted by a competent authority.

In the latter scenario, this process can pose difficulties to humanitarian organizations, ranging from the identification of the competent authority to

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11 Available at: https://dgecho-partners-helpdesk.eu/sanctions/eu-restrictive-measures.
possible delays in, and suspension of, life-saving activities. In order to overcome such practical challenges, the EU is working with all involved actors to streamline and facilitate procedures for granting humanitarian derogations.

The inclusion of humanitarian exceptions is one of the most important tools for safeguarding the humanitarian space in practice. At present, only seven out of forty-two EU sanctions regimes in force contain a humanitarian exception of any kind. Among the exceptions currently in place there are both derogations and exemptions, notably in the specific cases of the fuel exemption for humanitarian actors for Syria, and the measures transposing the UN sanctions with regard to Somalia.

The European Commission is committed to pursuing the consistent inclusion of humanitarian exceptions in EU sanctions regimes, and to putting in place a complete and effective framework for the use of such exceptions by all our partners receiving EU funding. This approach has been clearly set out in the Communication on the EU’s Humanitarian Action adopted by the Commission in March this year. Of course, it is not the Commission that decides on sanctions, but the Council, so we will continue working with the Council to ensure inclusion of the humanitarian exception into any upcoming sanctions regime.

On 7 October 2020, the Council adopted a decision and a regulation establishing a Global Human Rights Sanctions Regime. It allows for the targeting of individuals, entities and bodies responsible for, involved in or associated with serious human rights violations and abuses worldwide. Could sanctioning violations of IHL also be an effective way to ensure better compliance with IHL? Under this broad question, could you also address whether this possibility has been considered at the EU level? What are the main causes of enthusiasm and reticence on this option? How would it be integrated into EU legislation?

The EU IHL Guidelines that I’ve previously referred to specifically recognize that the use of sanctions may be an effective means of promoting compliance with IHL. Such measures can therefore be considered by the EU against State and non-State parties to a conflict, as well as individuals. Our recent Communication on the EU’s Humanitarian Action also points to the inclusion of serious IHL violations among the grounds for listing under EU sanctions regimes as a potentially significant way of promoting compliance with IHL, while underlining the need to avoid any potential negative impact on humanitarian activities. And the EU is already using this instrument. There are a number of geographical regimes, aimed, inter alia, at preventing or responding to violations of IHL. To mention some examples, these include Burundi, the Democratic Republic of the Congo, Somalia, Libya and Mali.

The EU’s global human rights sanctions regime, adopted at the end of last year, focuses on serious human rights violations and abuses. For the first time, the

EU has a flexible and forceful framework that will allow it to target individuals, entities and bodies – including State and non-State actors – responsible for, involved in or associated with serious human rights violations and abuses worldwide, no matter where they occur. Under this framework, restrictive measures may cover acts such as genocide and crimes against humanity, but also cases of sexual and gender-based violence. As such, this regime may also be a relevant tool for sanctioning serious human rights abuses in humanitarian contexts.

The average time that the International Committee of the Red Cross [ICRC] has been present in its ten largest operations is forty-two years. Protracted armed conflicts are characterized by their longevity, intractability and mutability, and their complexity is blurring the traditional lines between humanitarian action and development cooperation. The EU embraced the humanitarian–development–peace nexus approach and has launched integrative projects in various contexts. What are the first conclusions of the EU “operationalization” of this approach? Some commentators have brought up concerns about how the nexus approach can digest/integrate humanitarian principles – what are your views on this?

The reality of the world is indeed complex, and we continue to face serious crises. Humanitarian needs are escalating, with violent conflicts as their main driver. Natural disasters and the effects of climate change add to the complexity and severity of crisis – COVID-19, and its dire socio-economic consequences, being a case in point. In view of the magnitude, diversity and complexity of the crises that we are facing, it is imperative that we work together, across the humanitarian, development and peace spectrum.

Council conclusions on operationalizing the nexus, adopted in May 2017, encourage the Commission and EU member States to work together to implement the nexus approach in selected pilot countries. We have done just that in six pilot countries and have seen positive results emerging at the country level. In addition to the pilots, we work on implementing the nexus approach in many other contexts. Together with High Representative Borrell and Commissioner Urpilainen, we gave strong political backing to nexus considerations in the guidelines for the programming of the Neighbourhood, Development and International Cooperation Instrument. The current programming period of the new development instrument provides an excellent opportunity to include the nexus approach in the development country strategies. We also requested all EU delegations around the world to contribute to nexus implementation. In sum, we put great emphasis on improving continuous dialogue between the respective

17 The six pilot countries are Chad, Iraq, Myanmar, Nigeria, Uganda and Sudan.
arms of the EU, in headquarters and in the field. And we work towards joint context analysis for each country.

Most of our partners are already applying new ways of working, including the humanitarian–development–peace nexus. They are bringing valuable lessons learned and experiences on how to work to reduce unmet needs, vulnerabilities and risks, addressing root causes of conflict and working to increase people’s resilience. From the humanitarian point of view, we will continue to require partners to focus on addressing urgent humanitarian needs. This should not, however, prevent them from reflecting on how their interventions fit into the wider context of response to a crisis, and when relevant, how their interventions can have a more long-term or sustainable impact. Examples may include linking up to existing water infrastructure instead of water trucking, providing cash in order to allow for more dignified choices, or linking humanitarian social safety nets to existing country-led social protection programmes—all, of course, bearing in mind the local context.

A nexus approach implies—where the local context permits—working to improve coherence in coordination, programming and financing. Such an approach provides opportunities for funding from different EU budget lines over time.

All in all, the EU’s view is that the triple nexus should certainly contribute to addressing protracted crises, but not to the detriment of a principled humanitarian approach.

On 10 March 2021, the Commission published its Communication on the EU’s Humanitarian Action. Could you describe the main messages delivered by the Commission? What will be the next steps in terms of the implementation of the Commission’s agenda?

First of all, by adopting the Communication on the EU’s Humanitarian Action, the European Commission has underlined the prominent place of humanitarian aid in the EU’s external policy. The Communication sets out an agenda for giving renewed impetus to the EU’s humanitarian aid policy at a time when humanitarian needs are at an all-time high, and growing. Given the unprecedented challenges that humanitarian aid is facing today—exacerbated by the COVID-19 pandemic—we need both more resources globally for humanitarian response, and a better enabling environment for the delivery of principled and effective humanitarian assistance to those most in need. But as the Communication underlines, we also need to step up action to tackle root causes—complex underlying drivers of conflicts and crises. For that, we need to continue linking up emergency relief with longer-term approaches through more systematic, close cooperation among humanitarian, development and peacebuilding actors.

Second, as the title of the Communication indicates, while humanitarian aid is facing new challenges, the underlying principles remain the same. The
starting point is a clear reaffirmation of the EU’s commitment to providing principled, needs-based humanitarian assistance in line with the European Consensus on Humanitarian Aid, which remains our reference framework. The Communication also underlines the importance of effective advocacy for unrestricted and unconditional humanitarian access to people in need, and it seeks to put IHL at the heart of the EU’s external action. It commits us to using all available EU instruments to ensure respect for IHL – not least by calling for the inclusion of serious IHL violations among the grounds for listing in EU sanctions regimes, whenever appropriate. As mentioned earlier, the Communication also sets out a commitment to ensuring that IHL is fully reflected in EU sanctions policy, including through the consistent inclusion of humanitarian exceptions in EU sanctions regimes.

Third, given the unprecedented level of humanitarian needs and the growing funding gap, the Communication underlines the urgent need to broaden the resource base for humanitarian action. It is simply not sustainable that a very small group of donor countries and the EU provide almost the entirety of official humanitarian funding, year in, year out. Providing the resources needed for humanitarian aid is a responsibility that needs to be shared much more broadly, both globally and inside Europe.

In addition, the Communication sets out how we can enhance the effectiveness and efficiency of the EU’s humanitarian assistance, inter alia by enhancing quality and programmatic funding in line with the Grand Bargain, by expanding the use of innovative approaches, by supporting local responders and by strengthening anticipatory action.

Fourth, the Communication seeks to enhance the EU’s role as an active enabler of principled and effective humanitarian assistance. The Communication thus proposes the establishment of a European Humanitarian Response Capacity to help fill temporary gaps in humanitarian response, building notably on the positive experience with the Humanitarian Air Bridge19 established to address transport and supply chain disruptions during the COVID-19 pandemic.

This ambitious agenda can only be taken forward by working closely with EU member States, other EU institutions and services, and our humanitarian partners. My services have already started translating the proposals of this Communication into action. In some cases, implementation is already under way, for example when it comes to multi-year programmatic partnerships. Other actions will be launched soon, such as a proposed pilot initiative for blending some of our funding with private sector resources. In other cases, a sustained effort over the long term will be needed – for instance, when it comes to engaging with traditional and emerging donors to expand the resource base or to operationalize the nexus in a more systematic way.

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Before closing this interview, would you like to share with us what have been the most rewarding and/or challenging aspects of your work since you took up your position? Is there anything else you would like to share with our readers?

What I consider most challenging is the human toll of crisis. People’s livelihoods, safety, dignity, health and resilience diminished or wiped away. Opportunities taken away from children when they lack access to quality education in humanitarian crises. These realities are heart-breaking, but more than a year and a half into my mandate, I am convinced that we can succeed in alleviating them, in large part due to the dedication, expertise and hard work of each and every one of our partners—currently about 200 in total—and the many local non-governmental organizations that they work with. Engagement with local partners in humanitarian activities, coordination and capacity-building is something I am firmly committed to supporting.

Not least, I am heartened by the important and difficult work carried out by the ICRC, one of our closest partners. And I look forward to continuing to work towards jointly instilling, in all conflict situations, a stronger respect for IHL.